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9:00 a.m.–Noon

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Washington, DC 20002

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[Docket No. PRM-50-76]

#### Robert H. Leyse; Denial of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; denial.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by Mr. Robert H. Leyse (PRM-50-76). The petitioner requests that the NRC's regulations concerning the specified evaluation models for emergency core cooling

systems (ECCS) and associated guidance documents be amended. The petitioner asserts that amendments are necessary to correct technical deficiencies in the correlations and data used for calculation of metal-water oxidation. The petitioner states that the correlations and data do not consider the complex thermal-hydraulic conditions present during a loss-of-coolant accident (LOCA), including the potential for very high fluid temperature. The Commission is denying Mr. Leyse's petition for rulemaking (PRM-50-76). None of the specific technical issues raised by the petitioner have shown safety-significant deficiencies in the research, calculation methods, or data used to support ECCS performance evaluations. NRC's technical safety analysis demonstrates that current procedures for evaluating ECCS performance are based on sound science and that no amendments to the NRC's regulations and guidance documents are necessary.

**ADDRESSES:** The NRC is making the documents identified in the table below available to interested persons through several means. Publicly available documents related to this petition,

including the petition for rulemaking, public comments received, and the NRC's letter of denial to the petitioner, may be viewed electronically on public computers in the NRC's Public Document Room (PDR), O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

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Document	PDR	Web	ADAMS
Federal Register Notice—Receipt of Petition for Rulemaking (67 FR 51783; Aug. 9, 2002)	X	X	ML022800472
Letter of Denial to the Petitioner	X	X	ML052220454
Penn State/US NRC "Rod Bundle Test Facility and Reflood Heat Transfer Program"			ML023040657
Petition for Rulemaking (PRM-50-76)	X	X	ML022240009
Public Comments for PRM-50-76	X	X	ML042740105
US NRC Office of Nuclear Research (RES) "Technical Safety Analysis of PRM-50-76, A Petition for Rulemaking to Amend Appendix K to 10 CFR Part 50 and Regulatory Guide 1.157"	X	X	ML041210109
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Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction," L. Baker and L.C. Just, ANL-6548 (May 1962).			ML050550198
PWR FLECHT (Full Length Emergency Cooling Heat Transfer) Final Report," April 1971			ML052230221
Zirconium Metal-Water Oxidation Kinetics IV. Reaction Rate Studies," ORNL/NUREG-17, August 1977.			ML052230079

**FOR FURTHER INFORMATION CONTACT:** Timothy A. Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1462, e-mail [TAR@nrc.gov](mailto:TAR@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The petition for rulemaking designated PRM-50-76 was received by the NRC on May 1, 2002. A notice of receipt of the petition and request for public comment was published in the *Federal Register* (FR) on August 9, 2002

(67 FR 51783). The notice of receipt requested comment on two questions: (1) Are the petitioner's three concerns about ECCS cooling valid, and if so, do these concerns constitute a significant safety concern? (2) Are there actions available to the Commission other than rulemaking that would effectively address the concerns raised by the petitioner?

##### The Petition

The petition, PRM-50-76, covers three broad issues: (1) Amending Appendix K to Part 50 of the

Commission's regulations, (2) amending Regulatory Guide (RG) 1.157, and (3) the need for further analysis of the 10 CFR Part 50, Appendix K, backup data.

##### Issue 1: Amending Appendix K to Part 50

The petitioner describes at length alleged technical deficiencies in Appendix K Section I.A.5, "Metal-Water Reaction Rate." The petitioner claims that Section I.A.5 does not accurately describe the extent of zirconium-water reactions that may occur during a LOCA. The petitioner states that the

Baker-Just equation, which is used to calculate the metal-water reaction in assessing ECCS performance, does not include any allowance for the complex thermal-hydraulic conditions during a LOCA, including the potential for very high bulk fluid temperatures within the cooling channels of the zirconium-clad fuel elements.

The petitioner cites the abstract of an Argonne National Laboratory (ANL) report (ANL-6548 "Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction," L. Baker and L.C. Just, May 1962) and disputes the conclusions based on the petitioner's opinion that the tests discussed in ANL-6548 do not accurately reflect the conditions present during a LOCA. The petitioner makes the following points to support his views:

- The bulk water temperature was no greater than 315 °C (599 °F).
- The volume of water within the test apparatus was substantially greater than the volume of zirconium specimens, creating a vastly greater capacity to cool the heated zirconium particles of the Baker and Just experiment than would exist under LOCA conditions.
- Zirconium specimens were exposed to water only, while LOCA conditions include steam and nonequilibrium water-steam mixtures that reached higher bulk fluid temperatures.
- A footnote in ANL-6548 states: "This discussion is of a preliminary nature: work in this area is continuing." Based on this footnote, the petitioner concludes that it is not appropriate to apply the Baker-Just equation as prescribed in Appendix K Section I.A.5 for the calculation of energy release rates, hydrogen generation, and cladding oxidation from the metal-water reaction.

#### *Issue 2: Amending Regulatory Guide 1.157*

The petitioner states that RG 1.157, which allows use of data from NUREG-17 (ORNL/NUREG-17, "Zirconium Metal-Water Oxidation Kinetics IV, Reaction Rate Studies," by Cathcart et al., August 1977) for calculating energy release rates, hydrogen generation, and cladding oxidation for cladding temperatures greater than 1900 °F, results in flawed ECCS performance evaluations. The petitioner claims the NUREG-17 data is based on very limited test conditions and consequently the results should not be used for evaluating LOCA conditions.

In support of this contention, the petitioner describes the following test conditions:

- Zircaloy-4 specimens exposed only to steam, rather than fluid conditions as present in a LOCA.

- No documented heat transfer from the Zircaloy surface to the slow-flowing steam.

- Small-scale laboratory testing without conditions typical of the complex thermal-hydraulic conditions that prevail during a LOCA.

- An unexplained shift from the MaxiZWOK (testing apparatus for investigations in the temperature range 1652 °F to 1832 °F) to the MiniZWOK (a different testing apparatus for investigations in the temperature range 1832 °F to 2734 °F).

The petitioner believes that the investigators' conclusions include a statement that "overlooks the very substantially greater mass transfer coefficients that accompany the so-called appropriate heat transfer coefficients." The petitioner concludes that "it is those very substantially greater mass transfer coefficients that led to the temperature overshoot of the MaxiZWOK test at 1832 °F, and that would have led to very substantially greater temperature overshoots and likely destruction of the Zircaloy tubing if MaxiZWOK had been operated over the temperature range of the MiniZWOK runs."

The petitioner contends that the NUREG-17 investigators do not warrant their work, and specifically assume no responsibility for the accuracy of their work, and therefore, that NUREG-17 is not applicable to the regulation of nuclear power reactors in the United States of America. To support this contention, the petitioner cites the following statement on the introductory page of NUREG-17: This report was prepared as an account of work sponsored by the United States Government. Neither the United States nor the Energy Research and Development Administration/United States Nuclear Regulatory Commission, nor any of their employees, nor any of their contractors, subcontractors, or their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any information, apparatus, product or process disclosed, or represents that its use would not infringe privately owned rights."

#### *Issue 3: Need for Further Analysis of Appendix K Backup Data*

The petitioner states that the results of Zircaloy bundle test no. 9573, which was a test done for the Full Length Emergency Cooling Heat Transfer (FLECHT) tests and documented in

WCAP-7665 ("PWR FLECHT (Full Length Emergency Cooling Heat Transfer) Final Report, Westinghouse Report WCAP-7665, April 1971"), are applicable to the calculation of the metal-water reaction and shows that the Baker-Just equation (referenced in Section I.A.5 of Appendix K for calculating the metal-water reaction) is not conservative. The petitioner states that the data in WCAP-7665, which includes test run 9573, includes the complex thermal-hydraulic conditions and Zircaloy-water reactions that characterize the reflood portion of the LOCA transient. The petitioner states that these conditions are not found in the narrow test procedures of ANL-6548 or NUREG-17.

The petitioner states that a pertinent description of the complexities of thermal-hydraulic conditions during reflood, including negative heat transfer coefficients, is included in Section 3.2.3 of WCAP-7665 and that this description applies to data collected with FLECHT bundles with stainless steel cladding. The petitioner feels that another FLECHT Zircaloy bundle test, run 8874, is also pertinent to issues raised in this petition.

The petitioner cites Section 5.6 of WCAP-7665 and finds statements comparing Zircaloy to stainless steel to be misleading because they imply that stainless steel heat transfer coefficients may be used as a conservative representation of Zircaloy behavior. The petitioner believes that the differences in behavior for various test runs are explained by the differences in the thermal-hydraulic conditions leading to a different combination of heat transfer and mass transfer factors, and are not due to inconsistency of the data, as implied by the report.

The petitioner also finds WCAP-7665, Section 5.11, "Materials Evaluation," to be misleading in view of the total experience with FLECHT run 9573. Finally, the petitioner notes that the same warning language used in NUREG-17 is on the cover page of WCAP-7665.

The petitioner further identifies several aspects of the data supporting the document entitled "Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Cooled Nuclear Reactors-Opinion of the Commission," (Docket No. RM50-1, December 28, 1973) and notes the Commission concluded: "It is apparent, however, that more experiments with Zircaloy cladding are needed to overcome the impression left from run 9573." The petitioner finds that there has been a lack of appropriate response to the Commission's expressed wish for more

experiments, and believes that at the very least, run 9573 should have been repeated. The petitioner emphasizes that although at least \$1 billion had been expended on other analytical efforts, there has been no reported analysis of FLECHT run 9573.

The petitioner states that the test programs discussed in the petition were funded by Government agencies. He believes that most of the programs were firmly controlled by those "who were indoctrinated in the methods of the tightly regimented Naval Reactors Program." The petitioner finds that the "biased reporting of WCAP-7665 may be traced to these controls" and believes that "the lack of application of the MaxiZWOK apparatus beyond 1832 °F in NUREG-17 may likely be traced to rigid restrictions by management at the NRC." The petitioner further contends that while the Argonne work in ANL-6548 was likely less impacted by these controls, the controls likely did inhibit further analysis or reporting of FLECHT run 9573.

The petitioner notes that he has made several requests to the Knolls Atomic Power Laboratory for report KAPL-1534 and that his requests have been ignored.

#### Public Comments on the Petition

Six letters of public comment were received on the petition in response to the request for public comment. Three of these letters were from the petitioner. These letters are summarized below.

By letter dated September 11, 2002, the petitioner provided comments that did not raise new issues. The petitioner stated that the Baker-Just equation and the Cathcart-Pawel equation in NUREG-17 have been grossly misapplied by the NRC. According to him, it is fundamentally important that the determinations of LOCA transient chemical kinetics include the geometry of the stationary Zircaloy reactant in combination with the thermal-hydraulic conditions of the flowing water/steam reactant. In addition, he repeated in his letter that there are deficiencies in RG 1.157, since it references documents such as NUREG-17 that do not consider the complex thermal-hydraulic conditions during LOCAs, including the potential for very high fluid temperatures. The petitioner also stated that the Commission should provide a rational basis for regulation of ECCS performance and perform additional experiments with Zircaloy cladding due to the cladding failure reported in Westinghouse report WCAP-7665.

By letter dated October 23, 2002, Westinghouse Electric Company submitted comments that opposed the proposed changes. Westinghouse

commented that runaway oxidation is prevented by the 2200 °F peak cladding temperature limit. Additionally, Westinghouse commented that the Baker-Just correlation is known to be conservative, over-predicting the zirconium-water reaction by as much as 30 percent at the limiting temperature (2200 °F). Westinghouse stated that the conditions of FLECHT run 9573 (high power and high initial temperatures) were extremely severe, intentionally beyond design basis for ECCS performance. Westinghouse stated that the Cathcart-Pawel tests had adequate steam flow so that the zirconium-water reaction rate was not limited by the availability of steam, and as a result, the tests were valid. Westinghouse commented that differences between ECCS test conditions and reactor core fluid conditions during postulated LOCAs do not prevent the current zirconium-water reaction database from being applicable to ECCS analysis.

By letter dated October 25, 2002, the Nuclear Energy Institute (NEI) submitted comments supporting the Westinghouse comments, stating that extensive testing and analysis by the nuclear industry and national laboratories indicate that the Cathcart-Pawel correlation test is conservative. The NRC notes that the Cathcart-Pawel correlation is intended to be a best estimate, and is not intended to conservatively bound metal-water reaction rates. NEI commented that the test run, FLECHT 9573, was intentionally performed under very severe, beyond design-basis conditions, that post-test evaluations showed oxidation was within the expected range, and that runaway oxidation did not occur until the cladding temperature was well beyond 2300 °F. NEI further commented that the petitioner's concerns do not constitute a significant safety concern and thus, there is no need to revise Appendix K to Part 50 or RG 1.157.

By letter dated November 6, 2002, Strategic Teaming and Resource Sharing (STARS), a group of six utilities, submitted comments opposing the petition. These comments stated that within the range of test parameters applicable to ECCS evaluation models, as specified in Appendix K and RG 1.157, the regulations and guidance are valid and conservative. STARS notes that all of the data referenced in the petition was either available to the Commission and industry when the regulations and guidance were created or was assessed later when the test information became available.

On November 22, 2002, the petitioner submitted a reply to STARS but raised

no new issues. On December 14, 2002, the petitioner responded to Westinghouse and NEI comments by discussing runaway oxidation in the WCAP-12610 report and severe fouling of fuel cladding during a LOCA. The petitioner stated that no allowance for higher temperatures due to fouling was made in run 9573, and repeated his request for more experiments with Zircaloy cladding.

#### NRC Requirements for ECCS Evaluations

Section 50.46 specifies the performance criteria against which the ECCS must be evaluated. The criteria include the maximum peak cladding temperature, the maximum cladding oxidation thickness, the maximum total hydrogen generation, and requirements to assure a coolable core geometry and abundant long-term cooling. This regulation also states that the ECCS cooling performance following postulated LOCAs must be calculated in accordance with either a realistic (also called a best-estimate) evaluation model that accounts for uncertainty or a conservative evaluation model that conforms with the required features of appendix K to 10 CFR part 50. If a licensee elects to calculate ECCS performance using an Appendix K evaluation model, then one important feature of that model is the way the metal-water reaction is calculated. For this calculation, Appendix K prescribes the use of the Baker-Just equation from ANL report ANL-6548 (L. Baker, L.C. Just, "Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction" May 1962). The metal-water reaction, which is predicted to occur during the LOCA and which is calculated using the Baker-Just equation, is the subject of much of this petition. The Baker-Just equation calculates a conservative rate of hydrogen generation and fuel cladding oxidation during the LOCA transient. Additionally, for licensees electing to use best-estimate calculations to evaluate ECCS performance, NRC RG 1.157 provides guidance for such evaluations. RG 1.157 allows the use of data from NUREG-17 for the calculation of the metal-water reaction.

#### NRC Technical Evaluation

The NRC reviewed the petitioner's request and concluded that none of the issues raised by the petitioner justified the initiation of rulemaking. The NRC's response to the technical issues raised in PRM-50-76 is based largely on a technical study by the Office of Nuclear Regulatory Research (RES) "Technical

Safety Analysis of PRM-50-76, A Petition for Rulemaking To Amend appendix K to 10 CFR part 50 and Regulatory Guide 1.157." The NRC's responses to the petitioner's issues are as follows:

*Issue 1: Amending Appendix K to Part 50*

The petitioner claims that the requirement to use the Baker-Just equation in Section I.A.5 of Appendix K to 10 CFR Part 50, does not accurately describe the extent of zirconium-water reaction that may occur during a LOCA. He states that the Baker-Just equation does not include any allowance for the complex thermal-hydraulic conditions during a LOCA. The NRC disagrees with the petitioner's assertions.

In Section 3.1 of the petition, the petitioner discusses the inapplicability of the Baker-Just equation for calculating zirconium-water reaction rates during a LOCA. The NRC notes that it is important to distinguish between the experiments performed by Baker and Just, and the equation developed by them and adopted in Appendix K to Part 50. Experiments run with 40-60 mil wires at temperatures at, or near, the zirconium melting point (3400 °F) for one or two seconds are not typical of fuel rod cladding at temperatures in the range of 1800 °F-2200 °F for 50 to 400 seconds that are postulated to occur in a design basis LOCA. In the Baker-Just report, only one data point from their experiments (at 3366 °F) is used in developing the Baker-Just equation. This one data point was used to anchor the Baker-Just equation at the melting point of zirconium. The remaining data from Bostrum ("The High Temperature Oxidation of Zircaloy in Water," W. A. Bostrum, WAPD-104 March 1954) and Lemmon ("Studies Relating to the Reaction Between Zirconium and Water at High Temperatures," A. W. Lemmon, Jr., BMI-1154, January 1957), at more relevant zirconium cladding conditions, were used by Baker and Just in the derivation of their equation. The use of the single data point at the melting temperature makes the Baker-Just equation very conservative. At the time of the promulgation of § 50.46, the Commission expected the NRC staff to obtain new and better zirconium-water reaction data. The petitioner also expressed concerns about the need for additional data. The substantial work of Cathcart and Pawel was performed for the NRC in response to the Commission's expectation.

The NRC compares the Baker-Just correlation to other correlations in a technical study (ADAMS accession

ML041210109). The comparisons show the conservatism of the Baker-Just correlation in the temperature range important for clad oxidation calculations for LOCAs. In the discussion of Issue 3, comparisons of the Baker-Just correlation to relevant data demonstrate the substantial conservatism of the Baker-Just correlation. The petitioner expresses concern about the low water temperature (no greater than 599 °F) in the Baker-Just experiments. This temperature corresponds to the saturation temperature at 1530 psia, which was the pressure for that particular experiment. While a few degrees of liquid superheat may be possible under LOCA/ECCS conditions, the degree of nonequilibrium required for higher liquid or "bulk" temperatures postulated by the petitioner is not possible.

The petitioner is also concerned about the large water volume compared to the zirconium sample size with respect to the quench capability of zirconium-clad fuel rods. As noted, these experiments were atypical in that respect, but barely used in the formulation of the Baker-Just correlation. Further, it should be noted that the Baker-Just report was not intended to be a heat transfer study, but rather an investigation of zirconium-water reaction kinetics at very high temperatures.

One interesting feature of the Baker-Just report is the heat and mass transfer analysis of an example case analyzed to examine the processes limiting the reaction rate. In this severe case, a 0.21 cm zirconium sphere at its melting point was dropped into water. Baker and Just were concerned that the reaction could be limited by gas phase diffusion of steam through a film of steam and hydrogen. This appears to be similar to the petitioner's concern. As explained in the Baker-Just report, water cannot stay in contact with the hot metal and a vapor film immediately forms around the sphere. Figure 15 in that report shows that vapor phase diffusion is the limiting steam transport process for less than 0.2 seconds, during which a slight film of oxide is forming on the surface of the sphere. After that, the parabolic rate equation, (e.g., the Baker-Just equation) becomes limiting. The figure also shows that the gas phase diffusion is far less temperature-sensitive than the parabolic rate law. Certainly at lower temperatures more typical of a LOCA, the parabolic law is even more limiting than gas phase diffusion as long as the reaction is not steam starved.

Comparison of the Baker-Just equation to numerous data sets has shown the

equation to be conservative. A significant example of this conservatism is discussed under Issue 3.

In summary, the NRC found no technical basis in the petition or in NRC records for the assertion that the NRC requirement to use the Baker-Just equation, along with other requirements of Appendix K, is flawed and is a significant safety concern.

*Issue 2: Amending Regulatory Guide 1.157*

The petitioner stated that RG 1.157, which allows use of the data and the Cathcart-Pawel equation presented in NUREG-17, results in flawed evaluations of ECCS performance. The NRC disagrees with the petitioner's assertions on this issue. In Section 3.2 of the petition, the petitioner states that the limited test conditions described in NUREG-17 preclude the use of the results for LOCA calculations. He further states that Zircaloy-4 specimens were not exposed to LOCA fluid conditions and that only steam was applied at very low velocities for the main test series. The petitioner states that there was no documented heat transfer from the Zircaloy surface to the slow-flowing steam and that as a result the conditions of the small-scale laboratory tests were not typical of the complex thermal-hydraulic conditions that prevail during a LOCA.

The petitioner suggests that without liquid water, the tests are invalid. The NRC disagrees. The presence of liquid water would invalidate the tests. Accurate steady-flow measurement would be extremely difficult. The droplets or liquid film would make it difficult to achieve the relatively constant sample temperatures that are necessary in these reaction kinetics tests. However, adequate steam flow is a concern. If the flow is too low, the reaction becomes steam starved. Otherwise, it is unnecessary to have steam flow typical of LOCA/ECCS conditions. These are not heat transfer tests. Once a reaction rate model is developed using data from experiments like these, the model should be validated against transient tests under LOCA conditions, as in the four Zircaloy tests described in WCAP-7665 and the transient tests described in the Cathcart-Pawel report.

Calculations were performed to assure that there was adequate steam flow for the MiniZWOK experiments used to derive the Cathcart-Pawel correlation in NUREG-17. These calculations are described in the RES technical study.

An important argument for the absence of steam starvation is how the isothermal Cathcart-Pawel experiments

described in NUREG-17 give consistent results that support the parabolic/Arrhenius behavior. This is also discussed in the RES technical study.

Much of the petitioner's criticism of the Cathcart-Pawel work is related to a comparison of MiniZWOK and MaxiZWOK experimental conditions. MiniZWOK was used to develop a consistent set of data for correlation development. Controlling sample temperature by adjusting heater power (MiniZWOK) was much more successful than adjusting steam flow (MaxiZWOK). As the petitioner notes, temperature overshoot was a problem with MaxiZWOK and at high temperatures could have led to temperature runaway. As noted previously, temperature control is absolutely necessary in reaction kinetics experiments such as these. The petitioner implies that the experimenters abandoned MaxiZWOK in favor of MiniZWOK. Actually, the isothermal MiniZWOK experiments were essentially complete before the MaxiZWOK experiments were begun. Results from MaxiZWOK between 1652 °F and 1832 °F agreed well with MiniZWOK data at the same temperatures. Cathcart and Pawel state that:

The very good agreement between these two data sets is regarded as evidence that steam flow rate and steam insertion temperature do not affect significantly the kinetics of the steam oxidation of Zircaloy, at least in this temperature range.

Certainly, with steam velocities at least an order of magnitude greater in MaxiZWOK than MiniZWOK, the potential for more rapid gas phase diffusion of steam to the sample surface "mass transfer" is greater for MaxiZWOK. But clearly this is not the limiting phenomenon. This was demonstrated by the good agreement between MiniZWOK and MaxiZWOK data and the good agreement of MiniZWOK data to parabolic/Arrhenius behavior. There is no evidence to suggest that high "mass transfer coefficients" in MaxiZWOK caused temperature overshoot in MaxiZWOK at 1832°F, as the petitioner proposes. It is true, as the petitioner suggests, that "[i]t is not possible to achieve an isothermal rate of oxidation of Zircaloy-4 if the Zircaloy-4 is exposed to LOCA fluid conditions at elevated conditions," but not for the reasons postulated by the petitioner. Rather, large-break LOCA reflood conditions are characterized by constantly decreasing power (decay heat) and increasing heat transfer coefficients after a few seconds. Under these conditions, isothermal conditions are impossible. WCAP-7665 showed

that this kind of heat transfer and power behavior was universal for all tests done under design basis conditions, and as a result, these heat transfer tests did not exhibit isothermal cladding temperature behavior.

The petitioner implies that Cathcart and Pawel's statement, that scoping tests on the effect of steam pressure were in progress, is an admission of inapplicability of their work. On the contrary, the scoping work was completed and subsequent work by others has been undertaken to examine pressure effects. The petitioner's notion that the authors' statement about ongoing work applies to very low steam velocities is also unsupported.

Work in this area did not end in 1977. The NRC, foreign partners, and the industry have continued to conduct and evaluate experimental and analytical programs on fuel cladding behavior. As in the case with many other research activities and their link to the agency's regulatory framework, an important objective of this work is the confirmation of current § 50.46 criteria and models and the development of more realistic, performance-based, and contemporary criteria and models. An important link to the current work is the extensive research reported by Cathcart and Pawel.

The NRC disagrees with the petitioner's assertion that the disclaimer in the introduction to NUREG-17 causes the technical work to be inapplicable to reactor regulation. The disclaimer protects the United States Government from potential litigation. It is not intended to discredit the technical validity of the work documented in NUREG-17. As such, the disclaimer is irrelevant to whether the NUREG-17 work is an adequate basis for reactor regulation. That is a question that should be decided solely on the technical merits of the work.

The NRC found no technical basis in the petition nor in NRC records to support the assertion that the Regulatory Guide 1.157 conditions for acceptance of the use of ORNL/NUREG-17 information result in flawed evaluation of ECCS performance.

#### *Issue 3: Need for Further Analysis of Appendix K Backup Data*

In Section 3.4 of his petition, the petitioner quotes from the AEC decision on the ECCS rulemaking [See *Rulemaking Hearing, Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Cooled Nuclear Power Reactors*, RM-50-1, CLI-73-39, 6AEC1085, at 1124]: "It is apparent, however, that more experiments with Zircaloy cladding are needed to

overcome the impression left from run 9573." The petitioner claims that such experiments have not been performed and are necessary. The NRC disagrees.

Run 9573 refers to one of four Zircaloy clad FLECHT experiments performed in 1969 and reported in WCAP-7665. The "impression" referred to by the AEC Commissioners in 1973 appears to be the fact that run 9573 indicates lower "measured" heat transfer coefficients than the other three Zircaloy clad tests reported in WCAP-7665 when compared to the equivalent stainless steel tests. This is not a concern about the zirconium-water reaction models. The AEC Commissioners believed that this anomaly could be cleared up with more experiments on Zircaloy cladding. Some of the anomaly can probably be explained by a deficiency in the data reduction process. As will be discussed later, additional Zircaloy clad tests were performed in the 1980s.

Regarding the data reduction process, heat transfer coefficients are not directly measurable quantities. They must be calculated from measured temperatures, known heat sources, and known thermal properties. WCAP-7665 describes the heat transfer data reduction process using the DATAR code. For these experiments, the decay heat simulation was well known, as was the time of heater failure. However, the heat source, due to the zirconium-water reaction, had to be estimated in some way. The Baker-Just correlation was used for that purpose. Because of its conservatism, the Baker-Just correlation overestimates the amount of reaction and the associated heat generation rate. At 21 locations on 19 rods among the four Zircaloy tests, post-test oxide thickness measurements were made. Westinghouse applied the Baker-Just correlation to each temperature transient measured at or very near to each oxide thickness measurement. The comparison between predicted and measured oxide thickness was presented in Figure B-12 of WCAP-7665. The Baker-Just calculated oxide thickness is about 1.6 times the measured value. Thus for this data set, the Baker-Just correlation overpredicts the data by about 60 percent, which is quite conservative.

The NRC obtained tabular time/temperature data from Westinghouse for 19 of the 21 locations analyzed by Westinghouse for the four Zircaloy FLECHT tests. The Baker-Just correlation was applied to these 19 data sets as a check on the analysis in WCAP-7665. The RES technical study clearly demonstrates that the analysis in WCAP-7665 is correct and that the

Baker-Just correlation is conservative even under the severe conditions of run 9573.

The petitioner asserts that a detailed thermal-hydraulic analysis of run 9573, including evaluation of the heating from Zircaloy-water reactions, was never performed. Contrary to that assertion, not only was an evaluation of the heating from Zircaloy-water reaction performed for run 9573, it was done for all four Zircaloy tests. Unfortunately, using the conservative Baker-Just correlation to estimate the zirconium-water heat release results is an overestimation of the derived heat transfer coefficients. Thirty-five years later, it would be difficult to replicate the DATAR code, substitute a better metal-water model, and re-derive the heat transfer coefficients. The difficulty would be in addition to the significant monetary expense of conducting high-temperature Zircaloy tests and would have marginal benefit in terms of increased understanding of large-break LOCA heat transfer and metal-water reaction kinetics. The current programs being conducted at Pennsylvania State University and Argonne National Laboratory are far more cost-effective.

High-temperature tests similar to run 9573 would require rod bundle powers well outside the range of operation of any current or proposed pressurized water reactors (PWRs) and would produce very little useful heat transfer information. Therefore, the NRC does not believe that such tests are necessary.

The petitioner states that more experiments with Zircaloy cladding have not been conducted on the scale necessary to overcome the impression left from run 9573. The NRC disagrees. In fact additional Zircaloy tests have been performed. In the early 1980s, the NRC contracted with National Research Universal (NRU) at Chalk River, Ontario, Canada to run a series of LOCA tests in the NRU reactor. More than 50 tests were conducted to evaluate the thermal-hydraulic and mechanical deformation behavior of a full-length 32-rod nuclear bundle during the heatup, reflood, and quench phases of a large-break LOCA. The NRC is reviewing the data from this program to determine its value for assessing the current generation of codes such as TRAC-M (now renamed TRACE).

In assessing the need for further experiments like the Zircaloy-clad FLECHT tests, it is important to understand the past and current role of rod bundle reflood heat transfer tests. In the late 1960s, a mechanistic understanding of reflood heat transfer did not exist. To develop heat transfer models as expeditiously as possible, the

Atomic Energy Commission (AEC), Westinghouse, and Electric Power Research Institute (EPRI), cooperatively developed the PWR FLECHT program. The principal objective was to determine reflood heat transfer coefficients as a function of key initial and boundary conditions, rod elevation, and time after the beginning of reflood and to develop empirical correlations based on that dependency. As long as a sufficiently large matrix of tests was performed with full-scale rod bundles, there was no great need for a comprehensive mechanistic understanding. The key parameters were:

- A. Pressure
- B. Peak power
- C. Decay power
- D. Flooding rate
- E. Inlet subcooling
- F. Initial temperature
- G. Bundle size
- H. Cladding material
- I. Housing temperature

When nuclear plant behavior and design conditions are outside the envelope defined by these test parameters or the design of the experimental system, there is no basis for extrapolation, since the derived heat transfer models are not necessarily based on the physical models governing the reflood heat transfer processes. For the very empirical process used in the early FLECHT experiments, limited effort was expended obtaining data needed for development of mechanistic physical models. It would have been impractical to obtain sufficient Zircaloy heat transfer coefficient data for the empirical process used with the early FLECHT experiments.

As the FLECHT program and other rod bundle reflood heat transfer programs have progressed over the last 30 years, more information appropriate for mechanistic model development has been obtained. As better mechanistic models are developed, careful extrapolation has a better chance of success, and the role of experiments like FLECHT has shifted from model development to developmental assessment. In fact, many of the FLECHT-SEASET experiments are used to assess the new code models. As mentioned previously, the NRC is reviewing the NRU Zircaloy-clad nuclear fuel bundle test results to establish their value for further code assessment.

### Conclusions

The NRC investigated each of the petitioner's key concerns. The NRC concludes that Appendix K of 10 CFR

Part 50 and the existing guidance on best-estimate ECCS evaluation models are adequate to assess ECCS performance for U.S. light water reactors (LWRs) using Zircaloy-clad UO<sub>2</sub> at burnup levels currently permitted by regulations. This general conclusion is based on the following considerations:

The Baker-Just correlation using the current range of parameter inputs is conservative and adequate to assess Appendix K ECCS performance. Virtually every data set published since the Baker-Just correlation was developed has clearly demonstrated the conservatism of the correlation for the temperature range important to clad oxidation calculations for LOCAs.

The parabolic/Arrhenius behavior of the Cathcart-Pawel isothermal experiments confirmed that there was adequate availability of steam. An NRC analysis confirms the ORNL/ANL assessment that the Cathcart-Pawel isothermal experiments were not steam starved by at least two orders of magnitude. Therefore, the experimental data is valid.

NRC has continued to study complex thermal hydraulic effects on ECCS heat transfer processes during LOCA accident conditions consistent with Commission direction. As part of that initiative, the NRC funded more than 50 Zircaloy-clad nuclear fueled bundle reflood experiments at the NRU reactor. These experiments evaluated fuel rod and heat transfer behavior but did not include metallurgical examination to evaluate oxidation behavior. The NRC is continuing to conduct and evaluate experimental and analytical programs on fuel cladding behavior.

The petitioner did not take into account Westinghouse's metallurgical analyses performed on the cladding for all four FLECHT Zircaloy-clad experiments reported in WCAP-7665. The petitioner also ignored the Westinghouse application of the Baker-Just correlation to these experiments, which had the "complex thermal hydraulic phenomena" deemed important by the petitioner. This application of the correlation to the metallurgical data clearly demonstrates the conservatism of the Baker-Just correlation for 21 typical temperature transients. The NRC also applied the Baker-Just correlation to the FLECHT Zircaloy experiments with nearly identical results, confirming the WCAP-7665 results.

For the development of oxidation correlations, limited by oxygen diffusion into the metal, well-characterized isothermal tests are more important than the complex thermal hydraulics suggested by the petitioner.

The petitioner's suggested use of complex thermal-hydraulic conditions would be counter-productive in reaction kinetics tests because temperature control is required to develop a consistent set of data for correlation development. Isothermal tests allow this needed temperature control. It is more appropriate to apply the developed correlations to more prototypic transients (including complex thermal hydraulic conditions) to verify that the proposed phenomena embodied in the correlations are indeed limiting. This is what was done by Westinghouse in WCAP-7665, by Cathcart and Pawel in NUREG-17 and by the NRC in its technical safety analysis of PRM-50-76.

The NRC applied the Cathcart-Pawel oxygen uptake and  $ZrO_2$  thickness equations to the four FLECHT Zircaloy experiments, confirming the best-estimate behavior of the Cathcart-Pawel equations for large-break LOCA reflood transients.

Cathcart and Pawel applied their oxide thickness equation, using the BILD5 program, to 15 of their transient temperature experiments as described in ORNL/NUREG-17. The results showed that the correlation, based on numerous isothermal experiments, was conservative or best-estimate when applied to this transient data set.

#### Petitioner's Public Comments

The petitioner submitted two public comment letters in which he again asserted that the Baker-Just and Cathcart-Pawel equations are grossly misapplied by the NRC. The first comment letter basically repeated the arguments in the petition. No new technical information was supplied. The second comment letter introduced the issue of severe fouling, which was the subject of PRM-50-78 and addressed by the staff's evaluation of that petition for rulemaking. Other issues addressed in the second letter are related to the issues already discussed in this document, and therefore, no further response is necessary.

#### Reasons for Denial

For the reasons cited in this document, the Commission is denying the petition for rulemaking (PRM-50-76) submitted by Mr. Robert Leyse. The NRC believes that the requested rulemaking would not make a significant contribution to maintaining safety because current regulations and regulatory guidance already adequately address the evaluation of performance of the ECCS. No data or evidence was provided by the petitioner or found in NRC records to suggest that the research, calculation methods, or data

used to support ECCS performance evaluations were sufficiently flawed so as to create significant safety problems. NRC's technical safety analysis demonstrates that current procedures for evaluating performance of ECCS are based on sound science and that no amendments to the NRC's regulations and guidance documents are necessary. Additionally, the petitioner has not shown, nor has the NRC found, the existence of any safety issues regarding calculation methods or data used to support ECCS performance evaluations that would compromise the secure use of licensed radioactive material. The proposed revisions would not improve efficiency, effectiveness, and realism because licensees and the NRC would be required to generate additional information (as part of the evaluation of ECCS performance) that has no safety value and does not significantly improve realism.

Dated at Rockville, Maryland, this 26th day of August, 2005.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 05-17589 Filed 9-2-05; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-18877; Directorate Identifier 2002-NM-340-AD; Amendment 39-14248; AD 2005-18-08]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 737-100, -200, -200C, and -300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737-100, -200, -200C, and -300 series airplanes. This AD requires repetitive detailed inspections to detect discrepancies of the retaining pin lugs on the support fitting of the main landing gear (MLG) beam, and rework of the support fitting, or replacement of the fitting if necessary. This AD is prompted by reports of discrepancies of the lugs. We are issuing this AD to prevent separation of the support beam of the MLG from the rear spar, which could cause cracking of the MLG support fitting and a consequent

leak in the wing fuel tank or collapse of the MLG.

**DATES:** This AD becomes effective October 11, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of October 11, 2005.

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

**Docket:** The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Washington, DC. This docket number is FAA-2004-18877; the directorate identifier for this docket is 2002-NM-340-AD.

#### FOR FURTHER INFORMATION CONTACT:

Robert C. Hardwick, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6457; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 737-100, -200, -200C, and -300 series airplanes. That action, published in the *Federal Register* on August 17, 2004 (69 FR 51017), proposed to require repetitive detailed inspections to detect discrepancies of the retaining pin lugs on the support fitting of the main landing gear (MLG) beam, and rework of the support fitting or replacement of the fitting if necessary.

#### Comments

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

#### Agreement With the Proposed AD

One commenter, the manufacturer, agrees with the proposed AD.

#### Conditional Agreement With the Proposed AD

One commenter, an operator, agrees with the proposed AD provided that there are adequate parts available if the discrepant condition is found.

The FAA agrees that adequate availability of parts is necessary. We

have received no information from the manufacturer concerning a possible delay in availability of parts. In the event there is a delay in the availability of parts, an operator may request approval for an alternative method of compliance as specified in paragraph (k)(1) of this AD.

#### **Request for Clarification of Paragraph (g) of the Proposed AD**

One commenter, an operator, requests additional information and clarification regarding the reference in paragraph (g)(2) of the proposed AD to replacing the fittings in accordance with the Accomplishment Instructions, Part III—Fitting Replacement, of Boeing Service Bulletin 737-57-1216, Revision 2, dated May 6, 1999. The commenter notes that, in certain situations, those Accomplishment Instructions instruct the operator to install a self-locking nut to secure the support pin of the MLG support beam. However, the commenter advises that installing a self-locking nut would be in conflict with AD 2002-02-08 (67 FR 6372, February 12, 2002).

We agree that clarification of paragraph (g)(2) of the AD is necessary in order to prevent a conflict between the requirements of this AD and AD 2002-02-08. Therefore, we have added further information to paragraph (g)(2) of the AD to specify that, if operators choose to accomplish the corrective action specified in paragraph (g)(2) of the AD, replacing the fitting in accordance with the Accomplishment Instructions, Part III—Fitting Replacement, of Boeing Service Bulletin 737-57-1216, Revision 2, dated May 6, 1999, must also include replacing the retaining bolt, self-locking nut, and associated hardware of the support beam for the MLG with a new bolt, castellated nut, and new hardware; in accordance with Boeing Service Bulletin 737-57A1260, Revision 2, dated October 18, 2001.

#### **Request for Credit for Accomplishing Certain Service Bulletins**

One commenter, an operator, requests that the original issue, dated December 17, 1992, and Revision 1, dated September 23, 1993, of Boeing Service Bulletin 737-57-1216 be approved as acceptable for terminating the requirements of the proposed AD. The commenter states that the original issue and Revision 1 provide procedures for replacing the fitting that are essentially the same as those in Revision 2, which is cited as the appropriate service information in paragraph (g)(2) of the proposed AD.

We agree with the commenter for the reason stated and have revised paragraph (g)(2) of the AD accordingly.

#### **Request To Clarify Paragraph (j) of the Proposed AD**

One commenter, an operator, requests that the fittings acceptable for installation be stated in a more definite manner than “a new lug.” The commenter suggests that paragraph (j) of the proposed AD be revised to specify a part number or serial number, rather than just “a new lug.” The commenter also requests that the inspection and rework instructions of paragraph (j) of the proposed AD be more specific.

We agree that clarifying the intent of the words “new lug” is necessary. Although the inspection requirements of this AD are intended to detect cracking of “the retaining pin lugs of the support fitting of the MLG, or elongation of a bolt hole in a lug,” the corrective actions of paragraph (g) of this AD require reworking or replacing the fittings. We specify reworking or replacing the fittings, rather than the lugs, since the lugs are not available as individual replacement parts. The intent and purpose of paragraph (j) of this AD is to specify that any lug must be inspected and the fitting reworked or replaced, as applicable, except for those fittings that previously have been reworked or replaced, in accordance with paragraph (g) of this AD. We have revised paragraph (j) of the AD accordingly. We do not, however, agree that the inspection and rework instructions of paragraph (j) of the AD need to be more specific. The requirements of paragraph (j) of the AD indicate multiple actions that are clearly encompassed by stating “in accordance with this AD,” rather than to specify each action that has already been stated in previous paragraphs of the AD.

#### **Changes to Delegation Authority**

Boeing has received a Delegation Option Authorization (DOA). We have revised this final rule to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative (DER).

#### **Conclusion**

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic

burden on any operator nor increase the scope of the AD.

#### **Costs of Compliance**

There are about 1,670 airplanes worldwide of the affected design and 668 airplanes of U.S. registry. The required actions take about 2 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the required actions for U.S. operators is \$86,840, or \$130 per airplane, per inspection cycle.

The rework, if accomplished, will take about 24 work hours per airplane to accomplish at an average labor rate of \$65 per work hour. Required parts will cost about \$1,006 per airplane. Based on these figures, the cost impact of the rework provided by this AD is estimated to be \$2,566 per airplane.

The replacement of the support fitting of the MLG beam, if accomplished, will take about 128 work hours per airplane to accomplish at an average labor rate of \$65 per work hour. Required parts will cost between \$4,540 and \$5,271 per airplane. Based on these figures, the cost impact of the replacement provided by this AD is estimated to be between \$12,860 and \$13,591 per airplane.

The replacement of the support fitting and installation of a special bushing of the MLG beam (for Group 9 and Group 10 airplanes), if accomplished, will take about 144 work hours per airplane to accomplish at an average labor rate of \$65 per work hour. Required parts will cost about \$5,081 per airplane. Based on these figures, the cost impact of this replacement and installation is estimated to be \$14,441 per airplane.

#### **Authority for This Rulemaking**

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

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

## Regulatory Findings

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**2005-18-08 Boeing:** Amendment 39-14248. Docket No. FAA-2004-18877; Directorate Identifier 2002-NM-340-AD.

#### Effective Date

(a) This AD becomes effective October 11, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 737-100, -200, -200C, and -300 series airplanes, certificated in any category; line numbers 1 through 1670 inclusive.

#### Unsafe Condition

(d) This AD was prompted by reports of discrepancies of the lugs on the support fitting of the main landing gear (MLG) beam.

We are issuing this AD to prevent separation of the support beam of the MLG from the rear spar, which could cause cracking of the MLG support fitting and a consequent leak in the wing fuel tank or collapse of the MLG.

#### Compliance

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

#### Inspection

(f) Prior to the accumulation of 15,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection to detect cracking of the retaining pin lugs of the support fitting of the MLG beam, or elongation of a bolt hole in a lug, in accordance with the Accomplishment Instructions, Part I: Inspection, of Boeing Special Attention Service Bulletin 737-57-1267, dated August 8, 2002. If no cracked lug or elongated bolt hole is found, repeat the inspection thereafter at intervals not to exceed 12,000 flight cycles, until the actions specified in paragraph (h) of this AD are accomplished.

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

#### Corrective Action

(g) If any cracked lug or elongated bolt hole is found during any inspection required by paragraph (f) of this AD, before further flight, do paragraph (g)(1) or (g)(2) of this AD.

(1) Rework the fitting in accordance with the Accomplishment Instructions, Part II: Rework, of Boeing Special Attention Service Bulletin 737-57-1267, dated August 8, 2002.

(2) Replace the fitting in accordance with the Accomplishment Instructions, Part III—Fitting Replacement, of Boeing Service Bulletin 737-57-1216, Revision 2, dated May 6, 1999, and install a retaining bolt, castellated nut, and cotter pin in accordance with Boeing Service Bulletin 737-57A1260, Revision 2, dated October 18, 2001.

Replacing the fitting in accordance with the Accomplishment Instructions, Part III—Fitting Replacement, of Boeing Service Bulletin 737-57-1216, dated December 17, 1992, or Revision 1, dated September 23, 1993; and replacing the retaining bolt, self-locking nut, and associated hardware of the support beam for the MLG with a new bolt, castellated nut, and new hardware; in accordance with Boeing Service Bulletin 737-57A1260, Revision 2, dated October 18, 2001; prior to the effective date of this AD are acceptable methods of compliance with the requirements of this paragraph.

#### Optional Terminating Action

(h) Reworking or replacing the fitting in accordance with paragraph (g)(1) or (g)(2) of

this AD constitutes terminating action for the inspections required by paragraph (f) of this AD.

#### Repair

(i) If any cracking is found during any inspection required by this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by an Authorized Representative (AR) for the Boeing DOA Organization who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

#### Parts Installation

(j) As of the effective date of this AD: With the exception of a new support fitting of the MLG; (i.e., a fitting that has been reworked or replaced as required by paragraph (g) of this AD), all retaining pin lugs of the support fitting, and bolt holes of the lugs must be inspected in accordance with this AD before being installed on any airplane.

#### Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for corrective actions per data meeting the type certification basis of the airplane approved by a Boeing DOA Organization AR who has been authorized by the Manager, Seattle, ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically reference this AD.

#### Material Incorporated by Reference

(l) You must use Boeing Special Attention Service Bulletin 737-57-1267, dated August 8, 2002; Boeing Service Bulletin 737-57-1216, Revision 2, dated May 6, 1999; and Boeing Service Bulletin 737-57A1260, Revision 2, dated October 18, 2001; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the **Federal Register** approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. To view an AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on August 24, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. 05-17461 Filed 9-2-05; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-163-AD; Amendment 39-14244; AD 2005-18-04]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100& 440) airplanes, that requires performing an inspection of the electrical harnesses of the spoiler and the brake pressure sensor unit on both sides of the wing root to detect any chafing or wire damage, and repairing or replacing any damaged or chafed harness or wire with a new harness, as applicable. This action also provides/requires a terminating modification for the one-time inspection. The actions specified by this AD are intended to detect and correct chafing of the electrical cables of the spoiler and brake pressure sensor unit on both sides of the wing root, which could result in loss of the flight control system and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective October 11, 2005.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of October 11, 2005.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York

Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7311; fax (516) 794-5531.

**SUPPLEMENTARY INFORMATION:**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 27, 2005 (70 FR 36862). That action proposed to require performing an inspection of the electrical harnesses of the spoiler and the brake pressure sensor unit on both sides of the wing root to detect any chafing or wire damage, and repairing or replacing any damaged or chafed harness or wire with a new harness, as applicable. The action also proposed to require performing a terminating modification for the one-time inspection.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. We received no comments on the proposed AD or on the determination of the cost to the public.

**Conclusion**

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Cost Impact**

The FAA estimates that 709 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required inspection, at the average labor rate of \$65 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be \$46,085, or \$65 per airplane.

It will take approximately 5 work hours per airplane to accomplish the required modification, at the average labor rate of \$65 per work hour. Required parts will be supplied by the airplane manufacturer at no cost to operators. Based on these figures, the

cost impact of the modification required by this AD on U.S. operators is estimated to be \$230,425, or \$325 per airplane.

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

**Authority for This Rulemaking**

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

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

**Regulatory Impact**

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has

been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2005–18–04 Bombardier, Inc. (Formerly Canadair):** Amendment 39–14244. Docket 2003–NM–163–AD.

**Applicability:** Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 through 7067 inclusive, and 7069 through 7947 inclusive; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To detect and correct chafing of the electrical cables of the spoiler and brake pressure sensor unit (BPSU) on both sides of the wing root, which could result in loss of the flight control system and consequent reduced controllability of the airplane, accomplish the following:

#### Initial Inspections

(a) Within 500 flight hours after the effective date of this AD, do a general visual inspection for chafing or wire damage of the electrical harnesses of the spoiler and the BPSU on both sides of the wing root, in accordance with Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004.

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

#### Corrective Actions

(b) If any damaged or chafed electrical harness or wire is found during any inspection required by paragraph (a) of this AD, before further flight, do either paragraph (b)(1) or (b)(2) of this AD.

(1) Replace any damaged or chafed harness or wire with a new harness, in accordance with Part C or Part D of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004, as applicable.

(2) Repair any damaged or chafed electrical harness in accordance with Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004. Within 3,500 flight hours after the repair is done, do paragraph (b)(1) of this AD.

#### Credit for Earlier Service Bulletins

(c) Inspections, replacements, and repairs accomplished before the effective date of this AD in accordance with Bombardier Alert Service Bulletin A601R–27–101, dated April 17, 2000; or Revision ‘A,’ dated October 26, 2001; or Bombardier Alert Service Bulletin A601R–27–133, dated July 12, 2004; are acceptable for compliance with the corresponding requirements of this AD.

#### Terminating Modification

(d) Within 4,000 flight hours after the effective date of this AD, modify the routing and support of the electrical harnesses of the spoiler and the BPSU on both sides of the wing root by accomplishing all the actions specified in Part E or F, as applicable, of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004. Accomplishing the modification constitutes compliance with the requirements of this AD.

#### Exception to Service Bulletin

(e) Although Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

#### Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Canadair airworthiness directive CF–2003–14R1, effective February 26, 2005.

#### Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions must be done in accordance with Bombardier Alert Service Bulletin A601R–27–133, Revision ‘A,’ dated September 16, 2004. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind

Avenue, SW., Renton, Washington; or to the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### Effective Date

(h) This amendment becomes effective on October 11, 2005.

Issued in Renton, Washington, on August 24, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–17405 Filed 9–2–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2005–21256; Airspace Docket No. 05–AGL–04]

#### Establishment of Class D Airspace; Eau Claire, WI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This document establishes Class D airspace at Eau Claire, WI. A control tower is currently under construction at Chippewa Valley Regional Airport. Controlled airspace extending upward from the surface is required when the control tower is operational. This action establishes a radius of controlled airspace for Eau Claire, WI.

**DATES:** Effective 0901 UTC, October 27, 2005. Comments must be received on or before October 10, 2005.

**ADDRESSES:** Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2005–21256/ Airspace Docket No. 05–AGL–04, at the beginning of your comments. You may also submit comments on the internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level

of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at FAA Terminal Operations, Central Service Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

**FOR FURTHER INFORMATION CONTACT:** Steve Davis, FAA Terminal Operations, Central Service Office, Airspace and Procedures Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7131, or David Sapadin (847) 294-7477.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR part 71 establishes Class D airspace at Eau Claire, WI, to accommodate aircraft operating into and out of Chippewa Valley Regional Airport. The area will be depicted on appropriate aeronautical charts. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR Sec. 71.1. The Class D airspace designation listed in this document will be published subsequently in the order.

**The Direct Final Rule Procedure**

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document will be published in **Federal Register**. This document may withdraw the direct final rule in whole or in part. After considering the adverse or negative comment, we may publish another direct final rule or publish a notice of proposed rulemaking with a new comment period.

**Comments Invited**

Although this action is in the form of a final rule and was not preceded by a

notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2005-21256/Airspace Docket No. 05-AGL-04." The postcard will be date stamped and returned to the commenter.

**Agency Findings**

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

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me, 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 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

\* \* \* \* \*  
*Paragraph 5000 Class D Airspace*  
 \* \* \* \* \*

**AGL WI D Eau Claire, WI [New]**

Eau Claire, Chippewa Valley Regional Airport, WI  
 (Lat. 44°51'57" N., long. 91°29'03" W.)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.3-mile radius of the Chippewa Valley regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in advance by Notice to Airmen.

\* \* \* \* \*

**Nancy B. Kort,**

*Area Director, Central Terminal Operations.*  
 [FR Doc. 05-17571 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2005-21706; Airspace  
Docket No. 05-ACE-23]

**Modification of Class E Airspace;  
Washington, MO**

**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 E airspace at  
Washington, MO.

**DATES:** *Effective Date:* 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 64106; telephone:  
(816) 329-2524.

**SUPPLEMENTARY INFORMATION:** The FAA  
published this direct rule with a request  
for comments in the **Federal Register** on  
July 20, 2005 (70 FR 41610). 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 23,  
2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services  
Operations.*

[FR Doc. 05-17570 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2005-21871; Airspace  
Docket No. 05-ACE-25]

**Modification of Class E Airspace;  
Abilene Municipal Airport, 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 E airspace at  
Abilene Municipal Airport, KS.

**DATES:** *Effective Date:* 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 64106; telephone:  
(816) 329-2525.

**SUPPLEMENTARY INFORMATION:**

The FAA published this direct final  
rule with a request for comments in the  
**Federal Register** on July 29, 2005 (70 FR  
43747). 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 23,  
2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services  
Operations.*

[FR Doc. 05-17569 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2005-21783; Airspace  
Docket No. 05-ACE-24]

**Modification of Class E Airspace;  
Meade Municipal Airport, 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 E airspace at Meade  
Municipal Airport, KS

**DATES:** *Effective Date:* 901 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 64106; telephone:  
(816) 329-2524.

**SUPPLEMENTARY INFORMATION:**

The FAA published this direct final  
rule with a request for comments in the  
**Federal Register** on July 20, 2005 (70 FR  
41613). 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 23,  
2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services  
Operations.*

[FR Doc. 05-17568 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 995**

[Docket No: 040608174-5098-03]

RIN 0648-0508

**Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products**

**AGENCY:** National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Final rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) is promulgating certification requirements with standards for applicants who want to redistribute NOAA Electronic Navigational Charts (NOAA ENC<sup>®</sup>) as official data. Two types of certification are offered. The first type, "Certified NOAA ENC Distributor" (CED), covers NOAA ENC downloading, exact copying, and redistribution of those copies. The second type, "Certified NOAA ENC Value Added Distributor" (CEVAD), permits reformatting official NOAA ENCs into a System Electronic Navigational Chart (SENC) using type-approved software, and distribution of that SENC. NOAA intends by this action to assure that, though redistributed, quality official NOAA ENC data is offered to the public in support of safe navigation on U.S. waters.

**DATES:** *Effective Date:* October 6, 2005. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of October 6, 2005.

**ADDRESSES:** Comments in writing should be submitted to Director, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, MD 20910. Written comments may be faxed to (301) 713-4516. Comments by e-mail should be submitted to [ECDIS@noaa.gov](mailto:ECDIS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Captain Jim Gardner, Chief, Marine Chart Division, Office of Coast Survey, NOS/NOAA, (301) 713-2724, [Jim.Gardner@noaa.gov](mailto:Jim.Gardner@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Discussion of Comments Received and Changes Made**

On October 15, 2004, a notice of proposed rulemaking entitled "Certification Requirements for

Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products" was published in the **Federal Register** (69 FR 61165), and comments were solicited. Four sets of comments were received. The substance of the comments and the resulting changes made to the regulation are summarized below.

One set of comments stated that the Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products was an inappropriate activity for NOAA. In response, NOAA cites the Hydrographic Services Improvement Act of 1998, as amended (codified at 33 U.S.C. 892b), under which this program was established. The comments further suggested that a substantial fee structure would be appropriate for the program. Again, NOAA refers to the enabling legislation that limits the fees NOAA may charge.

A second set of comments offered that § 995.8, "Alterations," appeared to permit NOAA to change program regulations without following the Administrative Procedure Act that allows for public comment. NOAA's intent is to follow those procedures in executing this section, but stating so in the rule is redundant with NOAA's obligation under the Administrative Procedure Act. The section was deleted from the regulations to eliminate confusion. The comment also suggested that in § 995.15(a), the first sentence, "NOAA reserves the right to audit certified distributors" be deleted as redundant with § 995.14. NOAA deleted the sentence.

A third set of comments received contained two recommendations. The first was that NOAA should use the ISO 19379 standard to certify privately made Electronic Chart Systems (ECS) databases and the second was that NOAA should eliminate the limitation in the proposed rule that prevents the use of ISO 19379 certified electronic charts for mandated chart carriage. Related to the recommendations was a set of comments.

As to the comment/recommendation that NOAA might adopt an existing standard such as ISO 19379 for certifying privately made ECS databases, NOAA recognizes this opportunity, and acknowledges this possibility in a separate rule, entitled: *Quality Assurance and Certification Program for NOAA Hydrographic Products*, in the **Federal Register** dated January 5, 2005 (70 FR 693). With this rule for distribution of official NOAA ENCs, NOAA does not intend to certify privately made ECS databases, but only

to allow for the redistribution of official NOAA ENCs, while retaining their official status.

As to the comment that NOAA's policy of not certifying privately made ECS databases would deny adequate electronic chart coverage to support the mandatory carriage of electronic charts, which the Coast Guard has been directed to implement, NOAA sees no concern, and this was not the purpose of this rulemaking. NOAA already provides 100 percent coverage of its area of responsibility with official raster navigational charts (one type of electronic chart), 45 percent coverage with official electronic navigational charts (a second type of electronic chart) with completion of the full suite scheduled during 2007, and the U.S. Army Corps of Engineers anticipates completing full coverage of primary and secondary inland river routes with official electronic charts during 2007, thus serving vessels that carry 90 percent of the inland river shipping tonnage. Also, while the Coast Guard must promulgate electronic chart carriage regulations by January 1, 2007, the effective date of those regulations, exactly which vessels are to be covered, and what waivers may be issued is left to their discretion. NOAA, the Corps of Engineers, and the Coast Guard will continue to coordinate closely to ensure that electronic chart carriage is not mandated before official charts are available.

Another comment stated that since the proposed rule did not provide a means to certify privately made ECS databases for meeting chart carriage regulations, it closes the markets to private companies for equipping non-SOLAS, regulated vessels and thus was contrary to the Regulatory Flexibility Act. Such certification is beyond the intent of this rule, which is merely to certify distributors of official NOAA ENCs. Further, the final rule does not take away regulated vessels as a market for privately made electronic charts. Privately made charts have never been accepted as meeting chart carriage regulations, but may be carried as an aid to navigation. This situation will continue under the final rule. In any case, because NOAA provides official electronic charts at no cost, the commercially-viable market for private charts aboard regulated vessels would be small, thus causing little impact on small businesses. Finally, the number of companies that NOAA estimates might be affected is few (approximately 3 to 9), not all of which may be small businesses. Thus, the rule does not appear to rise to the level of causing a significant economic impact on a

substantial number of small businesses. If any impact is made on the industry it would provide a benefit to all participating entities by allowing certified businesses to sell a new product that is considered as having official NOAA ENC data in it, with the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor" on products and marketing materials. NOAA appreciates that a nation-wide supply of electronic charts for ECS is important and so, in addition to these requirements, NOAA has promulgated a rule for *Quality Assurance and Certification Program for NOAA Hydrographic Products*, (70 FR 693, Jan. 5, 2005). That program supports companies in making and selling electronic charts into the non-regulated market, which is two orders of magnitude larger than the regulated market and provides additional commercial opportunities for private companies while preserving the safety of navigation.

The last set of comments had twelve recommendations, as follows:

One comment recommended that the title be changed to: "PART 995—Certification Requirements for Distributors of NOAA Electronic Navigational Charts." NOAA is leaving the title in its present wording for the possibility of future products.

One comment recommended that we move and clarify the definition of "Distributor" versus "Value Added Distributor." Each term has a specific definition as it applies to the section where it appears in the regulation. NOAA believes that it is necessary to maintain the difference between the two types of distributors.

One comment recommended a clarification between the certification of a distributor, the certification of a process, and the certification of a product, so that the end user would be able to identify if the product is suitable for navigation and meets Federal chart carriage requirements. For clarification, NOAA is certifying two types of distributors who may redistribute official NOAA ENC data and have it remain as official Federal data, which can be used to meet Federal carriage requirements. While NOAA is not certifying processes the distributors use to produce their end product, the rule requires them to follow accepted industry standards as noted in this rule if the entity wishes to have a product with data in it that complies with Federal carriage requirements. NOAA believes the revised rule clarifies these concerns.

One comment recommended that NOAA revise language where the rule mandates different outcomes for the same procedure simply because of who performed it. NOAA revised a portion of § 995.1(c) to read: "Any entity may continue to download from an official NOAA ENC® Web site and use NOAA ENCs for any purpose. As long as it is not redistributed, that ENC will still be considered as official Federal data. If the NOAA ENC is successfully imported unaltered into a type-approved system, it will comply with Federal nautical chart carriage requirements." NOAA additionally clarified § 995.1 by providing examples illustrating when NOAA ENCs will or will not meet Federal chart carriage regulation.

One comment recommended that the rule should require any commercially redistributed official ENC or derived product from an uncertified entity to notify the user that the product does not meet federal chart carriage requirements. Instead of adding language to the rule, NOAA will add to the Agreement Statement on the NOAA ENC Web site, which the entity must accept in order to download any official NOAA ENCs. The statement will have words to the effect that: "Any entity that is not a certified NOAA ENC distributor, agrees that it will not redistribute NOAA ENCs as official data for the purpose of complying with Federal chart carriage requirements. The certification requirements and application can be found at: (inset hyper link). The final rule as published in **Federal Register** (insert number and page), can be found at (inset hyper link)." A second statement will read, "By clicking on the link below to proceed to download the NOAA ENCs, the user acknowledges having read and agreed to the above terms and conditions."

One comment recommended that NOAA charge fees for all costs incurred in the certification process, including resubmissions of revised requests that were initially unacceptable. NOAA added language in the fee section of the rule to include resubmissions.

One comment recommended that NOAA strike a redundant sentence, in § 995.15 (a), which was done.

One comment recommended that NOAA should reserve the right, to the extent practicable, to require the recall of all redistributed ENCs and derived products that were produced during a period of non-compliance. NOAA does not believe that it is appropriate to require product recall while the distributor is under investigation. However, NOAA revised § 995.15, Termination of certification, to read:

"CED or CEVAD shall notify all recipients of its products that its certification has been revoked and that the product may no longer be valid for use. In addition, the CED or CEVAD shall provide the dates of non-compliance."

One comment stated that NOAA cannot regulate that CEDs or CEVADs ensure that the user (of its products) has a sufficient level of knowledge. NOAA agreed and revised § 995.22 to read: "CED or CEVAD shall provide some form of product training and education materials to the customer to ensure that the end user has a sufficient level of information about the intended use of the derived product and what is needed to properly use it (e.g., requires certain equipment)."

One comment recommended that NOAA strike all of § 995.24 (a)(4) Additional data. NOAA chose not to delete § 995.24(a)(4) for liability reasons.

One comment recommended that NOAA provide an up-to-date listing on the Office of Coast Survey (OCS) Web site of certified ENC distributors and their certified products. NOAA will provide this list.

One comment recommended that NOAA require that a certification statement accompany the NOAA logo when used on hydrographic products. NOAA added in § 995.24 language that the CED/CEVAD should provide documentation to clarify to the user the suitability of use of product, the type and content of the files, when non-NOAA data is included, and any time delays for distribution of the data.

Due to NOAA's re-examination of § 995.15, NOAA determined that the section required changes to best serve and protect the CED/CEVAD throughout the termination process. NOAA revised the termination process to provide the CED/CEVAD with clearer guidelines for responding to a notification of potential termination administrative tracking and response time of its claim, add final action language, and provide an opportunity for the CED or CEVAD to resubmit a request for certification if terminated. One change to § 995.15, added to the information collection associated with the Paperwork Reduction Act. NOAA added that CED's or CEVAD's comments to OCS in response to a notification of potential termination shall contain at least: identification and contact information of the CED or CEVAD; a statement that CED or CEVAD is responding to an initial written notification of potential termination by OCS; and a thorough but concise argument as to why CED or CEVAD believes that its certification should not be terminated.

### Electronic Access

A digital copy of this published rule for certification requirements for NOAA ENC redistribution, with application templates, is accessible via the Internet at NOAA's Web site: <http://nauticalcharts.noaa.gov/mcd/enc/index.htm>.

### Background

NOAA produces electronic navigational charts (ENCs) as one of its products under its Nautical Charting Program. Official NOAA ENCs, which conform to International Hydrographic Organization (IHO) standards, may be used in a type-approved display system, such as an Electronic Chart Display and Information System (ECDIS), to comply with Federal nautical chart carriage requirements administered by the Coast Guard. NOAA distributes these official ENCs to the public for free over its Web site on the Internet.

Part 995 in the Code of Federal Regulations establishes the requirements by which entities may be certified to download, redistribute, repack, or in some cases reformat, official NOAA ENCs and retain their official status. No other processes result in redistributed NOAA ENC® products that comply with Federal chart carriage requirements.

NOAA developed these certification requirements under the authority of Section 104 of the Hydrographic Services Improvement Act Amendments of 2002, 33 U.S.C. 892b(b)(1). NOAA also developed these requirements to ensure the quality and content of official NOAA ENCs remains intact throughout the redistribution process.

To obtain a written copy of the certification requirements for NOAA ENC distribution, refer to **ADDRESSES** section or visit the Internet at NOAA's Web site: <http://nauticalcharts.noaa.gov/mcd/enc/index.htm>.

In addition to the rules set forth in the NOAA certification process, if the Value Added Distributor converts NOAA ENC data to other formats, it will need to comply with the IHO Technical Resolution A3.11 published in M-3 Resolutions of the IHO, Chapter A, Section 3. This resolution is available from the IHO Web site: <http://www.iho.shom.fr>. Also, for reference, it is advised that distributors be familiar with the International Electrotechnical Commission (IEC) Publication 61174 and the IHO Special Publication S57 and S58. IEC Publication 61174 is the basis for type-approval specifications related to operational methods of testing

and required test results for an International Maritime Organization (IMO) compliant ECDIS. The IEC Publication 61174 can be ordered from the IEC Web site: <http://www.iec.ch>. The IHO Special Publication S57 includes a description of the data structure and format to be used for the exchange of ENC data, product specification for the production of ENC data, and an updating profile. The IHO Special Publication S58 includes recommended ENC validation checks. The IHO Special Publication S57 and S58 are available at the IHO Web site: <http://www.iho.shom.fr>.

### Classification

#### A. Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866.

#### B. Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The purpose of this rule is to provide the procedures and requirements necessary for an entity to be certified as "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor."

This certification process is voluntary. Only those applicants who wish to redistribute NOAA ENC data as official Federal data with the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor" on products and marketing materials need to apply. NOAA developed this certification process under the authority of 33 U.S.C. 892b(b)(1).

The Small Business Administration guideline to separate small from large businesses is \$4 million for Mapmaking firms and \$5 million for Navigational Services to Shipping and Other Support Activities for Water Transportation. NOAA is unable to determine the total number of small entities that will be affected by this rule, as it does not specifically track this type of information. However, based upon knowledge of the nature of the industry, NOAA believes the majority of the entities affected will be small businesses.

Public comments were received that the proposed rule does not certify privately produced electronic nautical charts for use by certain classes of regulated vessels. In response, NOAA reaffirmed that such an action would be beyond the scope of the rule being

promulgated here. NOAA's intent with this rule is only to certify entities that wish to redistribute its NOAA ENCs as official Federal data and for meeting a set of requirements rather than certifying them for a particular use.

One comment stated that the proposed rule's limitation to use electronic charts on ECDIS closes the markets for all non-SOLAS vessels in the United States and thus was contrary to the Regulatory Flexibility Act. Certified official NOAA ENCs are not limited in their use by NOAA, nor does NOAA have the authority to make the determination of suitability of use. The determination of suitability of Federal carriage requirements for certain classes of vessels lies with the Coast Guard. NOAA believes that this rule is in the public interest and that it does not remove a market for privately made electronic charts since they never have been certified for regulatory carriage and do not have that market. Also, because NOAA and the Corps of Engineers give away for free official electronic charts for meeting carriage requirements, it appears that the portion of the market that this rule does not make readily accessible to private charts would be small. Finally, the number of companies that NOAA estimates might be affected is few (approximately 3 to 9), not all of which may be small entities. Thus the rule does not appear to rise to the level of causing a significant, negative economic impact on a substantial number of small businesses, and thus does not violate the Regulatory Flexibility Act. On the contrary, it should provide a benefit to all participating entities. NOAA appreciates that a nation-wide supply of electronic charts for ECS is important and so in union with these requirements, NOAA offers another proposed rule for *Quality Assurance and Certification Program for NOAA Hydrographic Products*, (69 FR 61172, Oct. 15, 2004). That program supports companies in making and selling electronic charts into the non-regulated market, which is two orders of magnitude larger than the regulated market and provides additional commercial opportunities for private companies while preserving the safety of navigation.

The total estimated economic impact to small entities associated with startup costs, software and equipment upgrades, the application process, reporting, recordkeeping, and compliance requirements is not expected to amount to sums greater than \$5,228 per entity annually. However, NOAA does not believe this cost will have a negative impact on small companies, as the

estimated costs incurred should be offset through the benefits in increased sales of the product because of its "certified" status. Also, NOAA requires only bi-annual reporting and recordkeeping, balancing the burden to the distributor, with the assurance of maintaining safe navigation through data quality verification for public safety. And, to lessen the economic impact, the duration of certification will be five years from the date of issuance.

It is anticipated the effects of this rule will be largely positive to small entities, with potential economic benefits. This rule will allow certified businesses to sell a new product that is considered as having official NOAA ENC data in it, with the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor" on products and marketing materials. Under this rule, Federal regulation and reporting will be extremely limited, startup costs should be minimal and there is no charge to small businesses for this official product, which they could resell for profit.

#### C. Paperwork Reduction Act

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The following requirements have been approved by OMB under control number 0648-0508:

1. A written request and application for certification.
2. Submission of a registry of customers receiving NOAA ENC data.
3. Notification when the CRC checksum value does not match the value in the CATALOG.031 file.
4. Compression/decompression and encryption/decryption software and documentation for testing.
5. A distribution report describing when NOAA ENC files were downloaded and when they were distributed to end users.
6. A label on products to identify data that are NOAA ENCs.
7. Report of any errors detected during the conversion process that apparently originate in the NOAA ENC files.
8. An application for reconsideration of termination.

The total estimate of burden hours annually for all distributors is 536 hours. The total estimate of burden hours per distributor is approximately 60 hours a year. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, sending the initial application to OCS to become a

certified distributor, and sending the bi-annual reports to OCS.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

There are no duplicative, overlapping, or conflicting Federal rules associated with this rule.

#### List of Subjects in 15 CFR Part 995

Administrative practice and procedure, Incorporated by reference, Navigation (water), Navigational charts.

■ For the reasons stated in the preamble, NOS amends 15 CFR chapter IX by adding to subchapter F, part 995 to read as follows:

#### Subchapter F—Quality Assurance and Certification Requirements for NOAA Hydrographic Products and Services

#### PART 995—CERTIFICATION REQUIREMENTS FOR DISTRIBUTORS OF NOAA HYDROGRAPHIC PRODUCTS

##### Subpart A—General

Sec.

- 995.1 Purpose and scope.
- 995.2 Incorporation by reference.
- 995.3 Availability of other publications.
- 995.4 Definitions.
- 995.5 Abbreviations.
- 995.6 Fees.
- 995.7 Liability.

##### Subpart B—Certification and Procedures

Sec.

- 995.10 Correspondence and applications.
- 995.11 Government review and approval.
- 995.12 Certification designation.
- 995.13 Transfer of certification.
- 995.14 Auditing.
- 995.15 Termination of certification.
- 995.16 Term of certification.

##### Subpart C—Requirements for Certified Distributors and Value Added Distributors of NOAA ENC Products

Sec.

- 995.20 General.
- 995.21 Registry of data users.
- 995.22 Training of data users.
- 995.23 Acquisition of data.
- 995.24 Distribution of data.
- 995.25 Quality management system.
- 995.26 Conversion of NOAA ENC files to other formats.
- 995.27 Format validation software testing.
- 995.28 Use of NOAA emblem.
- 995.29 Limitation on endorsements.

#### Appendix A To Subpart C of Part 995—Certification Application Templates

Authority: 33 U.S.C. 892b(b)(1).

#### Subpart A—General

##### § 995.1 Purpose and scope.

(a) The National Oceanic and Atmospheric Administration (NOAA) produces electronic navigational charts (ENCs) as one of its products under its Nautical Charting Program. According to Federal regulations, official NOAA ENCs® meet nautical chart carriage requirements when used in a type-approved display system, such as an Electronic Chart Display and Information System (ECDIS). NOAA distributes these official ENCs to the public for free over its Web site on the Internet. This Part establishes the requirements by which entities may be certified to download, redistribute, repack, or in some cases reformat, official NOAA ENCs and retain the NOAA ENC's official status. When a NOAA ENC® retains its official status, it will comply with Federal chart carriage requirements. These requirements for re-distributing NOAA ENC data or incorporating it into value-added navigational products are to ensure the quality and content of official NOAA ENCs remains intact throughout the redistribution process. No other processes result in redistributed NOAA ENC products that comply with Federal chart carriage requirements.

(b) Two types of certification are offered. The first type, "Certified NOAA ENC Distributor" (CED), covers NOAA ENC downloading, exact copying, and redistribution of those copies. The second type, "Certified NOAA ENC Value Added Distributor" (CEVAD), permits reformatting official NOAA ENCs into a System Electronic Navigational Chart (SENC) using type-approved software, and distribution of that SENC. Both types of certification permit, but do not require, compression, encryption, and packaging with other data. Because NOAA ENC® data is the primary concern of this rule, and it is mandatory for certification that the official NOAA ENCs remain unaltered for positional accuracy and informational content, NOAA is, in effect, certifying that a CED's or CEVAD's products contain official NOAA ENC data, and therefore meets chart carriage requirements.

(c) Any entity may continue to download from an official NOAA ENC® Web site and use NOAA ENCs for any purpose. As long as it is not redistributed, that ENC will still be considered as official Federal data. If the NOAA ENC is successfully imported unaltered into a type-approved system, it will comply with Federal nautical chart carriage requirements. While without certification anyone can

download an official NOAA ENC for any use, if a NOAA ENC® is redistributed by an uncertified entity to another entity, the NOAA ENC is no longer considered as official Federal data and thus does not comply with Federal chart carriage requirements. An example follows.

(1) One example is if an uncertified individual downloads a NOAA ENC and uses it according to Federal requirements, that individual will be meeting Federal chart carriage requirements. If an uncertified tug boat company has 9 boats in its fleet and an individual on one of the boats downloads a NOAA ENC and uses it according to Federal requirements that individual will be meeting Federal chart carriage requirements. However, if that same uncertified tug boat company downloads a NOAA ENC and redistributes it to its 9 boats, the NOAA ENC will not be considered official Federal data and therefore the 9 boats will not be meeting Federal carriage requirements. The company should become a CED or CEVAD under this part in order to be able to redistribute NOAA ENC's and retain the official status of those ENC's.

(2) To reiterate, NOAA ENCs must not be redistributed by an uncertified entity if the end output needs to have official NOAA ENCs in it that will comply with Federal carriage requirements. Any company, entity or individual must be certified if the goal is to redistribute NOAA ENCs and have those NOAA ENCs remain as official Federal data and as such continue to meet Federal carriage requirements administered by the Coast Guard.

#### § 995.2 Incorporation by reference.

Certain material listed in this section is incorporated by reference with the approval of the Director of the **Federal Register** under 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this section are incorporated by reference in the corresponding sections noted. The materials are available for purchase at the corresponding addresses noted below, and all are available for inspection at the National Archives and Records Administration (NARA) or at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(a) The material listed below is available for purchase from the International Hydrographic Bureau, 4 quai Antoine 1er, B.P. 445, MC 98011

MONACO CEDEX; telephone: (377) 93.10.81.00; fax: (377) 93.10.81.40; e-mail: [info@ihb.mc](mailto:info@ihb.mc). Orders may be submitted by letter, fax, or e-mail.

(1) IHO Technical Resolution A3.11—"ENC/SENC Distribution Option", as published in the "Resolutions of the International Hydrographic Organization" updated June 2005, incorporation by reference approved for § 995.26.

(2) [RESERVED]

(b) [RESERVED]

#### § 995.3 Availability of other publications.

(a) For further guidance you may obtain the following:

(1) IEC 61174—The International Electrotechnical Commission identified and described the necessary performance tests and checks for an International Maritime Organization (IMO) compliant ECDIS. The IMO Performance Standards permit National Maritime Safety Administrations to consider ECDIS as the functional equivalent to charts required by Regulation V, Chapter 20 of the 1974 SOLAS Convention. IEC Publication 61174, dated August 1998, can be purchased from the IEC Web site: <http://www.iec.ch>.

(2) IHO Special Publication S57—The IHO Transfer Standard for Hydrographic Data, edition 3.1, dated November 2000, describes the data structure and format to be used for the exchange of ENC data, product specification for the production of ENC data, and an updating profile. IHO S-57 documentation is available for free download at <http://www.ihb.shom.fr>. Send written requests to the International Hydrographic Bureau, 4 quai Antoine 1er, B.P. 445, MC 98011 MONACO CEDEX; telephone: (377) 93.10.81.00; e-mail: [info@ihb.mc](mailto:info@ihb.mc).

(3) IHO Special Publication S58—The IHO Validation Checks for Hydrographic Data, edition 2.0, dated October 2003, describes the validation checks to be used on ENC data. This document was formally published as S-57 Appendix B.1, Annex C, but has been renamed to S-58 due to the S-57 publication having been frozen (*i.e.* will not change) for a fixed time period. IHO S-58 documentation is available for free download at <http://www.ihb.shom.fr>. Send written requests to the International Hydrographic Bureau, 4 quai Antoine 1er, B.P. 445, MC 98011 MONACO CEDEX; telephone: (377) 93.10.81.00; e-mail: [info@ihb.mc](mailto:info@ihb.mc).

(b) [RESERVED]

#### § 995.4 Definitions.

*Certified NOAA ENC Distributor (CED)* means an entity that is certified as a distributor of NOAA ENC files by

NOAA. This certification indicates that the distributor meets certain requirements (in Subparts A, B, and D of this part) that ensure timely and accurate dissemination of NOAA ENC data.

*Certified NOAA ENC Value Added Distributor (CEVAD)* means an entity that creates a derived product that has been produced from NOAA ENC files using a process certified by NOAA. This certification indicates that the CEVAD meets certain requirements (in Subparts A, C, and D of this part) that ensure timely and accurate dissemination of NOAA ENC data in a non-ENC format.

*Derived product* means a navigational product produced by transforming the NOAA ENC files to another format while preserving the content and accuracy. It may contain information from other sources.

*Distributor* means a person or company that redistributes a NOAA ENC to end users in its original format.

*Electronic Chart Display and Information System (ECDIS)* means the internationally adopted computer-assisted navigation system which, when complying with all of the required specifications, can be accepted as the up-to-date chart required by V/20 of the 1974 SOLAS Convention.

*Electronic Navigational Chart (ENC)* means a database, standardized as to content, structure, and format, issued for use with ECDIS on the authority of government authorized hydrographic offices. The ENC contains all the chart information necessary for safe navigation and may contain supplementary information in addition to that contained in the paper chart (*e.g.* sailing directions), which may be considered necessary for safe navigation.

*Entity* means one person, one person within a company, or one company.

*NOAA ENC®* means Electronic Navigational Charts produced by the National Oceanic and Atmospheric Administration. NOAA ENC files comply with the IHO S-57 standard, Edition 3.1 and the ENC Product Specification. The phrase "NOAA ENC" is a registered trademark and may not be used without permission.

*Redistributed* means to distribute again, either as a direct copy or in a different way. A redistributed NOAA ENC is one that has been downloaded from an official NOAA ENC Web site by one entity and provided to another entity.

*System Electronic Navigational Chart (SENC)* means a database resulting from the transformation of the ENC by ECDIS for appropriate use, updates to the ENC by appropriate means and other data

added by the mariner. It is this database that is actually accessed by ECDIS for the display generation and other navigational functions, and is equivalent to an up-to-date paper chart. The SENC may also contain information from other sources.

*Value Added Distributor* means a person or company that redistributes a NOAA ENC with additional data included or in a different format to create newly derived products used by end users.

#### § 995.5 Abbreviations.

CED Certified NOAA ENC Distributor  
 CEVAD Certified NOAA ENC Value Added Distributor  
 CRC Cyclical Redundancy Checksum  
 ECDIS Electronic Chart Display and Information System  
 ENC Electronic Navigational Chart  
 IEC International Electrotechnical Commission  
 IHO International Hydrographic Organization  
 IMO International Maritime Organization  
 ISO International Organization for Standardization  
 NOAA National Oceanic and Atmospheric Administration  
 NOS National Ocean Service  
 OCS Office of Coast Survey  
 SENC System Electronic Navigational Chart  
 SOLAS Safety of Life at Sea  
 VAD Value Added Distributor

#### § 995.6 Fees.

(a) The Office of Coast Survey, NOAA, may charge a fee for costs incurred to process each request for certification pursuant to 33 U.S.C. 892b(b)(1)(C) and 892b(b)(2). The amount of the fee, if one is charged, will be determined by the Director, Office of Coast Survey, and charged to all Applicants based on the time and effort involved.

(b) If a fee is charged, it will be charged for each application for certification submitted by an Applicant. A fee may also be charged for resubmissions of revised requests that were initially unacceptable and are sent in within 90 days as described in § 995.11(b)(2).

#### § 995.7 Liability.

Distributors and value added distributors certified under this part shall indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, the extent caused by the negligence of certified distributors or value added distributors or their employees, arising out of the use by a distributor or value added distributor, or any party acting on

its behalf or under its authorization, of NOAA data.

### Subpart B—Certification and Procedures

#### § 995.10 Correspondence and applications.

(a) Distributors or value-added distributors desiring certification from NOAA shall provide a written request and application for certification to the Office of Coast Survey, Attention: Distribution Certification, N/CS, 1315 East West Highway, Silver Spring, Maryland 20910. Such a distributor or value-added distributor is hereafter referred to as Applicant. The Office of Coast Survey (OCS) is the approving office for certification under these requirements.

(b) Applicant shall provide an application for certification that describes how each element in the applicable sections of this part has been met. The application will also contain an acknowledgment, signed by a company principal, of all terms and conditions described in this part.

(c) Applicant shall use the appropriate template provided in Appendix A to subpart C of this part to prepare their request for certification.

(d) Applicant shall provide, with its application, a point of contact with mailing address, phone number, and e-mail address. Applicant shall immediately notify NOAA, through the Office of Coast Survey, of any changes to point of contact information. Failure to do so will be considered a violation of this part and may lead to termination of certification.

#### § 995.11 Government review and approval.

(a) An application will be reviewed by NOAA within 90 days of receipt. If all requirements, as defined by this part, are adequately addressed, certification will be granted. If for any reason NOAA will be unable to process the application for certification within the 90-day time frame, Applicant will be notified and a revised date will be provided for a decision on the request.

(b)(1) NOAA will determine if the request for certification is complete and that it demonstrates that Applicant has met all of the applicable requirements described in this part.

(2) In the event that a request is incomplete or does not demonstrate that Applicant has met all of the applicable requirements, NOAA will consider the application unacceptable. NOAA will notify the Applicant of the deficiencies in writing. Applicant may re-submit a revised application within 90 days of receipt of NOAA's denial notice. NOAA

will review applications received within the 90-day resubmission period in the time frame described in paragraph (a) of this section. After the second review, if the application is still unacceptable, Applicant will be again notified of the deficiencies in writing and the process continues as stated in this section.

#### § 995.12 Certification designation.

An Applicant that has been certified by NOAA as a CED may use the phrase "Certified NOAA ENC Distributor" on products and marketing materials. An Applicant that has been certified by NOAA as a CEVAD may use the phrase "Certified NOAA ENC Value Added Distributor" on products and marketing materials. Use of these phrases must include labeling to identify the product's contents and suitable use. (See § 995.24(a)(4), (5) and (6) and (b)(3), (4) and (5)). Use of the NOAA emblem is described in § 995.28 and is not automatically granted with certification.

#### § 995.13 Transfer of certification.

A CED or CEVAD may not transfer its certification to another entity. If it is transferred the existing certification will be terminated.

(a) If prior to certification it is known that another entity will be assisting the entity applying for certification in the production or redistribution of the data, that other entity must be documented in the application process. Listed entities will be considered as falling under the umbrella of the parent company's certification. The name of the entity and its duties should be included as part of the application.

(b) If, subsequent to certification, a CED or CEVAD wishes to add another entity to assist it, a request in writing with the name of the entity and its duties shall be provided to the Office of Coast Survey, NOAA for acceptance. The Office of Coast Survey, NOAA will provide written notification of acceptance to the CED or CEVAD within 30 days of receipt of the request.

#### § 995.14 Auditing.

NOAA reserves the right to audit CED or CEVAD to ensure that the certification requirements are being met. Such an audit may consist of: visits to the production facilities, product testing, confirmation of ISO 9001 certification, or confirmation of type approval for conversion software, and so forth.

#### § 995.15 Termination of certification.

(a) In the event that NOAA determines that a CED or CEVAD is not meeting the requirements described in this part, the Office of Coast Survey,

NOAA (OCS) will provide initial written notification of potential termination to the CED or CEVAD. OCS/NOAA will state in its notification to CED or CEVAD that termination of certification is under consideration.

(b) The initial notification of potential termination will be provided in writing by OCS to the CED or CEVAD, and shall state the reason for the potential termination. Reasons for termination may include, but are not limited to:

(1) CED or CEVAD contracts or in any way seeks to transfer the production or redistribution of all or part of the NOAA official data in the product to another entity.

(2) CED or CEVAD fails to, or is unable (in the opinion of NOAA) to carry out its responsibilities as described in this part.

(c) CED or CEVAD may submit written comments to OCS within 30 days of receipt of the OCS's initial written notification of potential termination, explaining why CED or CEVAD's certification should not be terminated.

(1) The written comments shall be submitted to: Director, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, MD 20910.

(2) The written comments shall contain at least:

(i) Identification and contact information of the CED or CEVAD;

(ii) A statement that CED or CEVAD is responding to an initial written notification of potential termination by OCS; and

(iii) A thorough but concise argument as to why CED or CEVAD believes that its certification should not be terminated.

(d) The Director of OCS will take all timely written comments into account before taking final action, and in no case will the Director take final action until at least 45 days after CED or CEVAD's receipt of the initial written notification. A decision to terminate by the Director of OCS will state the reasons for termination and respond to all timely written comments submitted. Any final action taken by OCS constitutes final agency action on the matter.

(e) CED or CEVAD shall notify all recipients of its products that its certification has been revoked, and that the product may no longer be valid for use. In addition, the CED or CEVAD shall provide the dates of non-compliance.

#### **§ 995.16 Term of certification.**

The term of certification is five years from the date of issuance. At the end of the certification term, the process must

be re-certified by the distributor or value added distributor submitting a request for certification as described in § 995.10. It may also be revoked prior to the end of the term under the conditions described in § 995.15.

### **Subpart C—Requirements for Certified Distributors and Value Added Distributors of NOAA ENC Products**

#### **§ 995.20 General.**

The requirements for certification as a "Certified NOAA ENC Distributor" (CED) and "Certified NOAA ENC Value Added Distributor" (CEVAD) are described in this subpart.

#### **§ 995.21 Registry of data users.**

(a) CED or CEVAD shall maintain a registry of customers receiving NOAA ENC data. CED or CEVAD shall provide said registry to NOAA on a biannual basis for internal NOAA planning and product evaluation use. NOAA agrees to treat such information as proprietary (if requested to do so by the CED or CEVAD).

(b)(1) The registry shall include, but not be limited to:

(i) Which NOAA ENC® cells were provided to each customer;

(ii) Edition number of each cell provided;

(iii) Updates provided for each cell;

(iv) Method of distribution for each customer.

(2) The registry may also include information about the type and size of vessel that the NOAA ENC data has been provided for as well as an anonymous unique identifier for the vessel.

#### **§ 995.22 Training of data users.**

CED or CEVAD shall provide some form of product training and education materials to the customer to ensure that the end user has a sufficient level of information about the intended use of the derived product and what is needed to properly use it (e.g., requires certain equipment).

#### **§ 995.23 Acquisition of data.**

(a) CED or CEVAD shall obtain official NOAA ENC® files only by directly downloading them from an official NOAA ENC site on the Internet.

(b)(1) After downloading NOAA ENC files, CED or CEVAD shall uncompress the files and compute a CRC checksum value for each NOAA ENC file and verify that it matches the CRC checksum value contained in the CATALOG.031 file provided with the NOAA ENC files by NOAA. This is to ensure that no NOAA ENC files have been corrupted during the download process.

(2) In the event that said CRC checksum value does not match that in the CATALOG.031 file, CED or CEVAD agrees to:

(i) Repeat the download process;

(ii) In the event that said CRC checksum value for the repeat download does not match that in the CATALOG.031 file, immediately notify the NOAA ENC Production Manager at [enc.chartproduction@noaa.gov](mailto:enc.chartproduction@noaa.gov), and;

(iii) Not redistribute any NOAA ENC that does not have a valid CRC checksum.

#### **§ 995.24 Distribution of data.**

(a) *Distribution of data by CEDs.* (1)

*Format of redistributed data.* (i)

*General.* Except as listed in paragraphs (a)(1)(ii) and (iii) of this section, CED agrees to redistribute NOAA ENC data only in the original form provided by NOAA after uncompressing and shall not change the file format (S-57 Edition 3.1 ENC or other formats specified by NOAA), or contents, or alter the NOAA ENC data in any way.

(ii) *Compression.* The NOAA ENC files may be compressed using a lossless compression technique provided that CED makes the decompression software available to the end user as part of the redistribution service. Decompressed files must have the same CRC checksum value as the original files. The CED agrees to make the compression/decompression software and documentation available to NOAA for testing.

(iii) *Encryption.* The NOAA ENC files may be encrypted by CED, providing that the encryption/decryption process does not result in any information loss and that CED makes the decryption software available to the end user as part of the redistribution service. Decrypted files must have the same CRC checksum value as the original files. CED shall make the encryption/decryption software and documentation available to NOAA for testing.

(2) *Frequency of distribution.* CED shall make all current editions of NOAA ENC files and all updates to or new editions of NOAA ENC files available to its customers within five working days of the files or updates being posted by NOAA. Documentation shall be provided to the customer concerning any time delays that may occur between official release of a NOAA ENC or update, and CED providing same to end users.

(3) *Distribution report.* CED shall provide a bi-annual report on when NOAA ENC files were downloaded and when they were redistributed to end-users.

(4) *Additional data.* (i) If CED provides other data to customers in addition to NOAA ENC data (e.g., ENC data from other nations, raster chart data, privately produced data, etc.), CED shall provide a clear indication to the customer which files are official NOAA ENC data and which files are not. This may be accomplished through means such as package labeling, notifications in software, or other means.

(ii) Additionally, any data that is included with NOAA ENC data must not result in embarrassment to the Department of Commerce or NOAA. There must be no conflict with any trademark rights and the inclusion of non-NOAA data will not constitute any endorsement of or favoritism toward the non-NOAA data or CED.

(5) *Identification of type and contents.* CED shall ensure that NOAA ENC® files provided to an end user are clearly identified as to the type (e.g., direct unaltered copies) and contents (cells, updates, and ancillary files) and authenticity of the exchange set. This may be accomplished through means such as package labeling, notifications in software, or other means.

(6) *Use of product.* CED shall provide a clear indication to the customer the purpose of its products; for example, indicating whether or not the product, and the data contained within it, is suitable for navigation and if it meets Federal chart carriage requirements. If only some of the files meet Federal carriage requirements, CED shall provide clear indication which files do and which files do not. This may be accomplished through means such as package labeling, notifications in software, or other means.

(b) *Distribution of data by CEVADs.*  
(1) *Frequency of distribution.* CEVAD shall make all current editions of NOAA ENC files and all updates to or new editions of NOAA ENC files available to its customers within five working days of the files or updates being posted by NOAA. Documentation shall be provided to the customer concerning any time delays that may occur between official release of a NOAA ENC or update, and CED providing same to end users.

(2) *Distribution report.* CEVAD shall provide a bi-annual report to NOAA on when NOAA ENC files were downloaded and when they were redistributed or made available to end users.

(3) *Additional data.* (i) If CEVAD provides products to customers that incorporate other data in addition to NOAA ENC data (e.g., ENC data from other nations, raster chart data, privately produced data, etc.), CEVAD shall

provide a clear indication in the product which data are from official NOAA ENC data and which data are not. This shall be done in a way that allows the navigation system to give the end user an automatic notification or warning that particular data elements within the product are not from the official NOAA ENC. Any such data shall not degrade the official NOAA ENC data or information.

(ii) Additionally, any data that is included with NOAA ENC data must not result in embarrassment to the Department of Commerce or NOAA. There must be no conflict with any trademark rights and the inclusion of non-NOAA data will not constitute any endorsement of or favoritism toward the non-NOAA data or CEVAD.

(4) *Identification of type and contents.* CEVAD shall ensure that data provided to an end user clearly identify which NOAA ENC® files are included in the product as to the type (e.g., NOAA ENCs in another form than that provided by NOAA without degradation to positional accuracy or informational content) and the contents (cells, updates, and ancillary files) and authenticity of the NOAA ENC files used. This may be accomplished through means such as package labeling, notifications in software, or other means.

(5) *Use of product.* CEVAD shall provide a clear indication to the customer of the purpose of its products; for example, indicating whether or not the product, and the data contained within it, is suitable for navigation and if it meets Federal chart carriage requirements. If only some of the files meet Federal carriage requirements, CEVAD shall provide clear indication which files do and which files do not. This may be accomplished through means such as package labeling, notifications in software, or other means.

#### § 995.25 Quality management system.

(a) *Quality management system for CEVADs.* (1) CEVAD shall operate a quality management system, based on ISO 9001–2000 or equivalent, which embraces all elements of the process used to process and redistribute NOAA ENC files. The minimum requirements for such a quality management system are those defined in this part. The quality management system must ensure that the production process complies with all relevant requirements of this part.

(2) The quality management system must, at a minimum, include an adequate account of:

(i) The quality objectives and the organizational structure, responsibilities, and powers of management with regard to production quality;

(ii) The techniques, processes, and systematic actions that will be used for quality management throughout the production process, including NOAA ENC conversion and the quality of the product being redistributed;

(iii) The examination and tests that will be carried out before, during, and after processes essential for the quality of the product, and the frequency with which they will be carried out;

(iv) The quality records, such as inspection records and test data, qualification reports of personnel concerned resulting from the program specified herein; and

(v) The means for monitoring the achievement of the required quality of the product and the effective operation of the quality management system.

(3) Design and development changes shall be reviewed, verified, and validated as appropriate and approved by the ISO 9001 certification authority (or equivalent if another quality management system is used) before implementation.

(4) If the type approved conversion software is maintained by a third party, CEVAD shall ensure that no changes made to the conversion software render the type approval of the conversion software invalid, and shall evaluate the effects of such changes on the end users of the product.

(5) CEVAD shall analyze both internal information and that received from external parties in order to continually monitor and improve the production process and the product being redistributed.

(6) CEVAD shall ensure that personnel performing work affecting the production process are competent with regard to appropriate education, training, skills, and expertise.

(7) CEVAD shall conduct internal audits at planned intervals to determine whether the quality management system conforms to the requirements of this part and is effectively implemented and maintained. The audit program shall take into consideration the individual processes' importance in relation to the product quality, as well as results of previous audits. Selection of auditors and conducting of audits shall, as far as practicable, insure objectivity and impartiality in the audit process.

(8) CEVAD shall ensure that actions are taken without undue delay to eliminate detected non-conformities and their causes. Follow-up activities shall include the verification of the actions

taken and the reporting of verification results.

(b) [Reserved]

**§ 995.26 Conversion of NOAA ENC® files to other formats.**

(a) Conversion of NOAA ENC files to other formats. (1) *Content*. CEVAD may provide NOAA ENC data in forms other than that provided by NOAA. However, CEVAD shall not change the information content provided by the NOAA ENC. This means that all features and their associated attribution must be preserved in the CEVADs data files without degradation to positional accuracy or informational content.

(2) *Software certification*. Conversion of NOAA ENC data to other formats must be accomplished within the constraints of IHO Technical Resolution A3.11: "ENC/SENC Distribution Option" (incorporated by reference, see § 995.2)—in particular, paragraph three:

Distributors who are to supply the SENC service must operate under the regulations of the issuing authority. The onshore ENC to SENC conversion must be performed using type-approved software.

(3) *Error reporting*. Any errors detected during the conversion process shall be logged and investigated prior to releasing the data in which the errors occurred. Any errors that apparently originate in the NOAA ENC files shall be immediately reported to NOAA.

(4) *Format check*. CEVAD shall ensure that the converted data conforms to the CEVAD's own format specifications and shall test load the converted data to ensure that it will correctly load and display on the intended equipment.

(b) [Reserved]

**§ 995.27 Format validation software testing.**

Tests shall be performed verifying, as far as reasonable and practicable, that CEVAD's data testing software performs the checks, as specified by CEVAD, for verifying that the converted data conforms to its own proprietary product specification. These tests may be combined with testing of the conversion software.

**§ 995.28 Use of NOAA emblem.**

(a) Permission for the use of the NOAA emblem must be obtained by formally requesting such permission from NOAA and the Department of Commerce through NOAA's Office of Coast Survey.

(b) Use of the NOAA emblem must satisfy an interest of the Department; the use may not result in embarrassment to the Department; there must be no conflict with any trademark rights, as

stated in § 995.24(a)(4)(ii) and (b)(3)(ii); and there can be no endorsement or favoritism toward the distributor or value added distributor using the emblem, or other appearance of impropriety.

(c) Certification under this part does not automatically grant the distributor or value added distributor the right to use the NOAA logo. Use of the NOAA logo without express permission from NOAA and the Department of Commerce will be considered grounds for denial of an application for certification or termination of certification.

(d) *Emblem use by certified distributors or certified value added distributors of NOAA electronic products*. (1) After receiving separate, written permission from NOAA and the Department of Commerce as described in paragraph (a) of this section, a CED or CEVAD may use the NOAA emblem in product labeling and advertising materials, but only in conjunction with the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor," as applicable, and only after receiving separate, written permission from NOAA and the Department of Commerce as described in paragraph (d)(2) of this section.

(2) If the NOAA emblem is used with products that include other data, clear indication must be provided to the customer indicating that the emblem and the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor" does not apply to the entire product delivered. Information on the effects of such limitation must be provided to the customer (See § 995.24(a)(4) and (5) and (b)(3) and (4).)

**§ 995.29 Limitation on endorsements.**

By certifying compliance with this part, NOAA does not automatically, directly, or indirectly endorse any product or service provided, or to be provided, by distributor or value added distributor or its successors, assignees, or licensees. The distributor or value added distributor shall not in any way imply that this certification is an endorsement of any such product or service without separate, written permission from NOAA and the Department of Commerce.

**Appendix A To Subpart C of Part 995—Certification Application Templates**

Notice to respondents:

This information is being collected by NOAA to ascertain qualifications for certification as an authorized distributor of official NOAA ENC® data. NOAA developed

these certification requirements under the authority of Section 104 of the Hydrographic Services Improvement Act Amendments of 2002, 33 U.S.C. 892b(b)(1).

The information on these forms is not associated with performance of agency functions.

Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to [Jim.Gardner@noaa.gov](mailto:Jim.Gardner@noaa.gov).

Responses to this collection are considered voluntary, though they are required for certification.

The information requested on these forms will not be disseminated to the public or used to support information that will be disseminated to the public. Any disclosure of proprietary information will be held in confidentiality as regulated under the Trade Secrets Act. NOAA will not violate that Act's prohibitions against unauthorized agency disclosures of trade secrets or other confidential business information.

Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to a penalty for failure to, comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. [OMB Control #0648-0508 Expires 05/31/2008]

**Application for Certification as "Certified NOAA ENC Distributor"**

Company Name  
Company Address  
Company Phone Number  
Company Fax Number  
Company E-Mail Address  
Point of Contact  
Point of Contact Address  
Point of Contact Phone Number  
Point of Contact Fax Number  
Point of Contact E-Mail Address

This is a request for the above named company or individual (hereinafter referred to as Distributor) to be certified as a "Certified NOAA ENC Distributor" (CED). This document describes how each of the requirements for certification is being met. Descriptive titles after each number in parenthesis on this application correspond to section titles in 15 CFR, chapter IX, Subchapter F, Part 995—Certification requirements for Distributors of NOAA hydrographic products. The numbers after each descriptive title refer to the section number within 15 CFR part 995. The Distributor should use these section numbers to insure that the requirements are being fully understood and met by the Distributor prior to submitting the application.

(1) *Correspondence and applications/requests for certification (995.10 (a))*. Distributor acknowledges and agrees to all procedures and requirements pertaining to

the certification process described in 15 CFR part 995.

(2) *Correspondence and applications/point of contact (995.10 (d))*. Distributor agrees to immediately notify the Government of any changes to point of contact information.

(3) *Transfer of certification (995.13)*. Document other entities that will be assisting in the production or redistribution of the derived product. Provide the names and duties of those entities to meet this requirement.

(4) *Auditing (995.14)*. Distributor acknowledges that NOAA reserves the right to audit Distributor to ensure that all requirements in 15 CFR part 995 are being met.

(5) *Termination of certification (995.15)*. Distributor acknowledges the conditions leading to and procedures for the termination of certification as described in this requirement.

(6) *Term of certification (995.16)*. Distributor acknowledges that the duration of certification is five years from the date of issuance.

(7) *Registry of data users (995.21)*. Include a description of the data user registry, including: (a) What data elements it contains, specifically showing how the required elements are included; (b) A hardcopy sample of the report that will be periodically submitted to NOAA; (c) A short description of how the registry is maintained.

(8) *Training of data users (995.22)*. Include a copy of any documentation provided to users that is intended to meet this requirement.

(9) *Acquisition of data (995.23)*. Distributor asserts that all procedures described in this requirement for the acquisition of NOAA ENC® data for redistribution are being followed.

(10) *Distribution of data/general (995.24(a)(1)(i))*. Distributor asserts that all NOAA ENC® data redistributed will be in the format described by this requirement.

(11) *Distribution of data/compression (995.24(a)(1)(ii))*. Distributor shall indicate if data compression techniques are used. If Distributor uses data compression techniques, Distributor asserts that the process meets the necessary regulations described by this requirement.

(12) *Distribution of data/encryption (995.24(a)(1)(iii))*. Distributor shall indicate if data encryption techniques are used. If Distributor uses data encryption techniques, Distributor asserts that the process meets the necessary regulations described by this requirement.

(13) *Distribution of data/frequency of distribution (995.24(a)(2))*. Distributor asserts that any updates will be transmitted to their users within the time constraints described by this requirement.

(14) *Distribution of data/distribution report (995.24(a)(3))*. Distributor shall provide an example of the distribution report described by this requirement.

(15) *Distribution of data/additional data (995.24(a)(4))*. Distributor shall indicate if additional data is to be distributed with the NOAA ENC® data. If so, Distributor shall provide examples of how the data users will be informed as to the official and unofficial

contents of the data as described by this requirement.

(16) *Distribution of data/identification of contents (995.24(a)(5))*. Distributor shall provide examples of how the contents of the NOAA ENC® files will be identified to the users.

(17) *Distribution of data/use of product (995.24(a)(6))*. Distributor shall provide examples of how the data users will be informed as to the purpose of its products as described in this requirement.

(18) *Use of NOAA emblem (995.28)*. Distributor acknowledges that a separate request for the use of the NOAA emblem must be submitted according to the procedure described in this requirement.

(19) *Limitation on endorsements (995.29)*. Distributor acknowledges that NOAA does not automatically, directly, or indirectly endorse any product or service provided, or to be provided, by Distributor, its successors, assignees, or licensees. Distributor shall not in any way imply that this certification is an endorsement of any such product or service without separate, written permission.

(20) *Liability (995.7)*. By signing this request for certification, Distributor pledges to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, the extent caused by the negligence of Distributor or its employees, arising out of the use by the Distributor, or any Party acting on its behalf or under its authorization, of NOAA ENC® data.

Signature of this request constitutes an acknowledgement by Distributor of ALL applicable terms and conditions described in the certification requirements in 15 CFR part 995.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[OMB Control #0648-0508 Expires 05/31/2008]

#### **Application for Certification as "Certified NOAA ENC Value Added Distributor"**

Company Name  
Company Address  
Company Phone Number  
Company Fax Number  
Company E-Mail Address  
Point of Contact  
Point of Contact Address  
Point of Contact Phone Number  
Point of Contact Fax Number  
Point of Contact E-Mail Address

This is a request for the above named company (hereinafter referred to as Value Added Distributor) to be certified as a "Certified NOAA ENC Value Added Distributor" (CEVAD). This document describes how each of the requirements for certification is being met. Descriptive titles after each number in parenthesis on this application correspond to section titles in 15 CFR, chapter IX, Subchapter F, Part 995—Certification requirements for Distributors of NOAA hydrographic products. The numbers after each descriptive title refer to the section number within 15 CFR, part 995. The Distributor should use these section numbers to insure that the requirements are being fully understood and met by the Distributor prior to submitting the application.

(1) *Correspondence and applications/requests for certification (995.10 (a))*. Distributor acknowledges and agrees to all procedures and requirements pertaining to the certification process described in 15 CFR part 995.

(2) *Correspondence and applications/point of contact (995.10 (d))*. Distributor agrees to immediately notify the Government of any changes to point of contact information.

(3) *Transfer of certification (995.13)*. Document other entities that will be assisting in the production or redistribution of the derived product. Provide the names and duties of those entities to meet this requirement.

(4) *Auditing (995.14)*. Distributor acknowledges that NOAA reserves the right to audit Distributor to ensure that all requirements in 15 CFR part 995 are being met.

(5) *Termination of certification (995.15)*. Distributor acknowledges the conditions leading to and procedures for the termination of certification as described in this requirement.

(6) *Term of certification (995.16)*. Distributor acknowledges that the duration of certification is five years from the date of issuance.

(7) *Registry of data users (995.21)*. Include a description of the data user registry, including: (a) What data elements it contains, specifically showing how the required elements are included; (b) A hardcopy sample of the report that will be periodically submitted to NOAA; (c) A short description of how the registry is maintained.

(8) *Training of data users (995.22)*. Include a copy of any documentation provided to users that is intended to meet this requirement.

(9) *Acquisition of data (995.23)*. Distributor asserts that all procedures described in this requirement for the acquisition of NOAA ENC® data for redistribution are being followed.

(10) *Distribution of data/frequency of distribution (995.24(b)(1))*. Value Added Distributor asserts that any updates will be transmitted to their users within the time constraints described by this requirement.

(11) *Distribution of data/distribution report (995.24(b)(2))*. Value Added Distributor shall provide an example of the distribution report described by this requirement.

(12) *Distribution of data/additional data (995.24(b)(3))*. Value Added Distributor shall indicate if additional data is to be distributed with the NOAA ENC data. If so, Value Added Distributor shall provide examples of how the data users will be informed as to the official and unofficial contents of the data as described in this requirement.

(13) *Distribution of data/identification of contents (995.24(b)(4))*. Value Added Distributor shall provide examples of how the contents of the NOAA ENC files will be identified to the users.

(14) *Distribution of data/use of product (995.24(b)(5))*. Distributor shall provide examples of how the data users will be informed as to the purpose of its products as described in this requirement.

(15) *Quality management system (995.25)*. Value Added Distributor shall provide a copy

of the ISO 9001–2000 certification or certification of compliance with an equivalent program of quality management that covers the processes described in this section of the requirements.

(16) *Conversion of NOAA ENC files to other formats (995.26(a)(1))*. Value Added Distributor asserts that all NOAA ENC® content and accuracy are preserved during the conversion process as described in this section of the requirements.

(17) *Conversion of NOAA ENC files to other formats/software certification (995.26(a)(2))*. Value Added Distributor shall provide a copy of the type approval certificate for the software used to convert the NOAA ENC files to the Value Added Distributor’s format.

(18) *Conversion of NOAA ENC files to other formats/error reporting (995.26(a)(3))*. Value Added Distributor asserts that they shall log and report any errors in the NOAA ENC data detected during the conversion process. Value Added Distributor shall provide an example of the report format that they will use.

(19) *Conversion of NOAA ENC files to other formats/format check (995.26(a)(4))*. Value Added Distributor asserts that all data shall be checked for conformance with Value Added Distributor’s own format specifications and shall test load the converted data as described in this section of the requirements.

(20) *Format validation software testing (995.27)*. The validation software used by Value Added Distributor shall be tested according to this requirement and the results stated in this section of the request for certification.

(21) *Use of NOAA emblem (995.28)*. Value Added Distributor acknowledges that a separate request for the use of the NOAA emblem must be submitted according to the procedure described in this requirement.

(22) *Limitation on endorsements (995.29)*. Value Added Distributor acknowledges that NOAA does not automatically, directly, or indirectly endorse any product or service provided, or to be provided, by Value Added Distributor, its successors, assignees, or licensees. Value Added Distributor shall not in any way imply that this certification is an endorsement of any such product or service without separate, written permission.

(23) *Liability (995.7)*. By signing this request for certification, Value Added Distributor pledges to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, the extent caused by the negligence of Value Added Distributor or its employees, arising out of the use by the Value Added Distributor, or any party acting on its behalf or under its authorization, of NOAA ENC data.

Signature of this request constitutes an acknowledgement by Value Added Distributor of ALL applicable terms and conditions described in the certification requirements.

Signed: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Dated: August 9, 2005.

**Richard W. Spinrad,**

*Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

[FR Doc. 05–16033 Filed 9–2–05; 8:45 am]

**BILLING CODE 3510–JE–P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 938**

**[PA–124–FOR]**

**Pennsylvania Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; clarification.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is clarifying its decision with respect to one section of an amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment concerned revisions to the Pennsylvania Surface Mining Conservation and Reclamation Act (PASMCR) and implementing regulations at 25 Pa. Code Chapters 86–90 with regard to various issues including bonding, re-mining and reclamation, postmining discharges, and water supply protection/replacement. We approved this amendment, with certain exceptions, in a final rule published in the **Federal Register** on May 13, 2005 (70 FR 25472–25491). This clarification supplements a previous finding made in Section III. OSM’s Findings. However, it does not change or otherwise affect our decision made in Section V. OSM’s Decision.

**EFFECTIVE DATE:** September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Director, Pittsburgh Field Division, Telephone: (717) 782–4036, e-mail: *grieger@osmre.gov*.

**SUPPLEMENTARY INFORMATION:** In our May 13, 2005, decision, we approved, among other provisions, Section 4(g)(3) of PASMCR, pertaining to Stage 3 bond release (70 FR at 25491). Our finding with respect to Section 4(g)(3) is on page 25474, Col. 2, the first complete paragraph and the ensuing three paragraphs. After publication, a member of the public pointed out a possible ambiguity with respect to our finding in support of approving the phrase, “the remaining portion of the bond could be

released in whole or in part at Stage 3 when the operator has completed successfully all mining and reclamation activities and has made provisions with PADEP for the sound future treatment of any polluttional discharges.”

Accordingly, we decided to clarify our finding in support of the decision in this regard. This clarification is limited to an expansion of this finding only, and does not change or otherwise affect our decision to approve Section 4(g)(3). We are expanding the finding related to Section 4(g)(3) to read:

\* \* \* \* \*

PASMCR

\* \* \* \* \*

Section 4(g)(3) was modified to expressly indicate that the remaining portion of the bond could be released in whole or part at Stage 3 when the operator has completed successfully all mining and reclamation activities and has made provisions with PADEP for the sound future treatment of any polluttional discharges. That portion of the permit required for post-mining water treatment remains under bond as part of the provisions for future treatment of any polluttional discharges. Therefore, this is a form of partial bond release as provided for in 30 CFR 800.40(c) and can be approved.

The Federal regulations do not allow full bond release until all requirements of the State program and the permit have been met. However, Pennsylvania has made clear in its comments on this amendment that the reference to the “whole” bond that can be released actually refers to the original bond. That original, standard bond can be fully released at Stage 3 where it is replaced by another approved financial instrument, such as a trust fund as a collateral bond that will fully secure the long-term water treatment obligation. This method, which uses a collateral bond, is the “provision” for “sound future of any polluttional discharges.”

Additionally, Pennsylvania’s regulations at 25 Pa. Code 86.151(j), which provides that release of bonds does not alleviate the operator’s responsibility to treat discharge of mine drainage emanating from, or hydrologically connected to, the site to the standards in the permit, PASMCR, the Clean Stream Law, the Federal Water Pollution Control Act (or Clean Water Act) and the rules and regulations thereunder, provides guidance as to what qualifies as sound future treatment. Based upon Pennsylvania’s clarification about long term financial assurance, we construe the references to “release of bonds” in section 86.151(j) to mean the release of the original bond,

that is replaced by another bond, whether it be a trust fund or other financial instrument used as a collateral bond, that will cover the area and cost of treatment facilities. Therefore, to the extent that the reference in section 4(g)(3) to release of the "whole" bond means the original bond that is replaced by the new bond in the form of another financial assurance mechanism, that reference is approved.

Section 4(g)(3) was also amended by deleting bond release language applicable to noncoal surface mining operations. Since SMCRA contains no counterpart to this language, the deletion of the language does not render the Pennsylvania program inconsistent with SMCRA or the implementing Federal regulations.

For the above noted reasons, we are approving the amendments to Section 4(g)(3).

Dated: July 14, 2005.

**Brent Wahlquist,**

*Regional Director, Appalachian Region.*

[FR Doc. 05-17613 Filed 9-2-05; 8:45 am]

BILLING CODE 4310-05-M

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-05-081]

RIN 1625-AA09

#### Drawbridge Operation Regulations: Townsend Gut, ME

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the drawbridge operation regulations for the operation of the SR 27 Bridge, at mile 0.7, across Townsend Gut, between Boothbay Harbor and Southport, Maine. This temporary rule allows the bridge to open at specific times between 6 a.m. and 8 p.m., after a half-hour advance notice is given. Additionally, this temporary rule allows the bridge to remain closed for nine days, September 19, 2005 through September 27, 2005. This action is necessary to help facilitate rehabilitation construction and painting at the bridge.

**DATES:** This rule is effective from September 6, 2005 through November 30, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as

being available in the docket, are part of docket (CGD01-05-081) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. Additionally, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this temporary final rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard believes that not publishing an NPRM and making this final rule effective less than 30 days after publication is necessary for the reasons discussed below, coupled with the fact that the bridge rehabilitation is necessary, vital work that must be performed in order to assure the continued, safe, and reliable operation of the bridge. Any delay in the implementation of this regulation would not be in the best interest of the public and public safety.

On January 5, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 773). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held. Then, on March 16, 2005, we published a temporary final rule (TFR) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 12805) which suspended the existing regulations and put in place temporary rules effective until November 30, 2005.

On July 23, 2005, the bridge owner requested additional regulatory action to help facilitate the timely completion of the bridge painting aspect of this project. The contractor's progress would not allow completion of the project on time before the winter months, which require painting operations to stop due to cold temperatures. As a result, the bridge owner requested that the bridge remain closed at night from 8 p.m. through 6 a.m. to allow the contractor uninterrupted time to complete the bridge repairs and painting. However, before we could publish the requested

change to the temporary regulation the bridge owner again changed their request. The bridge owner advised the Coast Guard that the night closure plan would not work due to known adverse public response to nighttime operations.

As a result of the late notice from the bridge owner and the necessity to complete vital repairs, the Coast Guard is now revising the current rules to allow the bridge to open less frequently during the daytime.

##### **Background and Purpose**

The SR 27 Bridge has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The permanent drawbridge operating regulations at 33 CFR 117.5, which were suspended from March 14, 2005 through November 30, 2005, require the bridge to open on signal at all times.

On January 5, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 773). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

On March 16, 2005, we published a temporary final rule (TFR) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 12805).

On July 23, 2005, the bridge owner requested additional regulatory action to help facilitate the timely completion of the bridge painting portion of this project. The contractor's progress would not allow completion of the project before the winter months when painting operations are not possible due to cold temperatures. As a result, the Coast Guard is revising the current temporary rules to allow the bridge to open less frequently during the daytime. A half-hour advance notice will be required to allow the construction workers sufficient time to clear the bridge before each bridge opening. Under this temporary rule the bridge will open during the daytime at 6 a.m., 12 p.m., 6 p.m. and 8 p.m., after a half-hour notice is given by calling the number posted at the bridge. At all other times from 8 p.m. until 6 a.m., the bridge will open on signal.

In order to facilitate necessary repairs, the bridge owner requested a nine-day bridge closure from September 19, 2005 through September 27, 2005. Therefore, in addition to the 4 closure periods identified in the March 16, 2005 temporary final rule, which have already occurred, the bridge will be closed from September 19, 2005 through

September 27, 2005 under this regulation.

### Discussion of Changes

The Coast Guard is changing temporary final rule 117.T536, which authorized the bridge to open at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., after a half-hour notice is given. This temporary final rule changes that schedule to allow the bridge to open at 6 a.m., 12 p.m., 6 p.m., and 8 p.m. after a half-hour notice is given by calling the number posted at the bridge. At all other times from 8 p.m. to 6 a.m., the bridge will open on signal. In addition, a nine-day closure is in effect from September 19, 2005 through September 27, 2005.

### Regulatory Evaluation

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

This conclusion is based on the fact that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessel operators may also use the alternate route should they need to transit at other times.

### Small Entities

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

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

This conclusion is based on the fact that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessels operators may also

use an alternate route should they need to transit at other times.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

During the course of rulemaking upon this bridge, beginning on January 5, 2005, no small entities requested Coast Guard assistance and none was given.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### Collection of Information

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

### Federalism

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

### Unfunded Mandates Reform Act

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

### Taking of Private Property

This rule will not 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 rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

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

### Indian Tribal Governments

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

### Energy Effects

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

### Technical Standards

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

adopted by voluntary consensus standards bodies.

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

## Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

### List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—[AMENDED]

- 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. 170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

- 2. Revise § 117.T536 to read as follows:

#### § 117.T536 Townsend Gut.

The draw of the SR 27 Bridge, mile 0.7, across Townsend Gut shall operate as follows:

(a) From September 6, 2005 through November 30, 2005, the SR 27 Bridge shall open on signal at 6 a.m., 12 p.m., 6 p.m., and 8 p.m., after at least a half-hour advance notice is given by calling the number posted at the bridge. At all other times from 8 p.m. to 6 a.m. the draw shall open on signal.

(b) From September 19, 2005 through September 27, 2005, the bridge need not open for the passage of vessel traffic.

Dated: August 25, 2005.

**Mark J. Campbell,**

*Captain, U.S. Coast Guard, Acting First District Commander.*

[FR Doc. 05–17714 Filed 9–1–05; 2:26 pm]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC102–2050; FRL–7953–9]

### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by the District of Columbia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

**EFFECTIVE DATE:** This action is effective September 6, 2005.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room B108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814–2108 or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

#### SUPPLEMENTARY INFORMATION:

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and Office

of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and “Identification of plan” format are discussed in further detail in the May 22, 1997 **Federal Register** document.

On December 7, 1998, (63 FR 67407) EPA published a document in the **Federal Register** beginning the new IBR procedure for the District of Columbia. On August 6, 2004 (69 FR 47773), EPA published an update to the IBR material for the District of Columbia. In this action, EPA is doing the following:

1. Announcing the second update to the material being IBR’ed.
  2. Making corrections to the chart listed in § 52.470(c), as described below:
    - a. Chapter 1 (General), Section 199 (Definitions and Abbreviations)—Entries for Section 199 which were inadvertently removed by a December 28, 2004 rulemaking action are being restored to the table.
    - b. Chapter 3 (Operating Permits), Section 307, the State effective date is revised to read “4/16/04.”
    - c. Chapter 6 (Particulates), Section 600.1—In the “Additional explanation” column, a brief description of the revision is added.
    - d. Chapter 7 (Volatile Organic Compounds), Section 715—the State effective date is revised to read “4/16/04.”
    - e. Chapter 7, Sections 749 through 754—an entry is added to the “Additional explanation” column to reference a related correction final rulemaking action.
    - f. Chapter 7, Section 799—An entry for Section 799 which was inadvertently deleted by a December 23, 2004 rulemaking action is being restored.
    - g. Chapter 7, Section 799—The entry in the “Title/subject” column is revised to read “Definitions and Abbreviations.”
    - h. Chapter 7, Section 799—Language is added to the “Additional explanation” column to provide a brief explanation of the entries for this section.
    - i. Chapter 8 (Asbestos, Sulfur, and Nitrogen Oxides), Section 805—In the “EPA approval date” column, the **Federal Register** page citation is revised, and the language in the “Additional explanation” section is revised to include citations for all of the revised paragraphs.
- EPA has determined that today’s falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately

(thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

## Statutory and Executive Order Reviews

### A. General Requirements

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 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, 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 (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.*).

### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the District of Columbia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no

need in this action to reopen the 60-day period for filing such petitions for judicial review for these "Identification of plan" update actions for the District of Columbia.

## 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 9, 2005.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart J—District of Columbia

■ 2. Section 52.470 is amended by revising paragraphs (b) and (c) to read as follows:

### § 52.470 Identification of plan.

\* \* \* \* \*

(b) Incorporation by reference.

(1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after August 1, 2005 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of August 1, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 1301 Constitution Avenue NW., Room B108, Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of

this material at NARA, call 202-741- code\_of\_federal\_regulations/  
6030, or go to: [http://www.archives.gov/](http://www.archives.gov/ibr_locations.html) ibr\_locations.html.  
federal\_register/ (c) EPA-approved regulations.

## EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
<b>District of Columbia Municipal Regulations (DCMR), Title 20—Environment</b>				
<b>Chapter 1—General</b>				
Section 100 .....	Purpose, Scope and Construction	3/15/85	8/28/95, 60 FR 44431 ...	
Section 101 .....	Inspection .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 102 .....	Orders for Compliance .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 104 .....	Hearings .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 105 .....	Penalty .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 106 .....	Confidentiality of Reports .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 107 .....	Control Devices or Practices .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 199 .....	Definitions and Abbreviations .....	4/29/97	7/31/97, 62 FR 40937 ...	
Section 199 .....	Definitions and Abbreviations .....	4/29/97	12/7/99, 62 FR 68293 ...	Definitions of the terms Actual emissions, allowable emissions, begin actual construction, commence, complete, major modification, necessary preconstruction approvals or permits, net emissions increase, new source, potential to emit, shutdown, and significant.
Section 199 .....	Definitions and Abbreviations .....	12/8/00	5/9/01, 66 FR 23614 .....	definition of "carrier".
Section 199 .....	Definitions and Abbreviations .....	4/16/04	12/28/04, 69 FR 77647	Revised Definition of Major Stationary Source.
Section 8-2: 702 ...	Definitions; definition of "stack" ...	7/7/72	9/22/72, 37 FR 19806 ...	
Section 8-2: 724 ...	Variances .....	7/7/72	9/22/72, 37 FR 19806 ...	
<b>Chapter 2—General and Non-attainment Area Permits</b>				
Section 200 .....	General Permit Requirements .....	4/29/97	7/31/97, 62 FR 40937 ...	
Section 201 .....	General Requirements for Permit Issuance.	4/29/97	7/31/97, 62 FR 40937 ...	
Section 202 .....	Modification, Revocation and Termination of Permits.	4/29/97	7/31/97, 62 FR 40937 ...	
Section 204 .....	Permit Requirements for Sources Affecting Nonattainment Areas.	4/16/04	12/28/04, 69 FR 77647	Revised Paragraph 204.4.
Section 206 .....	Notice and Comment Prior to Permit Issuance.	4/29/97	7/31/97, 62 FR 40937 ...	
Section 299 .....	Definitions and Abbreviations .....	4/29/97	7/31/97, 62 FR 40937 ...	
Section 8-2:720(c)	Permits to Construct or Modify; Permits to Operate.	7/7/72	9/22/72, 37 FR 19806 ...	Requirement for Operating Permit.
<b>Chapter 3—Operating Permits</b>				
Section 307 .....	Enforcement for Severe Ozone Nonattainment Areas.	4/16/04	12/28/04, 69 FR 77639	Provision allowing for the District to collect penalty fees from major stationary sources if the nonattainment area does not attain the ozone standard by the statutory attainment date.
<b>Chapter 4—Ambient Monitoring, Emergency Procedures, Chemical Accident Prevention and Conformity</b>				
Section 400 .....	Air Pollution Reporting Index .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 401 .....	Emergency Procedures .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 403 .....	Determining Conformity of Federal Actions to State or Federal Implementation Plans.	11/6/98	6/5/03, 68 FR 33638 .....	
Section 499 .....	Definitions and Abbreviations .....	3/15/85	8/28/95, 60 FR 44431 ...	
<b>Chapter 5—Source Monitoring and Testing</b>				
Sections 500.1 through 500.3.	Records and Reports .....	3/15/85	8/28/95, 60 FR 44431 ...	
Sections 500.4, 500.5.	Records and Reports .....	9/30/93	1/26/95, 60 FR 5134 .....	
Section 500.6 .....	Records and Reports .....	9/30/93	10/27/99, 64 FR 57777	

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 500.7 .....	Records and Reports—Emission Statements.	9/30/93	5/26/95, 60 FR 27944 ...	Exceptions: Paragraphs 5.11, 5.12 and 5.14 are not part of the SIP.
Section 501 .....	Monitoring Devices .....	3/15/85	8/28/95, 60 FR 44431 ...	
Sections 502.1 through 502.15.	Sampling, Tests and Measurements.	3/15/85	8/28/95, 60 FR 44431 ...	
Section 502.17 .....	Sampling Tests, and Measurements.	9/30/93	10/27/99, 64 FR 57777	
Section 502.18 .....	Sampling Tests, and Measurements.	12/8/00	5/9/01, 66 FR 23614 .....	
Section 599 .....	Definitions and Abbreviations .....	9/30/93	10/27/99, 64 FR 57777	

Chapter 6—Particulates

Section 600 .....	Fuel-Burning Particulate Emissions.	4/16/04	12/28/04, 69 FR 77645	Revision to paragraph 600.1.
Section 601 .....	Rotary Cup Burners .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 602 .....	Incinerators .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 603 .....	Particulate Process Emissions .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 604 .....	Open Burning .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 605 .....	Control of Fugitive Dust .....	3/15/85	8/28/95, 60 FR 44431.	
Section 606 .....	Visible Emissions .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 699 .....	Definitions and Abbreviations .....	3/15/85	8/28/95, 60 FR 44431 ...	

Chapter 7—Volatile Organic Compounds

Section 700 .....	Organic Solvents .....	3/15/85	10/27/99, 64 FR 57777	Revised paragraphs 715.2, 715.3, and 715.4(b).
Section 701.1 through 701.13.	Storage of Petroleum Products .....	3/15/85	10/27/99, 64 FR 57777	
Section 702 .....	Control of VOC leaks from Petroleum Refinery Equipment.	3/15/85	10/27/99, 64 FR 57777	
Section 703.2, 703.3	Terminal Vapor Recovery—Gasoline or VOCs.	3/15/85	10/27/99, 64 FR 57777	
Section 703.1, 703.4 through 703.7.	Terminal Vapor Recovery—Gasoline or VOCs.	9/30/93	10/27/99, 64 FR 57777	
Section 704 .....	Stage I—Vapor Recovery .....	3/15/85	10/27/99, 64 FR 57777	
Section 705.1 through 705.3.	Stage II—Gasoline Vapor Recovery.	9/30/93	10/27/99, 64 FR 57777	
Section 705.4 through 705.14.	Stage II—Gasoline Vapor Recovery.	3/15/85	10/27/99, 64 FR 57777	
Section 706 .....	Petroleum Dry Cleaners .....	3/15/85	10/27/99, 64 FR 57777	
Section 707 .....	Perchloroethylene Dry Cleaning ..	3/15/85	10/27/99, 64 FR 57777 ..	
Section 708 .....	Solvent Cleaning (Degreasing) .....	3/15/85	10/27/99, 64 FR 57777	
Section 709 .....	Asphalt Operations .....	3/15/85	10/27/99, 64 FR 57777	
Section 710 .....	Engraving and Plate Printing .....	3/15/85	8/4/92, 57 FR 34249 .....	
Section 711 .....	Pumps and Compressors .....	3/15/85	10/27/99, 64 FR 57777	
Section 712 .....	Waste Gas Disposal from Ethylene Producing Plant.	3/15/85	10/27/99, 64 FR 57777	
Section 713 .....	Waste Gas Disposal from Vapor Blow-down System.	3/15/85	10/27/99, 64 FR 57777	
Section 715 .....	Reasonably Available Control Technology.	4/16/04	12/28/04, 69 FR 77647	
Section 716 .....	Offset Lithography .....	10/2/98	10/27/99, 64 FR 57777	
Section 718 .....	Mobile Equipment Repair and Refinishing.	11/26/04	12/23/05, 69 FR 76855	
Section 719 .....	Consumer Products—General Requirements.	4/16/04, 11/26/04	12/28/04, 69 FR 77642	
Section 720 .....	Consumer Products—VOC Standards.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 721 .....	Consumer Products—Exemptions from VOC Standards.	04/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 722 .....	Consumer Products—Registered Under FIFRA.	04/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 723 .....	Consumer Products—Products Requiring Dilution.	04/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 724 .....	Consumer Products—Ozone Depleting Compounds.	04/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 725 .....	Consumer Products—Aerosol Adhesives.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 726 .....	Consumer Products—Antiperspirants or Deodorants.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	

## EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 727 .....	Consumer Products—Charcoal Lighter Materials.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 728 .....	Consumer Products—Floor Wax Strippers.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 729 .....	Consumer Products—Labeling of Contents.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 730 .....	Consumer Products—Reporting Requirements.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 731 .....	Consumer Products—Test Methods.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 732 .....	Consumer Products—Alternative Control Plans.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 733 .....	Consumer Products—Innovative Products Exemption.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 734 .....	Consumer Products—Variance Requests.	4/16/04, 11/28/04	12/28/04, 69 FR 77642	
Section 735 .....	Portable Fuel Containers and Spouts—General Requirements.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 736 .....	Portable Fuel Containers and Spouts—Performance Standards.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 737 .....	Portable Fuel Containers and Spouts—Exemptions From Performance Standards.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 738 .....	Portable Fuel Containers and Spouts—Labeling Requirements.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 739 .....	Portable Fuel Containers and Spouts—Testing Procedures.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 740 .....	Portable Fuel Containers and Spouts—Innovative Product Exemption.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 741 .....	Portable Fuel Containers and Spouts—Variance.	4/16/04, 11/26/04	12/29/04, 69 FR 77903	
Section 742 .....	Solvent Cleaning—General Requirements.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 743 .....	Solvent Cleaning—Cold Cleaning	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 744 .....	Solvent Cleaning—Batch Vapor Cleaning.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 745 .....	Solvent Cleaning—In-Line Vapor Cleaning.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 746 .....	Solvent Cleaning—Airless and Air-Tight Cleaning.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 747 .....	Solvent Cleaning—Alternative Compliance.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 748 .....	Solvent Cleaning—Record-keeping and Monitoring.	4/16/04, 11/26/04	12/29/04, 69 FR 77906	
Section 749 .....	Architectural and Industrial Maintenance Coating—General Requirements.	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	Correction FRN published 5/19/05 (70 FR 28988).
Section 750 .....	Architectural and Industrial Maintenance Coating—Standards.	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	
Section 751 .....	Architectural and Industrial Maintenance Coating—Exemptions.	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	
Section 753 .....	Architectural and Industrial Maintenance Coating—Reporting Requirements.	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	
Section 754 .....	Architectural and Industrial Maintenance Coating—Testing Requirements.	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	
Section 799 .....	Definitions and Abbreviations .....	09/30/93	10/27/99, 64 FR 57777	
	.....	11/26/04	12/23/04, 69 FR 76855	Definitions related to Section 718
	.....	4/16/04	12/28/04, 69 FR 77642	Definitions related to Sections 719 through 734
	.....	11/26/04	12/29/04, 69 FR 77903	Definitions related to Sections 735 through 741
	.....	4/16/04	12/29/04, 69 FR 77906	Definitions related to Sections 742 through 748
	.....	11/26/04		

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
	.....	4/16/04, 11/26/04	5/12/05, 70 FR 24959 ...	Definitions related to Sections 748 through 754. Correction FRN published 5/19/05 (70 FR) 28988.

**Chapter 8—Asbestos, Sulfur and Nitrogen Oxides**

Section 801 .....	Sulfur Content of Fuel Oils .....	3/15/85	8/28/95, 60 FR 44431 ...	Revised paragraphs 805.1(a), 805.1(a)(3) and (4), 805.1(b) and (c), 805.5(b) and (c), 805.6, and 805.7.
Section 802 .....	Sulfur Content of Coal .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 803 .....	Sulfur Process Emissions .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 804 .....	Nitrogen Oxide Emissions .....	3/15/85	8/28/95, 60 FR 44431 ...	
Section 805 .....	Reasonably Available Control Technology for Major Stationary Sources of Oxides of Nitrogen.	4/16/04	12/28/04, 69 FR 77645, 69 FR 77647.	
Section 899 .....	Definitions and Abbreviations .....	3/15/85	8/28/95, 60 FR 44431 ...	

**Chapter 9—Motor Vehicle Pollutants, Lead, Odors, and Nuisance Pollutants**

Section 904 .....	Oxygenated Fuels .....	7/25/97	5/9/01, 66 FR 23614 .....	Addition of subsection 904.3 to make the oxygenated gasoline program a CO contingency measure.
Section 915 .....	National Low Emissions Vehicle Program.	2/11/00	7/20/00, 65 FR 44981 ...	
Section 999 .....	Definitions and Abbreviations .....	2/11/00	7/20/00, 69 FR 44981 ...	

**Chapter 10—Nitrogen Oxides Emissions Budget Program**

Section 1000 .....	Applicability .....	12/8/00	12/22/00, 65 FR 80783	
Section 1001 .....	General Provisions .....	12/8/00	12/22/00, 65 FR 80783	
Section 1002 .....	Allowance Allocation .....	12/8/00	12/22/00, 65 FR 80783	
Section 1003 .....	Permits .....	12/8/00	12/22/00, 65 FR 80783	
Section 1004 .....	Allowance Transfer and Use .....	12/8/00	12/22/00, 65 FR 80783	
Section 1005 .....	Allowance Banking .....	12/8/00	12/22/00, 65 FR 80783	
Section 1006 .....	NO <sub>x</sub> Allowance Tracking system	12/8/00	12/22/00, 65 FR 80783	
Section 1007 .....	Emission Monitoring .....	12/8/00	12/22/00, 65 FR 80783	
Section 1008 .....	Record Keeping .....	12/8/00	12/22/00, 65 FR 80783	
Section 1009 .....	Reporting .....	12/8/00	12/22/00, 65 FR 80783	
Section 1010 .....	End-of-Season Reconciliation .....	12/8/00	12/22/00, 65 FR 80783	
Section 1011 .....	Compliance Certification .....	12/8/00	12/22/00, 65 FR 80783	
Section 1012 .....	Penalties .....	12/8/00	12/22/00, 65 FR 80783	
Section 1013 .....	Program Audit .....	12/8/00	12/22/00, 65 FR 80783	
Section 1014 .....	NO <sub>x</sub> Budget Trading Program for State Implementation Plans.	5/1/01	11/1/01, 66 FR 55099 ...	
Section 1099 .....	Definitions and Abbreviations .....	12/8/00	12/22/00, 65 FR 80783	

**Appendices**

Appendix 1 .....	Emission Limits for Nitrogen Oxide.	3/15/85	8/28/95, 60 FR 44431 ...	
Appendix 2 .....	Table of Allowable Particulate Emissions from Process Sources.	3/15/85	8/28/95, 60 FR 44431 ...	
Appendix 3 .....	Graphic Arts Sources .....	3/15/85	8/28/95, 60 FR 44431 ...	
Appendix 5 .....	Test Methods for Sources of Volatile Organic Compounds.	09/30/93	10/27/99, 64 FR 57777	

**District of Columbia Municipal Regulations (DCMR), Title 18—Vehicles and Traffic**

**Chapter 4—Motor Vehicle Title and Registration**

Section 411 .....	Registration of Motor Vehicles: General Provisions.	10/10/86	6/11/99, 64 FR 31498 ...	
Section 412 .....	Refusal of Registration .....	10/17/97	6/11/99, 64 FR 31498 ...	
Section 413 .....	Application for Registration .....	9/16/83	6/11/99, 64 FR 31498 ...	
Section 429 .....	Enforcement of Registration and Reciprocity Requirements.	3/4/83	6/11/99, 64 FR 31498 ...	

**Chapter 6—Inspection of Motor Vehicles**

Section 600 .....	General Provisions .....	4/23/82	6/11/99, 64 FR 31498 ...	
Section 602 .....	Inspection Stickers .....	3/15/85	6/11/99, 64 FR 31498 ...	

## EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 603 .....	Vehicle Inspection: Approved Vehicles.	6/29/74; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 604 .....	Vehicle Inspection: Rejected Vehicles.	11/23/84	4/10/86, 51 FR 12322 ...	
Section 606 .....	Vehicle Inspector: Condemned Vehicles.	6/29/74; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 607 .....	Placement of Inspection Stickers on Vehicles.	4/7/77; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 608 .....	Lost, Mutilated or Detached Inspection Stickers.	6/30/72; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 609 .....	Inspection of Non-Registered Motor Vehicles.	6/30/72; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 617 .....	Inspector Certification .....	7/22/94	6/11/99, 64 FR 31498 ...	
Section 618 .....	Automotive Emissions Repair Technician.	7/22/94	6/11/99, 64 FR 31498 ...	
Section 619 .....	Vehicle Emission Recall Compliance.	10/17/97	6/11/99, 64 FR 31498 ...	
<b>Chapter 7—Motor Vehicle Equipment</b>				
Section 701 .....	Historic Motor Vehicles .....	2/25/78; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 750 .....	Exhaust Emission Systems .....	4/26/77; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 751 .....	Compliance with Exhaust Emission Standards.	7/22/94	6/11/99, 64 FR 31498 ...	
Section 752 .....	Maximum Allowable Levels of Exhaust Components.	10/17/97	6/11/99, 64 FR 31498 ...	
Section 753 .....	Inspection of Exhaust Emission Systems.	5/23/83	4/10/86, 51 FR 12322 ...	
Section 754 .....	Federal Transient Emissions Test: Testing Procedures.	7/22/94	6/11/99, 64 FR 31498 ...	
Section 755 .....	Federal Transient Emissions Test: Equipment.	7/22/94	6/11/99, 64 FR 31498 ...	
Section 756 .....	Federal Transient Emissions Test: Quality Assurance Procedures.	7/22/94	6/11/99, 64 FR 31498 ...	
<b>Chapter 11—Motor Vehicle Offenses and Penalties</b>				
Section 1101 .....	Offenses Related to Title, Registration, and Identification Tags.	6/30/72; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 1103 .....	Offenses Related to Inspection Stickers.	6/30/72; Recodified 4/1/81	6/11/99, 64 FR 31498 ...	
Section 1104 .....	False Statements, Alterations, Forgery, and Dishonored Checks.	11/29/91	6/11/99, 64 FR 31498 ...	
Section 1110 .....	Penalties for Violations .....	11/29/91	6/11/99, 64 FR 31498 ...	
<b>Chapter 26—Civil Fines for Moving and Non-Moving Violations</b>				
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<b>Chapter 99—Definitions</b>				
Section 9901 .....	Definitions .....	10/17/97	6/11/99, 64 FR 31498 ...	Definition of "Emission Recall Notice."

\* \* \* \* \*

[FR Doc. 05-17538 Filed 9-2-05; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[R09-OAR-2005-AZ-0003; FRL-7960-8]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Redesignation of Phoenix to Attainment for the Carbon Monoxide Standard****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** In today's action, EPA is taking direct final action to amend the regulations that identify revisions to the Arizona state implementation plan and the regulations that identify area designations within Arizona. In so doing, EPA is acting pursuant to the Agency's authority under the Clean Air Act to correct errors made in approving plan revisions and area redesignations. The purpose of this action is to correct an error in the adoption and submittal date shown for a revision to the implementation plan that EPA recently approved and to correct a transcription error in, and to make a more general correction to, the boundary description of the metropolitan Phoenix carbon monoxide area that EPA recently redesignated to attainment.

**EFFECTIVE DATE:** This rule is effective on November 7, 2005, without further notice, unless we receive adverse comments by October 6, 2005. If we receive adverse comments, we will publish a timely withdrawal in the *Federal Register* to notify the public that this rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number R09-OAR-2005-AZ-\_\_\_, by one of the following methods:

1. *Agency Web site:* <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
3. *E-mail:* [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).
4. *Mail or deliver:* Wienke Tax, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency,

Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal, or e-mail. The agency Web site and eRulemaking portal are "anonymous access" systems, and EPA will not know your identify or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

**Docket:** The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub> and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region 9, (520) 622-1622 or e-mail to [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," and "our" refer to EPA.

**Table of Contents**

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

**I. Background**

On March 9, 2005, pursuant to the Clean Air Act (CAA), we published a final rulemaking action (1) approving various plan elements contained in two submittals of revisions to the Arizona state implementation plan (SIP) by the Arizona Department of Environmental Quality (ADEQ), (2) approving Arizona's request for the redesignation of the metropolitan Phoenix carbon monoxide

(CO) area to attainment for the carbon monoxide (CO) national ambient air quality standard (NAAQS), and (3) redesignating the boundary of the metropolitan Phoenix CO area to exclude the Gila River Indian Reservation. See 70 FR 11553 (March 9, 2005). Our March 9th final rulemaking contained amendments to 40 CFR part 52 relating to the two SIP submittals and amendments to 40 CFR part 81 relating to the redesignation actions. Three of these amendments were incorrect.

First, in the regulatory language we added as 40 CFR 52.120(c)(118), we incorrectly listed ADEQ's adoption and submittal date for the *Revised MAG 1999 Serious Area Carbon Monoxide Plan for the Maricopa County Nonattainment Area* (March 2001) as March 30, 2001. The correct date for both ADEQ's adoption and submittal of this plan (to EPA) as a revision to the Arizona SIP is April 18, 2001 and today's action revises 40 CFR 52.120(c)(118) accordingly.

Second, in 40 CFR 81.303, which contains a table describing in detail the metropolitan Phoenix CO area, we did not intend any change to paragraph 13 as codified prior to our March 9th final rule except for the added phrase at the end of the paragraph ("except that portion in the Gila River Indian Reservation"), but, through transcription error, we made other changes to that paragraph that were unintended. In today's notice, we are correcting paragraph 13 by reinstating the prior language.

Third, also in the CO table in 40 CFR 81.303, we codified our action to redesignate the boundary of the metropolitan Phoenix CO area to exclude the Gila River Indian Reservation by adding the phrase, "except that portion in the Gila River Indian Reservation," to the end of each of the 28 paragraphs that describe the metropolitan Phoenix CO area. In 40 CFR 81.303, the metropolitan Phoenix CO area is described by reference to a point of origin (paragraph 1) that lies at the southeast corner of the area followed by a series of 27 contiguous lines (paragraphs 2 through 28) that starts at the point of origin and proceeds in a counter-clockwise direction back to the point of origin. We now find that excluding "the portion in the Gila River Indian Reservation" from the point of origin and from each of the lines that collectively define the CO area was erroneous because the description, as revised in our March 9th final rule, is ambiguous as to its southern boundary.

We continue to believe that the redesignation of the boundary of the metropolitan Phoenix CO area to

exclude the Gila River Indian Reservation is appropriate and are taking action today to re-codify this redesignation in a manner that avoids the unintended ambiguity introduced by the regulatory text we used in our March 9th final rule. Specifically, in this action, we are revising each of the 28 paragraphs that define the metropolitan Phoenix CO area in 40 CFR 81.303 to remove the phrase that we added in our March 9th final rule (*i.e.*, “except that portion in the Gila River Indian Reservation”) and are instead adding a new paragraph 29 that states: “except that portion of the area defined by paragraphs 1 through 28 above that lies within the Gila River Indian Reservation.”

We are taking this action under our authority in CAA section 110(k)(6). Section 110(k)(6) provides, “Whenever the Administrator determines that the Administrator’s action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State.” For the reasons stated above, we are correcting errors in the regulatory language we promulgated in approving a revision to the Arizona SIP, in redesignating the metropolitan Phoenix CO area to attainment, and in redesignating the boundary of the metropolitan Phoenix CO area to exclude the Gila River Indian Reservation.

## II. Final Action

In this action, EPA is correcting amendments to 40 CFR part 52, subpart D, and 40 CFR part 81, subpart C, that were contained in the final **Federal Register** notice published on March 9, 2005 approving submittals of revisions to the Arizona state implementation plan, redesignating the metropolitan Phoenix carbon monoxide area to attainment for the carbon monoxide National Ambient Air Quality Standards, and redesignating the boundary of the metropolitan Phoenix CO area to exclude the Gila River Indian Reservation. Specifically, this action amends 40 CFR 52.120 relating to the Arizona SIP and 40 CFR 81.303 describing the boundaries of the metropolitan Phoenix CO area.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed

rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to correct the errors described herein should adverse comments be filed. This action will be effective November 7, 2005, without further notice unless the EPA receives relevant adverse comments by October 6, 2005.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 7, 2005 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. 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 corrects a previous EPA action and imposes no additional requirements. 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 corrects a previous EPA action and does not impose any additional enforceable duty, 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).

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” are defined in the

Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

As discussed above, in a previous action, EPA excluded the Gila River Indian Reservation from the metropolitan Phoenix CO area, and this action merely corrects the corresponding regulatory text. Consistent with EPA policy, EPA has discussed the need for correction of the previous action with representatives of the Gila River Indian Community. EPA finds that this action, which simply corrects an action that the Agency has previously taken, will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule.

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 corrects a previous EPA rule, 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 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 rule present a disproportionate risk to children.

This rule does not involve establishment of technical standards, and 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. 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 November 7, 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 CAA section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 15, 2005.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

■ 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 D—Arizona**

■ 2. Section 52.120 is amended by revising paragraph (c)(118) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(118) The following plan was submitted on April 18, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) *Revised MAG 1999 Serious Area Carbon Monoxide Plan for the Maricopa County Nonattainment Area*, dated March 2001, adopted by the Maricopa Association of Governments on March 28, 2001, and adopted by the Arizona Department of Environmental Quality on April 18, 2001.

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

**Subpart C—Section 107 Attainment Status Designations**

■ 2. In § 81.303, the table entitled "Arizona—Carbon Monoxide" is amended by revising the entry for the Phoenix Area to read as follows:

**§ 81.303 Arizona.**

\* \* \* \* \*

ARIZONA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date	Type	Date	Type
Phoenix Area: Maricopa County (part) .....	4/8/2005	Attainment		
Phoenix nonattainment area boundary: 1. Commencing at a point which is the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of point Township 2 South, said point is the southeastern corner of Maricopa Association of Governments Urban Planning Area, which is the point of beginning; 2. thence, proceed northerly along the eastern line of Range 7 East, which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statutes Section 11–109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and and the shown on the U.S. Forest Service 1969 Planimetric Maps; 3. thence, westerly along the northern line of Township 1 North to pproximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Userly Mountain Semi-Regional Park; 4. thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Userly Mountain Semi-Regional Park;				

## ARIZONA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
5. thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. thence, northeasterly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				
7. thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				
8. thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				
10. thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park;				
11. thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				
13. thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest;				
14. thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statutes Section 11–109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statutes Section 11–109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17. thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road;				
19. thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				
20. thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				

ARIZONA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
23. thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park; 24. thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation; 25. thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statutes Sections 11–109 and 11–113, which is the eastern line of Range 1 East; 26. thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River; 27. thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and 28. thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the easter line Range 7 East; 29. except that portion of the area defined by paragraphs 1 through 28 above that lies within the Gila River Indian Reservation.				

\* \* \* \* \*

[FR Doc. 05–17539 Filed 9–2–05; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 414**

**CMS–1325–IFC2**

**RIN 0938–AN58**

**Medicare Program; Competitive Acquisition of Outpatient Drugs and Biologicals Under Part B: Interpretation and Correction**

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

**ACTION:** Interim final rule; interpretation and correction.

**SUMMARY:** This interim final rule clarifies our timeline for implementation of the competitive acquisition program under section 1847B of the Social Security Act and corrects technical errors that appeared in the addenda to the interim final rule with comment period published in the *Federal Register* on July 6, 2005 entitled “Competitive Acquisition of Outpatient Drugs and Biologicals Under Part B.”

**EFFECTIVE DATE:** This rule is effective September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Lia Prela, (410) 786–0548.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Clarification of Timeline for Implementation of CAP*

On July 6, 2005, we published an interim final rule with comment period (70 FR 39022) in the *Federal Register* with respect to provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) that require the implementation of a competitive acquisition program (CAP) for certain Medicare Part B drugs not paid on a cost or prospective payment system basis. Physicians will generally be given a choice between obtaining these drugs from vendors selected through a competitive bidding process or directly purchasing these drugs and being paid under the average sales price (ASP) system.

In the July 6, 2005 interim final rule, we stated that implementation of the CAP would take place on January 1, 2006 to coordinate the CAP physician election process with the Medicare participating physician election process described in section 1842(h) of Social Security Act (the Act). Subsequent to the publication of the July 6, 2005 interim final rule, we received comments requesting a delay in implementation of the CAP from a variety of sources including written public comments as well as comments voiced during the conference call for potential vendors that we held on July 8, 2005.

Effective August 3, 2005, we suspended the vendor bidding process that began with publication of the interim final rule on July 6, 2005, to allow us more time to fully review public comments on the interim final rule and also to further refine the bidding process. We provided notification of the suspension on the CMS Web site <http://www.cms.hhs.gov/providers/drugs/compbid/> and through the pharmacy and physician Listservs. We will publish a final rule for implementing the CAP after we analyze the additional comments on the interim final rule and determine the best manner for improving the efficiency of the CAP and increasing potential participation of both vendors and physicians in the program.

We will announce the dates for the new vendor bidding period concurrent with the publication of the final rule. We also will be announcing a special physician election period. Currently, we expect that drugs will first be delivered through the CAP by July 2006. During the special election period, physicians will have the opportunity to elect to participate in the CAP from its start date in 2006 through the end of calendar year 2006.

As we specified in the July 2005 *Federal Register* document, we will continue to accept comments on the interim final rule until September 6, 2005.

In section II of this document, we provide clarification of the timeline for implementation of the CAP as well as further interpretation of what will

constitute an “exigent circumstance” for purposes of allowing a physician to elect to participate in the CAP and select a CAP vendor at a time other than the annual election period.

*B. Corrections to the July 6, 2005 Interim Final Rule*

In FR Doc. 05–12938 of July 6, 2005 (70 FR 39022), we identified errors to Addendum A and Addendum B that are corrected under “Correction of Addenda Errors” in section III of this document. These corrections are effective as if they had been included in the document published July 6, 2005.

**II. Delay in Implementation Date**

On March 4, 2005, we published a proposed rule (70 FR 10746) to implement a CAP program, as required by section 1847B of the Act, as added by section 303(d) of the MMA, for certain Medicare Part B drugs not paid on a cost or prospective payment system basis. In response to the proposed rule, commenters expressed concern about the short timeframe for implementation of the CAP, that is, the proposed January 1, 2006 effective date stated in the July 6, 2005 interim final rule. These commenters suggested we delay the effective date of the CAP to allow us to fully structure the CAP to meet congressional objectives and benefit physicians without compromising beneficiary access to drug therapies and treatment.

We responded to those comments in the July 6, 2005 interim final rule (70 FR 39025) by stating that we recognized that the timeframe for implementation was ambitious but we believed that the regulatory framework provided a firm basis for implementing the CAP in January 2006.

We also stated that the statute requires that we coordinate the physicians’ election to participate in the CAP with the Medicare Participating Physician Process described in section 1842(h) of the Act.

However, upon further consideration of these comments, as well as additional feedback we have received from potential participants in the program, we have concluded that more time is needed to further refine the program

before implementation. After reviewing public comments, we agree that a short delay in implementing the CAP will allow us to improve the efficiency of the program and increase interest in participating in the program. Therefore, in accordance with our authority to phase-in the program as appropriate during 2006, we are delaying implementation of the CAP. The CAP program will not begin on January 1, 2006, and the initial physician election process will not occur in 2005.

As noted above, we intend to implement the CAP during 2006 and we expect that the CAP program will begin sometime in or around July 2006. In addition, we expect the initial physician election period to occur in the spring of 2006 rather than in fall 2005. We consider the initial implementation of the CAP program to constitute an “exigent circumstance” for purposes of section 1847B(a)(5)(A)(i) of the Act and § 414.908(a)(2) of our regulations, which allow for a physician election period at times other than the regular, annual election period. We are specifying the initial election period as an “exigent circumstance” because we intend the program to run on a calendar year basis, as stated in the July 2005 interim final rule, after the initial implementation of the CAP in 2006. In later years, the annual CAP election period will be coordinated with the annual Medicare Participating Physician Enrollment Process described in section 1842(h) of the Act, which occurs in the fall of each year, as specified in the July 2005 interim final rule.

We believe that, after the initial election period in 2006, an annual election period that ends on November 15 before the beginning of each CAP year is still necessary to allow time for the carrier, the designated carrier, the vendors, and our claims processing system to complete tasks in preparation for that CAP year. We expect to include the dates of the initial physician election period in the final rule. Physicians will then be provided with a second election period in 2006 for participation in the CAP in 2007.

In the July 6, 2005 interim final rule, we stated in several other places in the

preamble that the CAP would begin on January 1, 2006.

For example, we referred to a January 1, 2006 start date in our discussion of the activities that would be necessary to implement the CAP on that date. These included CAP operations, analysis and coding of the CAP claims processing system, and educating beneficiaries and physicians about the program. In the July 2005 interim final rule, we specified that in response to the March 2005 proposed rule, several commenters expressed concern about introducing the CAP so quickly without any formal testing or analysis of the program. Other commenters expressed concern about education and outreach efforts relating to the CAP. Our decision to suspend the current vendor bidding process and delay the start date of the CAP will allow time for refining CAP operations, additional testing of the claims processing system, and for further beneficiary, physician, and vendor applicant educational efforts. We believe this additional preparation time will greatly improve and ease the implementation process.

**III. Correction of Addenda Errors**

In the July 6, 2005 interim final rule, Addendum A “Single Drug Category List” does not include the column reflecting the weights assigned to each CAP drug that will be used in computing the composite bids. In this interim final rule, we are correcting the error by republishing Addendum A in its entirety, with the third column included. In addition, in Addendum B, “New Drugs for CAP Bidding for 2006,” we inadvertently included J7518 (mycophenolic acid), which should be excluded from this list because it is an orally administered immunosuppressive agent rather than a physician-administered drug. We are correcting this error by republishing Addendum B, which reflects the omission of J7518 (mycophenolic acid).

In FR Doc. 05–12938 of July 6, 2005 (70 FR 39022), make the following corrections:

1. On pages 39099 through 39102, Addendum A is corrected to read as follows:

**ADDENDUM A—SINGLE DRUG CATEGORY LIST**

HCPCS	Long description	Weight
J0150 .....	INJECTION, ADENOSINE FOR THERAPEUTIC USE, 6 MG .....	0.00069338
J0152 .....	INJECTION, ADENOSINE FOR DIAGNOSTIC USE, 30 MG .....	0.00455133
J0170 .....	INJECTION, ADRENALIN, EPINEPHRINE, 1 ML AMPULE .....	0.00007823
J0207 .....	INJECTION, AMIFOSTINE, 500 MG .....	0.00015946
J0215 .....	INJECTION, ALEFACEPT, 0.5 MG .....	0.00082595
J0280 .....	INJECTION, AMINOPHYLLIN, 250 MG .....	0.00081312
J0290 .....	INJECTION, AMPICILLIN SODIUM, 500 MG .....	0.00012537

## ADDENDUM A—SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J0475	INJECTION, BACLOFEN, 10 MG	0.00024410
J0540	INJECTION, PENICILLIN G BENZATHINE AND PENICILLIN G PROCAINE, 1,200,000 UNITS	0.00007140
J0550	INJECTION, PENICILLIN G BENZATHINE AND PENICILLIN G PROCAINE, 2,400,000 UNITS	0.00001814
J0570	INJECTION, PENICILLIN G BENZATHINE, 1,200,000 UNITS	0.00004561
J0585	BOTULINUM TOXIN TYPE A, PER UNIT	0.03707810
J0587	BOTULINUM TOXIN TYPE B, PER 100 UNITS	0.00149279
J0600	INJECTION, EDETATE CALCIUM DISODIUM, 1000 MG	0.00004417
J0637	INJECTION, CASPOFUNGIN ACETATE, 5 MG	0.00008403
J0640	INJECTION, LEUCOVORIN CALCIUM, PER 50 MG	0.01054437
J0670	INJECTION, MEPIVACAINE HYDROCHLORIDE, PER 10 ML	0.00038034
J0690	INJECTION, CEFAZOLIN SODIUM, 500 MG	0.00042009
J0692	INJECTION, CEFEPIME HYDROCHLORIDE, 500 MG	0.00024611
J0696	INJECTION, CEFTRIAZONE SODIUM, PER 250 MG	0.00662508
J0698	INJECTION, CEFOTAXIME SODIUM, PER GM	0.00014738
J0702	INJECTION, BETAMETHASONE ACETATE & BETAMETHASONE SODIUM PHOSPHATE, PER 3 MG	0.00284989
J0704	INJECTION, BETAMETHASONE SODIUM PHOSPHATE, PER 4 MG	0.00056519
J0735	INJECTION, CLONIDINE HYDROCHLORIDE, 1 MG	0.00033826
J0800	INJECTION, CORTICOTROPIN, 40 UNITS	0.00360503
J0880	INJECTION, DARBEPOETIN ALFA, 5 MCG	0.11998845
J0895	INJECTION, DEFEROXAMINE MESYLATE, 500 MG	0.00024217
J1000	INJECTION, DEPO-ESTRADIOL CYPIONATE, 5 MG	0.00020815
J1020	INJECTION, METHYLPREDNISOLONE ACETATE, 20 MG	0.00126125
J1030	INJECTION, METHYLPREDNISOLONE ACETATE, 40 MG	0.00587530
J1040	INJECTION, METHYLPREDNISOLONE ACETATE, 80 MG	0.00522812
J1051	INJECTION, MEDROXYPROGESTERONE ACETATE, 50 MG	0.00006464
J1094	INJECTION, DEXAMETHASONE ACETATE, 1 MG	0.00347947
J1100	INJECTION, DEXAMETHASONE SODIUM PHOSPHATE, 1MG	0.05440123
J1190	INJECTION, DEXRAZOXANE HYDROCHLORIDE, PER 250 MG	0.00002421
J1200	INJECTION, DIPHENHYDRAMINE HCL, 50 MG	0.00214443
J1212	INJECTION, DMSO, DIMETHYL SULFOXIDE, 50%, 50 ML	0.00008395
J1245	INJECTION, DIPYRIDAMOLE, PER 10 MG	0.00379554
J1250	INJECTION, DOBUTAMINE HYDROCHLORIDE, PER 250 MG	0.00052679
J1260	INJECTION, DOLASETRON MESYLATE, 10 MG	0.01720675
J1335	INJECTION, ERTAPENEM SODIUM, 500 MG	0.00013138
J1440	INJECTION, FILGRASTIM (G-CSF), 300 MCG	0.00191741
J1441	INJECTION, FILGRASTIM (G-CSF), 480 MCG	0.00403536
J1450	INJECTION, FLUCONAZOLE, 200 MG	0.00001593
J1580	INJECTION, GARAMYCIN, GENTAMICIN, 80 MG	0.00039560
J1600	INJECTION, GOLD SODIUM THIOMALATE, 50 MG	0.00005560
J1626	INJECTION, GRANISETRON HYDROCHLORIDE, 100 MCG	0.01469700
J1631	INJECTION, HALOPERIDOL DECANOATE, PER 50 MG	0.00020506
J1642	INJECTION, HEPARIN SODIUM, (HEPARIN LOCK FLUSH), PER 10 UNITS	0.06362003
J1644	INJECTION, HEPARIN SODIUM, PER 1000 UNITS	0.00351209
J1645	INJECTION, DALTEPARIN SODIUM, PER 2500 IU	0.00011417
J1650	INJECTION, ENOXAPARIN SODIUM, 10 MG	0.00134336
J1655	INJECTION, TINZAPARIN SODIUM, 1000 IU	0.00046724
J1710	INJECTION, HYDROCORTISONE SODIUM PHOSPHATE, 50 MG	0.00006029
J1720	INJECTION, HYDROCORTISONE SODIUM SUCCINATE, 100 MG	0.00013201
J1745	INJECTION, INFLIXIMAB, 10 MG	0.02736596
J1750	INJECTION, IRON DEXTRAN, 50 MG	0.00244189
J1756	INJECTION, IRON SUCROSE, 1 MG	0.01017283
J1885	INJECTION, KETOROLAC TROMETHAMINE, PER 15 MG	0.00326961
J1940	INJECTION, FUROSEMIDE, 20 MG	0.00064751
J1956	INJECTION, LEVOFLOXACIN, 250 MG	0.00008548
J2001	INJECTION, LIDOCAINE HCL FOR INTRAVENOUS INFUSION, 10 MG	0.00076795
J2010	INJECTION, LINCOMYCIN HCL, 300 MG	0.00061870
J2150	INJECTION, MANNITOL, 25% IN 50 ML	0.00028934
J2260	INJECTION, MILRINONE LACTATE, 5 MG	0.00004912
J2300	INJECTION, NALBUPHINE HYDROCHLORIDE, PER 10 MG	0.00026092
J2324	INJECTION, NESIRITIDE, 0.25 MG	0.00027147
J2353	INJECTION, OCTREOTIDE, DEPOT FORM FOR INTRAMUSCULAR INJECTION, 1 MG	0.00193262
J2354	INJECTION, OCTREOTIDE, NON-DEPOT SUBCUTANEOUS OR INTRAVENOUS INJECTION, 25 MCG	0.00008332
J2405	INJECTION, ONDANSETRON HYDROCHLORIDE, PER 1 MG	0.01360054
J2430	INJECTION, PAMIDRONATE DISODIUM, PER 30 MG	0.00155307
J2505	INJECTION, PEGFILGRASTIM, 6 MG	0.00064498
J2550	INJECTION, PROMETHAZINE HCL, 50 MG	0.00068031
J2680	INJECTION, FLUPHENAZINE DECANOATE, 25 MG	0.00014971
J2765	INJECTION, METOCLOPRAMIDE HCL, 10 MG	0.00011029
J2780	INJECTION, RANITIDINE HYDROCHLORIDE, 25 MG	0.00087713
J2820	INJECTION, SARGRAMOSTIM (GM-CSF), 50 MCG	0.00215849
J2912	INJECTION, SODIUM CHLORIDE, 0.9%, PER 2 ML	0.00673579
J2916	INJECTION, SODIUM FERRIC GLUCONATE COMPLEX IN SUCROSE INJECTION, 12.5 MG	0.00060556

## ADDENDUM A—SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J2920	INJECTION, METHYLPREDNISOLONE SODIUM SUCCINATE, 40 MG	0.00030935
J2930	INJECTION, METHYLPREDNISOLONE SODIUM SUCCINATE, 125 MG	0.00076469
J2997	INJECTION, ALTEPLASE RECOMBINANT, 1 MG	0.00012123
J3260	INJECTION, TOBRAMYCIN SULFATE, 80 MG	0.00018119
J3301	INJECTION, TRIAMCINOLONE ACETONIDE, PER 10 MG	0.02146050
J3302	INJECTION, TRIAMCINOLONE DIACETATE, PER 5 MG	0.00171576
J3303	INJECTION, TRIAMCINOLONE HEXACETONIDE, PER 5 MG	0.00093708
J3315	INJECTION, TRIPTORELIN PAMOATE, 3.75 MG	0.00000707
J3370	INJECTION, VANCOMYCIN HCL, 500 MG	0.00083391
J3396	INJECTION, VERTEPORFIN, 0.1 MG	0.05387196
J3410	INJECTION, HYDROXYZINE HCL, 25 MG	0.00040617
J3420	INJECTION, VITAMIN B-12 CYANOCOBALAMIN, UP TO 1000 MCG	0.01191674
J3475	INJECTION, MAGNESIUM SULFATE, PER 500 MG	0.00107478
J3480	INJECTION, POTASSIUM CHLORIDE, PER 2 MEQ	0.00213669
J3487	INJECTION, ZOLEDRONIC ACID, 1 MG	0.00333297
J7030	INFUSION, NORMAL SALINE SOLUTION, 1000 CC	0.00101862
J7040	INFUSION, NORMAL SALINE SOLUTION, (500 STERILE ML=1 UNIT)	0.00240866
J7042	5% DEXTROSE/NORMAL SALINE (500 ML = 1 UNIT)	0.00049401
J7050	INFUSION, NORMAL SALINE SOLUTION, 250 CC	0.00983951
J7051	STERILE SALINE OR WATER, 5 CC	0.00695398
J7060	5% DEXTROSE/WATER (500 ML = 1 UNIT)	0.00101887
J7070	INFUSION, D5W, 1000 CC	0.00015744
J7120	RINGERS LACTATE INFUSION, 1000 CC	0.00016820
J7317	SODIUM HYALURONATE, PER 20 TO 25 MG DOSE FOR INTRA-ARTICULAR INJECTION	0.00189786
J7320	HYLAN G-F 20, 16 MG, FOR INTRA ARTICULAR INJECTION	0.00148437
J9000	DOXORUBICIN HCL, 10 MG	0.00233616
J9001	DOXORUBICIN HYDROCHLORIDE, ALL LIPID FORMULATIONS, 10 MG	0.00032228
J9031	BCG (INTRAVESICAL) PER INSTILLATION	0.00048801
J9040	BLEOMYCIN SULFATE, 15 UNITS	0.00003692
J9045	CARBOPLATIN, 50 MG	0.00564705
J9050	CARMUSTINE, 100 MG	0.00000881
J9060	CISPLATIN, POWDER OR SOLUTION, PER 10 MG	0.00094491
J9062	CISPLATIN, 50 MG	0.00025190
J9065	INJECTION, CLADRIBINE, PER 1 MG	0.00008065
J9070	CYCLOPHOSPHAMIDE, 100 MG	0.00062098
J9080	CYCLOPHOSPHAMIDE, 200 MG	0.00004921
J9090	CYCLOPHOSPHAMIDE, 500 MG	0.00008048
J9091	CYCLOPHOSPHAMIDE, 1.0 GRAM	0.00005001
J9092	CYCLOPHOSPHAMIDE, 2.0 GRAM	0.00000525
J9093	CYCLOPHOSPHAMIDE, LYOPHILIZED, 100 MG	0.00091804
J9094	CYCLOPHOSPHAMIDE, LYOPHILIZED, 200 MG	0.00009103
J9095	CYCLOPHOSPHAMIDE, LYOPHILIZED, 500 MG	0.00017529
J9096	CYCLOPHOSPHAMIDE, LYOPHILIZED, 1.0 GRAM	0.00013845
J9097	CYCLOPHOSPHAMIDE, LYOPHILIZED, 2.0 GRAM	0.00001347
J9098	CYTARABINE LIPOSOME, 10 MG	0.00000809
J9100	CYTARABINE, 100 MG	0.00012887
J9110	CYTARABINE, 500 MG	0.00002056
J9130	DACARBAZINE, 100 MG	0.00009340
J9140	DACARBAZINE, 200 MG	0.00006957
J9150	DAUNORUBICIN, 10 MG	0.00000485
J9170	DOCETAXEL, 20 MG	0.00254788
J9178	INJECTION, EPIRUBICIN HCL, 2 MG	0.00120764
J9181	ETOPOSIDE, 10 MG	0.00229277
J9182	ETOPOSIDE, 100 MG	0.00052610
J9185	FLUDARABINE PHOSPHATE, 50 MG	0.00030358
J9190	FLUOROURACIL, 500 MG	0.00392446
J9200	FLOXURIDINE, 500 MG	0.00000405
J9201	GEMCITABINE HCL, 200 MG	0.00491490
J9202	GOSERELIN ACETATE IMPLANT, PER 3.6 MG	0.00285868
J9206	IRINOTECAN, 20 MG	0.00316077
J9208	IFOSFAMIDE, 1 GM	0.00007818
J9209	MESNA, 200 MG	0.00036520
J9211	IDARUBICIN HYDROCHLORIDE, 5 MG	0.00000315
J9213	INTERFERON, ALFA-2A, RECOMBINANT, 3 MILLION UNITS	0.00008006
J9214	INTERFERON, ALFA-2B, RECOMBINANT, 1 MILLION UNITS	0.00668813
J9219	LEUPROLIDE ACETATE IMPLANT, 65 MG	0.00006464
J9245	INJECTION, MELPHALAN HYDROCHLORIDE, 50 MG	0.00000157
J9250	METHOTREXATE SODIUM, 5 MG	0.00184935
J9260	METHOTREXATE SODIUM, 50 MG	0.00050963
J9263	INJECTION, OXALIPLATIN, 0.5 MG	0.07249359
J9265	PACLITAXEL, 30 MG	0.00551428
J9268	PENTOSTATIN, PER 10 MG	0.00000639

ADDENDUM A—SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J9280 .....	MITOMYCIN, 5 MG .....	0.00004038
J9290 .....	MITOMYCIN, 20 MG .....	0.00003448
J9291 .....	MITOMYCIN, 40 MG .....	0.00006085
J9293 .....	INJECTION, MITOXANTRONE HYDROCHLORIDE, PER 5 MG .....	0.00024882
J9310 .....	RITUXIMAB, 100 MG .....	0.00405692
J9320 .....	STREPTOZOCIN, 1 GM .....	0.00000666
J9340 .....	THIOTEPA, 15 MG .....	0.00002429
J9350 .....	TOPOTECAN, 4 MG .....	0.00018095
J9355 .....	TRASTUZUMAB, 10 MG .....	0.00538210
J9360 .....	VINBLASTINE SULFATE, 1 MG .....	0.00035474
J9370 .....	VINCRISTINE SULFATE, 1 MG .....	0.00019564
J9375 .....	VINCRISTINE SULFATE, 2 MG .....	0.00011406
J9390 .....	VINORELBINE TARTRATE, PER 10 MG .....	0.00109985
J9395 .....	INJECTION, FULVESTRANT, 25 MG .....	0.00125472
J9600 .....	PORFIMER SODIUM, 75 MG .....	0.00000029
Q0136 .....	INJECTION, EPOETIN ALPHA, (FOR NON ESRD USE), PER 1000 UNITS .....	0.24898913
Q0137 .....	INJECTION, DARBEPOETIN ALFA, 1 MCG (NON-ESRD USE) .....	0.03803750
Q0325 .....	INJECTION, INTERFERON BETA-1A, 11 MCG FOR INTRAMUSCULAR USE .....	0.00077522

2. On page 39102, Addendum B is corrected to read as follows:

**ADDENDUM B—NEW DRUGS FOR CAP BIDDING FOR 2006**

CODE	2005 Description
J0128 .....	Abarelix injection.
J0180 .....	Agalsidase beta injection.
J0878 .....	Daptomycin injection.
J1931 .....	Laronidase injection.
J2357 .....	Omalizumab injection.
J2469 .....	Palonosetron HCl.
J2794 .....	Risperidone, long acting.
J9035 .....	Bevacizumab injection.
J9041 .....	Bortezomib injection.
J9055 .....	Cetuximab injection.
J9305 .....	Pemetrexed injection.

**IV. Waiver of Delay in Effective Date**

We ordinarily provide an effective date 30 days after the publication of an interim final rule in the **Federal Register**. We can waive this delay, however, if we find good cause that it is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued.

We find a delay in the effectiveness of this rule unnecessary because this rule merely provides further clarification of and technical corrections to the interim final rule with comment published July 6, 2005. We also find that a delay in the effectiveness of this interpretation would be contrary to the public interest: a delay in the effectiveness of this rule would defeat the purpose of this rule, which is to delay the implementation of the CAP in order to consider further public comment and issue a final rule before beginning this major new payment system. Therefore, for all of these reasons, we find good cause to

waive the delay in the effective date of this rule. It will take effect on the same day as the July 6, 2005 interim final rule with comment.

**V. Collection of Information Requirements**

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

**VI. Regulatory Impact Statement**

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small

governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Core-Based Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

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

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local

governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 23, 2005.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: August 31, 2005.

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. 05–17655 Filed 9–1–05; 9:14 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket No. FEMA–7891]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**EFFECTIVE DATES:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Grimm, Mitigation Division, 500 C Street, SW., Room 412, Washington, DC 20472, (202) 646–2878.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for

the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

#### National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

#### Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

#### Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

#### Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

#### PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map rate	Date certain federal assistance no longer available in special flood hazard areas
<b>Region VII</b>				
Missouri: Argyle, Village of, Osage County. ....	290491	May 13, 1974, Emerg; August 1, 1986, Reg; September 2, 2005, Susp.	09/02/05 .....	09/02/05
Westphalia, City of, Osage County. ....	290272	March 16, 1976, Emerg; September 10, 1984, Reg; September 2, 2005, Susp.	.....do .....	Do.
Nebraska: Perkins County, Unincorporated Areas.	310464	June 15, 2001, Emerg; September 2, 2005, Reg; September 2, 2005, Susp.	.....do .....	Do.

\* -do--Ditto.  
Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

Dated: August 25, 2005.

**Michael K. Buckley,**  
*Deputy Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*  
[FR Doc. 05-17634 Filed 9-2-05; 8:45 am]  
BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 65**

**Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:**

Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** FEMA makes the final determinations listed below of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria

required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.*  
This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

#### PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida:					
Charlotte (FEMA Docket No. D-7569).	Unincorporated Areas.	January 27, 2005; February 3, 2005; <i>Sun Herald</i> .	Mr. Bruce A. Loucks, Charlotte County Administrator, Charlotte County Administration Building, 18500 Murdock Circle, Port Charlotte, Florida 33948.	January 20, 2005 .....	120061 F
Sarasota (FEMA Docket No. D-7567).	City of Sarasota	January 14, 2005; January 21, 2005; <i>Sarasota Herald-Tribune</i> .	Mr. Michael A. McNeese, Sarasota City Manager, 1565 First Street, Room 101, Sarasota, Florida 34236.	January 7, 2005; .....	125150 B
Georgia: Richmond (FEMA Docket No. D-7569).	City of Augusta ...	February 10, 2005; February 17, 2005; <i>The Augusta Chronicle</i> .	The Honorable Robert Young, Mayor of the City of Augusta, City-County Building, 530 Greene Street, Augusta, Georgia 30911.	May 19, 2005 .....	130159
Massachusetts:					
Barnstable (FEMA Docket No. D-7569).	Town of Chatham	February 3, 2005; February 10, 2005; <i>Cape Cod Times</i> .	Mr. William G. Hinchey, Chatham Town Manager, 549 Main Street, Chatham, Massachusetts 02633.	January 27, 2005 .....	250004 D
Norfolk (FEMA Docket No. D-7567).	Town of Foxborough.	January 19, 2005; January 26, 2005; <i>Foxboro Report</i> .	Mr. Robert Hickey, Chairman of the Town of Foxborough, Board of Selectmen, 40 South Street, Foxborough, Massachusetts 02035.	January 12, 2005 .....	250239 B
Minnesota: Hennepin (FEMA Docket No. D-7569).	City of Minneapolis.	January 21, 2005; January 28, 2005; <i>Star-Tribune</i> .	The Honorable R. T. Ryback, Mayor of the City of Minneapolis, Minneapolis City Hall, 350 South Fifth Street, Room 331, Minneapolis, Minnesota 55415.	January 11, 2005 .....	270172 E
North Carolina: Haywood (FEMA Docket No. D-7567).	Unincorporated Areas.	January 10, 2005; January 17, 2005; <i>The Mountaineer</i> .	Mr. Jack Horton, Haywood County Manager, 215 North Main Street, Waynesville, North Carolina 28786.	April 18, 2005 .....	370120 B
South Carolina:					
Berkeley (FEMA Docket No. D-7569).	Unincorporated Areas.	February 3, 2005; February 10, 2005; <i>The Post and Courier</i> .	Mr. Jim Rozier, Chairman of the Berkeley, County Council, 223 North Live Oak Drive, Moncks Corner, South Carolina 29461.	May 12, 2005 .....	450029 D
Berkeley (FEMA Docket No. D-7569).	City of Goose Creek.	February 3, 2005; February 10, 2005; <i>The Post and Courier</i> .	The Honorable Michael J. Heitzler, Mayor of the City of Goose Creek, 519 North Goose Creek Boulevard, Goose Creek, South Carolina 29445.	May 12, 2005 .....	450206 D
Richland (FEMA Docket No. D-7569).	Unincorporated Areas.	December 9, 2004; December 16, 2004; <i>The State</i> .	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street, Room 4058, P.O. Box 192, Columbia, South Carolina 29202.	March 16, 2005 .....	450170 G
Virginia: Fairfax (FEMA Docket No. D-7571).	Unincorporated Areas.	March 14, 2005; March 21, 2005; <i>The Washington Times</i> .	Mr. Anthony H. Griffin, Fairfax County Executive, 12000 Government Center Parkway, Suite 552, Fairfax, Virginia 22035-0050.	April 4, 2005 .....	515525 D
West Virginia: Mingo (FEMA Docket No. D-7569).	Unincorporated Areas.	February 28, 2005; March 7, 2005; <i>The Williamson Daily News</i> .	Mr. Jim Hatfield, President of the Mingo Board of Commissioners, P.O. Box 1197, Williamson, West Virginia 25661.	November 16, 2004 ..	540133 C

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 23, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 05-17626 Filed 9-2-05; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND  
SECURITY**

**Federal Emergency Management  
Agency**

**44 CFR Part 65**

[Docket No. FEMA-7577]

**Changes in Flood Elevation  
Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1% annual chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Director reconsider the changes. The modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs for each community are available for inspection

at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided. Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.* This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 65**

Flood insurance, floodplains, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

**PART 65—[AMENDED]**

■ 1. The authority citation for part 65 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 65.4 [Amended]**

■ 2. The tables published under the authority of § 65.4 are amended as shown below:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia: Mitchell	City of Camilla ....	July 6, 2005, July 13, 2005, <i>Camilla Enterprise</i> .	The Honorable Alfred G. Powell, Jr., mayor of the city of Camilla, P.O. Box 328, Camilla, Georgia 31730.	June 29, 2005 .....	130137B
Pennsylvania: Bucks.	Township of Wrightstown.	April 8, 2005, April 15, 2005, <i>Bucks County Courtier Times</i> .	Mr. Chester S. Pogonowski, chairman of the township of Wrightstown board of supervisors, 738 Penns Park Road, Wrightstown, Pennsylvania 18940.	July 15, 2005 .....	421045F

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 23, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 05-17625 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate, has resolved

any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.* This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

**PART 67—[AMENDED]**

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
<b>CALIFORNIA</b>	
<b>Santa Barbara County (FEMA Docket No. D-7620)</b>	
<i>Arroyo Burro Creek:</i>	
Approximately 1,320 feet downstream of Cliff Drive ..	*6
Approximately 1,550 feet upstream of Foothill Road .....	*366
<b>Santa Barbara County (Unincorporated Areas), City of Santa Barbara</b>	
<i>Arroyo Burro Creek Overland Flow at Casiano Drive:</i>	
At the intersection of Casiano Drive and Portofino Way ...	*126
At downstream side of U.S. Highway 101 .....	*162
<b>City of Santa Barbara</b>	
<i>Arroyo Burro Creek Overland Flow at Palermo Way:</i>	
At the intersection of Palermo Way Drive and Barcelona Way .....	*112
At downstream side of U.S. Highway 101 .....	*160
<b>City of Santa Barbara</b>	
<i>Arroyo Paredon:</i>	
At confluence with Pacific Ocean .....	*8
Approximately 2,750 feet upstream of Foothill Road .....	*219
<b>City of Santa Barbara</b>	
<i>Arroyo Paredon Tributary:</i>	
At confluence with Arroyo Paredon .....	*33
Approximately 130 feet upstream of Foothill Road .....	*82
<b>Santa Barbara County (Unincorporated Areas)</b>	
<i>Devereaux Creek:</i>	
At confluence with Pacific Ocean .....	*7
Approximately 50 feet upstream of Southern Pacific Railroad .....	*97
<b>Santa Barbara County (Unincorporated Areas), City of Goleta</b>	
<i>Devereaux Creek Tributary 1:</i>	
At confluence with Devereaux Creek .....	*23
Approximately 50 feet upstream of Southern Pacific Railroad .....	*95
<b>City of Goleta</b>	
<i>Devereaux Creek Tributary 2:</i>	
At confluence with Devereaux Creek .....	*15
Approximately 150 feet upstream of Southern Pacific Railroad .....	*60
<b>Santa Barbara County (Unincorporated Areas), City of Goleta</b>	
<i>Devereaux Creek Tributary 3:</i>	
At confluence with Devereaux Creek .....	*14

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 2,050 feet upstream of confluence with Devereaux Creek .....	*16
<b>Santa Barbara County (Unincorporated Areas), City of Goleta</b>	
<i>East Branch Toro Creek:</i>	
At confluence with Toro Creek .....	*249
Approximately 60 feet upstream of State Highway 192 .....	*498
<b>Santa Barbara County (Unincorporated Areas)</b>	
<i>Fremont Creek:</i>	
At confluence with San Jose Creek (East Valley Road) .....	*85
Approximately 910 feet upstream of Patterson Avenue .....	*153
<b>Santa Barbara County (Unincorporated Areas)</b>	
<i>Garrapata Creek:</i>	
At confluence with Pacific Ocean .....	*8
Approximately 430 feet upstream of Toro Canyon Road (Third Crossing) .....	*456
<b>Santa Barbara County (Unincorporated Areas)</b>	
<i>Las Positas Creek:</i>	
At confluence with Arroyo Burro .....	*58
Approximately 300 feet upstream of Modoc Road .....	*120
<b>Santa Barbara County (Unincorporated Areas), City of Santa Barbara</b>	
<i>Northridge Creek:</i>	
At confluence with Arroyo Burro .....	*295
Approximately 2,425 feet upstream of Foothill Road .....	*408
<b>City of Santa Barbara</b>	
<i>San Jose Creek:</i>	
Approximately 50 feet upstream of Calle Real .....	*55
Approximately 810 feet upstream of Patterson Avenue .....	*107
<b>Santa Barbara County (Unincorporated Areas), City of Goleta</b>	
<i>San Roque Creek:</i>	
At confluence with Arroyo Burro .....	*174
Approximately 7,800 feet upstream of Ontare Road .....	*484
<b>City of Santa Barbara</b>	
<i>Toro Creek:</i>	
At confluence with Pacific Ocean .....	*10
At State Highway 192 (East Valley Road) .....	*494
<b>Santa Barbara County (Unincorporated Areas)</b>	
<b>City of Goleta</b>	
<b>Maps available for inspection</b> at the Goleta City Hall, 130 Cremona Drive, Suite B, Goleta, California.	
<b>City of Santa Barbara</b>	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
<b>Maps available for inspection</b> at the Santa Barbara City Administrator's Office, 735 Anacapa Street, Santa Barbara, California.	
<b>Santa Barbara County (Unincorporated Areas)</b>	
<b>Maps available for inspection</b> at the Santa Barbara County Department of Public Works, Water Resources Division, Flood Control and Water Conservation District, 123 East Anapamu Street, Santa Barbara, California.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 23, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.*

[FR Doc. 05-17624 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 1802**

**RIN AD13**

**Head of Contracting Activity (HCA) Change for NASA Shared Services Center (NSSC)**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the NASA FAR Supplement (NFS) by amending the definition of "Contracting activity" and "Head of the contracting activity (HCA)" consistent with the mission of the NASA Shared Services Center (NSSC) which is to provide selected services in support of Human Resources, Procurement, Financial Management and Information Technology operations across the Agency.

**EFFECTIVE DATE:** September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sheryl Goddard, NASA, Office of Procurement, Program Operations Division; (703) 553-2519; e-mail: [Sheryl.Goddard@nasa.gov](mailto:Sheryl.Goddard@nasa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On May 13, 2005, the Assistant Administrator for Procurement

approved a deviation to NFS 1802.101 to designate the Executive Director for the NSSC as head of the contracting activity for all contracts that directly support the NSSC. This final rule implements that deviation.

**B. Regulatory Flexibility Act**

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1802 in accordance with 5 U.S.C. 610.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Part 1802**

Government procurement.

**Tom Luedtke,**

*Assistant Administrator for Procurement.*

■ Accordingly, 48 CFR part 1802 is amended as follows:

**PART 1802—DEFINITIONS OF WORDS AND TERMS**

■ 1. The authority citation for 48 CFR part 1802 continues to read as follows:

**Authority:** 42 U.S.C. 2473(c)(1).

■ 2. Amend section 1802.101 by revising the definition of "Contracting activity" and "Head of the contracting activity (HCA)" to read as follows:

**1802.101 Definitions.**

\* \* \* \* \*

"Contracting activity" in NASA includes the NASA Headquarters installation, the NASA Shared Services Center, and the following field installations: Ames Research Center, Dryden Flight Research Center, Glenn Research Center at Lewis Field, Goddard Space Flight Center, Johnson Space Center, Kennedy Space Center, Langley Research Center, Marshall Space Flight Center and Stennis Space Center. A major program that may have contracts at multiple field centers may also be considered a "contracting activity."

\* \* \* \* \*

"Head of the contracting activity (HCA)" means, for field installations, the Director or other head and, for NASA Headquarters, the Assistant Administrator for Management Systems. For International Space Station (ISS)

and Space Shuttle Program contracts, the HCA is the Headquarters Deputy Associate Administrator for ISS and Shuttle Programs in lieu of the field Center Director(s). For Exploration Systems Mission Directorate (ESMD) contracts, the HCA is the Associate Administrator for ESMD in lieu of the field Center Director(s). For NASA Shared Services Center (NSSC) contracts, the HCA is the Executive Director of the NSSC in lieu of the field Center Director(s).

\* \* \* \* \*

[FR Doc. 05-17594 Filed 9-2-05; 8:45 am]

BILLING CODE 7510-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Part 1852

RIN 2700-AD16

#### Packaging, Handling, and Transportation

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This is a final rule to amend the NASA FAR Supplement (NFS) to delete the “alpha” and “date” associated with NASA’s Procedural Requirements (NPR) 6000.1 referred to in the clause entitled Packaging, Handling, and Transportation (NOVEMBER 2004).

**EFFECTIVE DATE:** September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Marilyn J. Seppi, NASA, Office of Procurement, Contract Management Division; (703) 553-2551; e-mail: [Marilyn.Seppi-1@nasa.gov](mailto:Marilyn.Seppi-1@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule will delete references to the “alpha” and “date” associated with NASA Procedural Requirements

(NPR) 6000.1 entitled “Requirements for Packaging, Handling, and Transportation for Aeronautical and Space Systems, Equipment and Associated Components.” Specifically, NFS clause 1852.211-70 will be revised to delete the “E” at the end of NPR 6000.1 and the date, namely “dated April 26, 1999”. This clause provides direction to the contractor that they must comply with the NPR. The NPR changes from time to time and so as to not have to revise clause 1852.211-70 every time the NPR changes it would be best to delete the “alpha” and “date” associated with the NPR. The revised clause will require the contractor to comply with the most recent version of the NPR which purpose is to establish a standard streamlined approach for packaging, handling, and transportation shipment activities to adequately maintain the reliability of NASA items and achieve their damage-free delivery to the place and time of ultimate use. In addition, this change will ensure consistency with the rest of the NFS because the date and alpha are not referenced when citing a particular NPR in other NFS clauses.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

This final rule is not expected to have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because contractors are required to comply with this clause when packaging, handling, and transporting, and shipping on behalf of NASA to maintain reliability of NASA items and to achieve damage-free delivery to their time and place of ultimate use and therefore, changing the date of the

NASA procedural requirements will have little or no impact on small businesses.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

##### List of Subjects in 48 CFR Part 1852

Government procurement.

**Tom Luedtke,**

*Assistant Administrator for Procurement.*

■ Accordingly, 48 CFR part 1852 is amended as follows:

#### PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 1852 continues to read as follows:

**Authority:** 42 U.S.C. 2473(c)(1).

■ 2. In clause 1852.211-70, the date is revised to read “(SEPT 2005)”, and paragraph (a) is revised to read as follows:

#### 1852.211-70 Packaging, Handling, and Transportation.

\* \* \* \* \*

(a) The Contractor shall comply with NASA Procedural Requirements (NPR) 6000.1, “Requirements for Packaging, Handling, and Transportation for Aeronautical and Space Systems, Equipment, and Associated Components”, as may be supplemented by the statement of work or specifications of this contract, for all items designated as Class I, II, or III.

\* \* \* \* \*

[FR Doc. 05-17591 Filed 9-2-05; 8:45 am]

BILLING CODE 7510-01-P

# Proposed Rules

Federal Register

Vol. 70, No. 171

Tuesday, September 6, 2005

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

## NUCLEAR REGULATORY COMMISSION

**10 CFR Parts 1, 2, 10, 19, 20, 21, 25, 26, 50, 51, 52, 54, 55, 72, 73, 75, 95, 140, and 170**

**RIN 3150—AG24**

### Licenses, Certifications, and Approvals for Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Availability of draft proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is making available the draft wording of a proposed amendment of its regulations. The proposal would amend Title 10 of the Code of Federal Regulations (10 CFR) part 52, "Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants," and associated regulations based on experience gained from early site permit (ESP) and design certification reviews and discussions with stakeholders on the ESP and combined license (COL) processes. The changes should improve the effectiveness and efficiency of the licensing processes for future applicants. The availability of the draft rule language is intended to inform stakeholders of the current status of the NRC staff's activities to amend 10 CFR part 52.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/>

*index.html*. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Nanette V. Gilles, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1180, e-mail [nvg@nrc.gov](mailto:nvg@nrc.gov); or Jerry N. Wilson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone (301) 415-3145; e-mail [jnw@nrc.gov](mailto:jnw@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On July 3, 2003, the NRC published a proposed rulemaking (68 FR 40026) to (1) clarify and/or correct 10 CFR parts 2, 20, 21, 50, 51, 52 (including Appendices A, B, and C), 72, 73, 140, and 170; (2) update 10 CFR part 52; and (3) incorporate stakeholder comments. Upon further consideration by the NRC staff, the staff intends to recommend that the Commission re-propose amendments to part 52 and other parts of 10 CFR with associated changes that would supersede the July 2003 proposed rule.

The NRC has developed draft wording for the changes to its regulations and has made them available on the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. This draft rule language is preliminary and may be incomplete in one or more respects. This draft rule language is being released to inform our stakeholders of the current status of the part 52 update rulemaking. In order to facilitate stakeholder review, the draft rule language is posted in three separate files: part 52, part 50, and all of the remaining parts of 10 CFR that have proposed changes. The NRC is not requesting comments on this draft rule language. Rather, comments will be requested when the re-proposed rule is published in the **Federal Register**.

Following the close of the public comment period on the July 2003 rule, a number of factors led the staff to question whether the proposed rule would meet the Commission's objective

of improving the effectiveness of NRC's regulatory processes for future nuclear power facilities. First, several public comments identified concerns regarding whether the proposed rule adequately addressed the relationship between part 50 and part 52 and clearly specified the applicable regulatory requirements for each of the regulatory processes in part 52. In addition, during the period of public comment and thereafter, the staff gained additional insights about ESPs as a result of the review of the first three ESP applications. The staff also had the benefit of public meetings with external stakeholders on developing NRC staff guidance on ESPs and COLs. As a result of these factors, the staff decided that a substantial rewrite and expansion of the original rulemaking would be necessary to ensure that the entire body of NRC regulations is able to support the agency's licensing and regulation of future nuclear power facilities under part 52.

The proposed rule is intended to ensure that all regulatory processes in part 52 are addressed in that part and throughout the Commission's regulations and that there is no ambiguity with respect to the applicability of various requirements to each if the regulatory processes in part 52 (*i.e.*, early site permit, standard design approval, standard design certification, combined license and manufacturing license).

Accordingly, the staff has developed this draft re-proposed rule and intends to recommend that it supersede the July 2003 proposed rule. The draft re-proposed rule contains a rewrite of part 52, as well as changes throughout 10 CFR to ensure that all regulatory processes in part 52 are addressed and to remove ambiguity with respect to the applicability of various requirements to each of the regulatory processes in part 52.

Dated at Rockville, Maryland, this 29th day of August, 2005.

For the Nuclear Regulatory Commission.

**William D. Beckner,**

*Director, New, Research, and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Regulator Regulation.*

[FR Doc. 05-17494 Filed 9-2-05; 8:45 am]

**BILLING CODE 7590-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2005-22288; Directorate Identifier 2005-NM-132-AD]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 747-400 Series Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747-400 series airplanes. This proposed AD would require doing a conductivity test of the upper deck floor beam at station 400 to identify the floor beam material. If the floor beam is manufactured from 7050 aluminum alloy, this proposed AD would also require inspecting the upper deck floor beam and certain fastener holes at the floor beam upper chord for cracking; repairing any cracking if necessary; and doing a preventative modification. This proposed AD results from several reports indicating that fatigue cracking was found in upper deck floor beams made from 7050 aluminum alloy. We are proposing this AD to find and fix cracking in the upper deck floor beam, which could extend and sever the floor beam. A severed floor beam could result in loss of controllability and rapid decompression of the airplane.

**DATES:** We must receive comments on this proposed AD by October 21, 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.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle,

Washington 98124-2207, for the service information identified in this proposed AD.

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

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number "FAA-2005-22288; Directorate Identifier 2005-NM-132-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 that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

**Examining the Docket**

You may 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 receives them.

**Discussion**

We have received several reports indicating that fatigue cracking was found in upper deck floor beams made from 7050 aluminum alloy, on Boeing Model 747-100, -200F, and -300 series airplanes. The upper deck floor beams on most Model 747-400 series airplanes

are made from 2024 aluminum alloy; however, the manufacturer has informed us that the upper deck floor beam at station 400 on some Model 747-400 series airplanes was made from 7050 aluminum alloy. Investigation revealed that floor beams made from 7050 aluminum alloy are less resistant to fatigue cracking than floor beams made from 2024 aluminum alloy. Cracking in the upper deck floor beam, if not detected and corrected, could extend and sever the floor beam. A severed floor beam could result in loss of controllability and rapid decompression of the airplane.

Upper deck floor beams made from 7050 aluminum alloy at station 400 on certain Model 747-400 series airplanes are similar to those on the affected Model 747-100, -200F, and -300 series airplanes. Therefore, all these models may be subject to the same unsafe condition.

**Other Related Rulemaking**

On August 30, 2002, we issued AD 2002-18-04, amendment 39-12878 (67 FR 57510, September 11, 2001), applicable to certain Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SR, and 747SP series airplanes. That AD requires one-time inspections for cracking in certain upper deck floor beams and follow-on actions. AD 2002-18-04 does not affect the requirements of this proposed AD.

On April 4, 2005, we issued AD 2005-07-21, amendment 39-14046 (70 FR 18277, April 11, 2005), applicable to all Boeing Model 747-200F and -200C series airplanes. That AD requires repetitive detailed inspections or a one-time open-hole high frequency eddy current inspection to detect cracking of certain areas of the upper deck floor beams, and corrective actions if necessary. That AD also requires one-time inspections for cracking of the web, upper chord, and strap of the upper deck floor beams, and modification or repair of the upper deck floor beams. AD 2005-07-21 does not affect the requirements of this proposed AD.

**Relevant Service Information**

We have reviewed Boeing Alert Service Bulletin 747-53A2509, dated June 9, 2005. The service bulletin describes procedures for doing a conductivity test of the upper deck floor beam at station 400 to identify the floor beam material, and if the floor beam is manufactured from 7050 aluminum alloy, accomplishing the following actions:

- Doing a one-time detailed inspection of the floor beam for cracking.

- Doing a one-time high frequency eddy current inspection (HFEC) of certain fastener holes at the floor beam upper chord for cracking.
- Contacting the manufacturer for repair instructions if any cracking is found during the detailed inspection of the floor beam.
- Oversizing fastener holes if any cracking is found during the HFEC inspection of certain fastener holes; and contacting the manufacturer for repair data if a certain edge margin cannot be maintained when oversizing the fastener holes.
- Contacting the manufacturer for instructions on doing a preventative modification.
- Reporting inspection results to the manufacturer.

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

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the Proposed AD and Service Bulletin." The proposed AD would also require sending the inspection results to the manufacturer.

#### Difference Between the Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

#### Costs of Compliance

There are about 123 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 17 airplanes of U.S. registry. The proposed conductivity test would take about 2 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of

the proposed AD for U.S. operators is \$2,210, or \$130 per airplane.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA-2005-22288; Directorate Identifier 2005-NM-132-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by October 21, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 747-400 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747-53A2509, dated June 9, 2005.

#### Unsafe Condition

(d) This AD results from several reports indicating that fatigue cracking was found in upper deck floor beams made from 7050 aluminum alloy. We are issuing this AD to find and fix cracking in the upper deck floor beam, which could extend and sever the floor beam. A severed floor beam could result in loss of controllability and rapid decompression of the airplane.

#### Compliance

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

#### Conductivity Test

(f) Before an airplane has accumulated 15,000 total flight cycles, do a conductivity test of the upper deck floor beam at station 400 to identify the floor beam material, in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2509, dated June 9, 2005. If the upper deck floor beam is not made from 7050 aluminum alloy, no further action is required by this AD. If the upper deck floor beam is made from 7050 aluminum alloy, do the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD.

#### Inspections and Corrective Actions, if Applicable

(1) Before an airplane has accumulated 15,000 total flight cycles, do a detailed inspection of the upper deck floor beam at station 400 for cracking, and do a high frequency eddy current (HFEC) inspection of certain fastener holes at the floor beam upper chord for cracking, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2509, dated June 9, 2005. If any cracking is found during the HFEC inspection of certain fasteners holes, before further flight, repair

the cracking in accordance with Figure 3 of the service bulletin. If any cracking is found during the detailed inspection of the upper deck floor beam, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair the cracking using a method approved in accordance with paragraph (g) of this AD.

#### Reporting Requirement

(2) Submit a report of the findings (both positive and negative) of the inspections required by paragraph (f)(1) of this AD to Boeing Commercial Airplanes; Attention: Manager, Airline Support; P.O. Box 3707 MC 04-ER; Seattle, Washington 98124-2207; fax (425) 266-5562; at the applicable time specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120-0056.

(i) If the inspections were done after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspections were done prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

#### Preventative Modification

(3) Before an airplane has accumulated 20,000 total flight cycles, do a preventative modification using a method approved in accordance with paragraph (g) of this AD.

#### Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on August 29, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 05-17608 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-22289; Directorate Identifier 2005-NM-101-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-400F, 747SR, and 747SP Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-400F, 747SR, and 747SP series airplanes, without a stretched upper deck or stretched upper deck modification. This proposed AD would require detailed and high-frequency eddy current inspections for cracks at the outboard ends of each affected tension tie and of the surrounding structure, and related investigative and corrective actions if necessary. This proposed AD results from a report of a crack in the tension tie at the body station 820 frame connection, and cracks found on the Boeing 747SR fatigue-test airplane in both the tension ties and frames at the tension tie to frame connections at body stations 800, 820, and 840. We are proposing this AD to find and fix cracks in the tension ties, which could lead to cracks in the skin and body frame and result in rapid in-flight depressurization of the airplane. **DATES:** We must receive comments on this proposed AD by October 21, 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.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for the service information identified in this proposed AD.

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

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number "FAA-2005-22289; Directorate Identifier 2005-NM-101-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 that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

#### Examining the Docket

You may 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 receives them.

#### Discussion

We have received a report indicating that, during routing maintenance on a 747-200F series airplane, one operator found a crack in the tension tie at the body station (STA) 820 frame

connection. The crack was 0.125 inch long and located at a fastener hole. The manufacturer then inspected the 747SR fatigue-test airplane and found similar cracks in both the tension ties and frames at the tension ties to the frame connection. The cracks were found at STAs 800, 820, and 840 at 40,000 total flight cycles (20,000 operating cycles, 20,000 test cycles). Cracks in the frames were up to 1.25 inches long, and cracks in the tension ties were up to 0.20 inch long. Cracks in the tension ties, if not detected and corrected before they reach critical crack lengths, could lead to cracks in the skin and body frame and result in rapid in-flight depressurization of the airplane.

#### Other Relevant Rulemaking

On September 4, 1984, we issued AD 84-19-01, amendment 39-4913 (49 FR 35365, September 17, 1984) for Boeing Model 747 series airplanes. That AD was prompted by a report of a crack that occurred during fatigue testing. That AD requires repetitive close visual inspections for cracks of the tension tie at STA 760 for certain airplanes and at STA 780 for certain other airplanes, and repair if necessary. We issued that AD to detect cracks and prevent failure of the frame to tension tie joint structure. The airplanes in the applicability of AD 84-19-01 would also be subject to the requirements of this proposed AD.

On June 14, 1994, we issued AD 94-13-06, amendment 39-8946 (59 FR 32879, June 27, 1994), for certain Boeing Model 747 series airplanes. That AD requires inspections to detect cracking in certain fuselage upper deck tension ties, and repair or modification of any cracked tension ties. We issued that AD to prevent failure of two or more tension ties and the resultant rapid decompression of the airplane. The airplanes in the applicability of AD 94-13-06 would also be subject to the requirements of this proposed AD.

On March 24, 2004, we issued AD 2004-07-22, amendment 39-13566 (69 FR 18250, April 7, 2004), for all Boeing Model 747 series airplanes. That AD requires revising the FAA-approved maintenance or inspection program to include repetitive inspections for discrepancies of various structural significant items (SSIs); as listed in Boeing Document No. D6-35022, "Supplemental Structural Inspection Document (SSID)," Revision G, dated December 2000 (referred to after this as "the SSID"); and repair if necessary.

#### Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 747-53-2502, dated April 21, 2005. The service

bulletin describes procedures for doing repetitive detailed and high-frequency eddy current (HFEC) inspections for cracks at the outboard ends of each affected tension tie and of the surrounding structure. If any cracking is found, the service bulletin describes procedures for related investigative and corrective actions. These actions include doing all applicable repairs and doing further HFEC inspections of certain fastener holes until the inspection indicates that the repair has removed all cracking. If the cracking exceeds certain limits defined in the service bulletin, or if the area cannot be repaired without exceeding certain limits, or if the discrepancy is at certain locations defined in the service bulletin, the corrective action is contacting Boeing for repair instructions.

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the Proposed AD and the Service Bulletin."

Certain actions in this proposed AD are alternative methods of compliance (AMOCs) for certain actions in the ADs referenced below. All provisions of the referenced ADs, including applicable post-modification inspection thresholds, remain fully applicable and must be complied with.

- Repairs of the aft tension tie channels in accordance with this proposed AD would be AMOCs to the repair requirements of paragraph A. of AD 84-19-01, and paragraphs (a)(2) and (b)(2) of AD 94-13-06.
- The inspection requirements of this proposed AD would be AMOCs for the post-modification inspection requirements of paragraph B. of AD 84-19-01, and paragraph (b) of AD 94-13-06.
- The inspection requirements of this proposed AD would be AMOCs for the corresponding requirements of paragraphs (c) and (d) of AD 2004-07-22 for the inspections of SSI item F-19A of the SSID in the area addressed by this proposed AD.

#### Difference Between the Proposed AD and the Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would

require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

This difference has been coordinated with the manufacturer.

#### Interim Action

We consider this proposed AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

#### Costs of Compliance

There are about 458 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 141 airplanes of U.S. registry. The proposed inspections would take about 8 work hours per airplane, per tension tie location. There are between 8 and 12 tension tie locations on each airplane, depending on the airplane's configuration. The average labor rate is \$65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between \$586,560 and \$879,840, or between \$4,160 and \$6,240 per airplane, per inspection cycle.

#### Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA-2005-22289; Directorate Identifier 2005-NM-101-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by October 21, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-400F, 747SR, and 747SP series airplanes, certificated in any category; without a stretched upper deck or stretched upper deck modification; as identified in Boeing Special Attention Service Bulletin 747-53-2502, dated April 21, 2005.

## Unsafe Condition

(d) This AD results from a report of a crack in the tension tie at the body station 820 frame connection, and cracks found on the Boeing 747SR fatigue-test airplane in both the tension ties and frames at the tension tie to frame connections at body stations 800, 820, and 840. We are issuing this AD to find and fix cracks in the tension ties, which could lead to cracks in the skin and body frame and result in rapid in-flight depressurization of the airplane.

## Compliance

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

## Repetitive Inspections and Corrective Actions

(f) At the applicable time in paragraph (f)(1) or (f)(2) of this AD: Do detailed and high-frequency eddy current inspections for cracks at the outboard ends of each affected tension tie and of the surrounding structure. If any cracking is found: Before further flight, do all applicable corrective and related investigative actions. Do all actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747-53-2502, dated April 21, 2005. Where the service bulletin specifies to contact Boeing for repair instructions: Before further flight, repair the area using a method approved in accordance with paragraph (g) of this AD.

(1) For airplanes identified in the service bulletin as Group 1, 3, and 6 airplanes: Do the first inspections before the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and repeat the inspections thereafter at intervals not to exceed 4,000 flight cycles.

(2) For airplanes identified in the service bulletin as Group 2, 4, and 5 airplanes: Do the first inspections before the accumulation of 17,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles.

## Alternative Methods of Compliance (AMOCs)

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

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

(3) Certain actions required by paragraph (f) of this AD are AMOCs for certain requirements in the ADs identified in paragraphs (g)(1)(i), (g)(2)(ii), and (g)(3)(iii) of

this AD. All provisions of the referenced ADs, including applicable post-modification inspection thresholds, remain fully applicable and must be complied with.

(i) Repairs of the aft tension tie channels done in accordance with this AD are AMOCs for the repair requirements of paragraph A. of AD 84-19-01, amendment 39-4913, and paragraphs (a)(2) and (b)(2) of AD 94-13-06, amendment 39-8946.

(ii) The inspection requirements of this AD are AMOCs for the post modification inspection requirements of paragraph B. of AD 84-19-01, and paragraph (b) of AD 94-13-06.

(iii) The inspection requirements of this AD are AMOCs for the inspections of structural significant item (SSI) F-19A of Boeing Supplemental Structural Inspection Document D6-35022, Revision G, dated December 2000, as required by paragraphs (c) and (d) of AD 2004-07-22, amendment 39-13566.

Issued in Renton, Washington, on August 29, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-17609 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-22290; Directorate Identifier 2005-NM-129-AD]

RIN 2120-AA64

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This proposed AD would require modifying the wiring of the starter-generator terminal block. This proposed AD results from a report of total electrical failure just as the airplane landed. We are proposing this AD to prevent total electrical failure and consequent reduced controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by October 6, 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.

Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

#### FOR FURTHER INFORMATION CONTACT:

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

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number "FAA-2005-22290; Directorate Identifier 2005-NM-129-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 that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

##### Examining the Docket

You may 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 receives them.

##### Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. The CAA advises that a Model Jetstream 4101 airplane had a total electrical failure just as the airplane landed. Although investigations did not uncover all mechanisms that contributed to the total electrical failure, investigators established that a significant contributory factor was a chafed exciter wire to the positive terminal of the starter-generator. The current routing of the small wiring at the starter-generator terminal block has the potential for incorrect routing and possible chafing and shorting against the stud of terminal "B." The starter-generator is currently removed for overhaul at 600-flight-hour intervals, and the wires can be damaged or misrouted during removal and reinstallation. This condition, if not corrected, could result in total electrical failure and consequent reduced controllability of the airplane.

##### Relevant Service Information

BAE Systems (Operations) Limited has issued Service Bulletin J41-24-041, dated May 10, 2004. The service bulletin describes procedures for modifying the wiring of the starter-generator terminal block. For airplanes on which modification JM41360 (a modification to the electrical wiring) has not been incorporated, the procedures include splicing and re-routing the wires. For airplanes on which modification JM41360 has been incorporated, the procedures include re-routing the wires. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directive G-2005-0006, dated February 7, 2005, to ensure the continued airworthiness of these airplanes in the United Kingdom.

##### FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

##### Costs of Compliance

This proposed AD would affect about 57 airplanes of U.S. registry. The proposed actions would take about 10 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$37,050, or \$650 per airplane.

##### Authority for This Rulemaking

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

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

##### Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft):** Docket No. FAA-2005-22290; Directorate Identifier 2005-NM-129-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by October 6, 2005.

#### Affected ADs

(b) None.

#### Applicability

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

#### Unsafe Condition

(d) This AD results from a report of total electrical failure just as the airplane landed. We are issuing this AD to prevent total electrical failure and consequent reduced controllability of the airplane.

#### Compliance

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

#### Modification

(f) Within 6 months after the effective date of this AD: Modify the wiring of the starter-generator terminal block in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41-24-041, dated May 10, 2004.

#### Alternative Methods of Compliance (AMOCs)

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

#### Related Information

(h) British airworthiness directive G-2005-0006, dated February 7, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on August 29, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-17610 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-P**

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 416

**RIN 0960-AG13**

### Changes to the Income and Resources Provisions for Supplemental Security Income (SSI) Based on Sections 430, 435, and 436 of the Social Security Protection Act (SSPA) of 2004

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to revise our regulations on how we determine an individual's income and resources under the SSI program based on the SSPA of 2004, enacted on March 2, 2004. Some of the provisions of the SSPA make a number of changes in the way we determine income and resources including: how we calculate infrequent and irregular income; what interest and dividend income we exclude; how we count cash military compensation; and when we exclude gifts for tuition or educational expenses from income or resources. We are also proposing to apply the exclusions required by the SSPA when determining the countable income and resources of an ineligible spouse or ineligible parent. **DATES:** To be sure that we consider your comments, we must receive them by November 7, 2005.

**ADDRESSES:** You may give us your comments: by using our Internet site facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/erm/rules.nsf/>

*Rules+Open+To+Comment* or the Federal eRulemaking Portal at <http://www.regulations.gov>; by e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); by telefax to (410) 966-2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

#### FOR FURTHER INFORMATION CONTACT:

Barbara E. Snyder, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-5655 or TTY 1-800-966-5906, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

The basic purpose of the SSI program (title XVI of the Social Security Act (the Act)) is to ensure a minimum level of income to people who are age 65 or older, or blind or disabled, and who have limited income and resources. Section 1611 of the Act provides that SSI payments can be made only to people who have income and resources below specified amounts. Therefore, the amount of income and resources a person has is a major factor in deciding whether the person can receive SSI benefits and in computing the amount of the benefits.

Public Law 108-203, the SSPA of 2004, was enacted on March 2, 2004. Sections 430, 435, and 436 of this law affect how income and resources are determined in the SSI program.

#### Section 430

Section 430 of Public Law 108-203 amended section 1612(b) of the Act as follows:

*Change the Calculation of Infrequent and Irregular Income From a Monthly to a Quarterly Basis*

Prior to the SSPA of 2004, we did not count up to \$10 of your earned income in a month or \$20 of unearned income in a month if it was infrequent or irregular; that is, if you received it only once in a calendar quarter from a single source or if you could not reasonably have expected it. If the total amount of your infrequent or irregular income for a month exceeded \$10 of earned income or \$20 of unearned income, we could not use this exclusion. Based on section 430 of the SSPA of 2004, we now exclude the first \$30 per calendar quarter of earned income and the first \$60 per calendar quarter of unearned income if you receive it infrequently or irregularly. This provision applies to benefits payable on or after July 1, 2004.

Consistent with the provision in section 1612(b)(3) of the Act (as amended by section 430(a) of the SSPA) which provides that this exclusion is “determined in accordance with criteria prescribed by the Commissioner of Social Security”, we are also proposing to revise the definition of infrequent income. We propose that we will consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month, regardless of whether or not these payments occur in different calendar quarters. We consider income to be received irregularly if you cannot reasonably expect to receive it.

*Exclude From Income All Interest and Dividend Income Earned on Countable Resources*

Prior to the SSPA of 2004, there was no specific exclusion for interest and dividend income you earned on countable and certain excludable resources. Based on section 430 of the SSPA of 2004, we will exclude from your income determination interest or dividend income you earn on resources which are countable under section 1613(a) of the Act. Also, based on section 430, we will not count interest or dividend income on resources that are excluded based on a Federal statute other than section 1613(a) of the Act. These amendments apply to benefits payable on or after July 1, 2004.

**Section 435**

Prior to the SSPA of 2004, we did not count as unearned income any portion of a grant, scholarship, or fellowship you used to pay tuition, fees, or other

necessary educational expenses. However, we did count any portion you set aside or actually used for food, clothing, or shelter as income in the month you received it and, to the extent any portion of it was retained, as a resource the month following the month you received it. Under these proposed rules, any portion set aside or used for food, clothing, or shelter will continue to count as income in the month received or as a resource if retained.

Section 435 of the SSPA of 2004 amended section 1612(b)(7) of the Act to provide that we will exclude a gift (or portion of a gift) you use to pay the cost of tuition and fees at any educational (including technical or vocational education) institution when we determine your income (and the income of your eligible spouse). Additionally, section 435 of the SSPA of 2004 amended section 1613(a) of the Act to provide that we will exclude from resources for 9 months after the month in which it is received, any grant, scholarship, fellowship, or gift (or portion of a gift) you use to pay the cost of tuition and fees at an educational (including technical or vocational education) institution. These amendments apply to benefits payable on or after June 1, 2004.

We also plan to extend this resource exclusion to any portion of a grant, scholarship, or fellowship retained after the month of receipt. Prior to the SSPA of 2004, section 1612(b)(7) had excluded “any portion” of a grant, scholarship, or fellowship from income. When the resource exclusion was added by the SSPA, the exclusion covered grants, scholarships, and fellowships, but only specifically referenced portions with respect to gifts. In order to have consistent policy on exclusions related to tuition and educational expenses, we are proposing to exclude from resources for 9 months any portion of a grant, scholarship, fellowship, or gift used to pay necessary educational expenses. In addition, we are providing in these proposed rules that any portion of a grant, scholarship, fellowship, or gift intended to be used for tuition, fees, or other necessary educational expenses that is used for another purpose during the 9-month resource exclusion period will be counted as income in the month it is used for another purpose.

**Section 436**

Under our current rules, your income is counted in the month you receive it rather than in the month you earn it. We count wages and unearned income at the earliest of the following points:

- When you receive them,

- When they are credited to your account, or
- When they are set aside for your use.

Members of a uniformed service (as defined in 20 CFR 404.1330) are paid twice per month, and receive one Leave and Earnings Statement (LES) at the beginning of the month, which reflects their earnings for services performed in the prior month. The earnings shown on the monthly LES consist of the money actually paid in the second payment from the previous month and the payment received at the beginning of the current month. The payment received at the beginning of the current month is actually for services performed in the last half of the previous month. Thus, both payments reflected on the LES represent services performed in the previous month. Because wages are counted when paid, the portion of the money that was paid in the previous month must be considered as received in the previous month, not the current month, and the portion paid at the beginning of the current month must be considered in the current month. Prior to the SSPA of 2004, we had to apply a complex formula to the information on the LES for 2 consecutive months to determine one month’s wages and unearned income.

Section 436 of the SSPA amended section 1611(c) of the Act to provide that remuneration you receive for services performed as a member of a uniformed service may be treated as received in the month in which you earned it, if the Commissioner of Social Security (the Commissioner) determines that this method would promote the economical and efficient administration of the SSI program. This method of counting allows us to count the money shown on the LES for any month as received in that month, thereby eliminating the need to apply a complex formula to determine monthly earnings. Instead, we can determine monthly earnings by simply adding the amounts shown on the LES issued for that month.

**Extending Exclusions in Section 430, 435, and 436 to the Deeming Process**

Section 1614(f) of the Act requires that, when we determine an individual’s eligibility for SSI benefits, we must consider the income and resources of an ineligible spouse living in the same household, or, in the case of a child under the age of 18, the income and resources of an ineligible parent living in the same household. We use the term “deeming” to identify this process of considering part of an ineligible spouse’s or parent’s income and

resources to be the individual's own income and resources. Section 1614(f) also grants the Commissioner the discretion to waive the deeming of income and resources from an ineligible spouse or parent to an eligible individual when the Commissioner determines that deeming would be inequitable under the circumstances.

In addition to adding to our regulations the changes in how we determine an eligible individual's income and resources required by the SSPA, we propose to apply these changes when determining the countable income and resources of an ineligible spouse or ineligible parent. These changes are:

- Change the calculation of infrequent and irregular income from a monthly to a quarterly basis, and revise the definition of infrequent income.
- Exclude from income interest or dividends earned on countable resources and resources excluded under other Federal statutes.
- Exclude from *income* gifts used to pay tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical institutions.
- Exclude from *resources* gifts used to pay tuition, fees, or other necessary educational expenses at an educational institution (including vocational or technical institution) for 9 months beginning the month after the month the educational assistance was received.
- Consider wages and unearned income from a uniformed service to be received in the month in which such compensation is earned.

Extending these changes to the deeming process is consistent with the SSI program's longstanding treatment of income and resources of spouses and parents, as authorized by section 1614(f) of the Act. This treatment avoids using assistance programs that benefit spouses and parents to indirectly support SSI recipients and provides consistent treatment of income and resources throughout the program.

#### Explanation of Proposed Changes

We propose to make the following changes to our rules on determining income and resources under the SSI program to implement the provisions of the SSPA:

- We propose to revise § 416.1112(c)(2) and § 416.1124(c)(6) to reflect the provision of section 430 that changes the calculation of infrequent and irregular income from a monthly to a quarterly basis, and to revise the definition of infrequent income.
- We also propose to add a new § 416.1124(c)(22) to reflect the provision

of section 430 that excludes from income interest or dividends earned on countable resources and resources excluded under other Federal statutes.

- We propose to amend § 416.1124(c)(3) to reflect the provision in section 435 that states that gifts (or portions of gifts) used to pay tuition and fees at any educational institution, including vocational and technical institutions, are excluded from income.
- Additionally, we propose to add a new § 416.1210(u) and a new § 416.1250 to reflect the provision in section 435 that excludes from resources any grants, scholarships, fellowships, or gifts used to pay tuition and fees at an educational institution (including vocational or technical institution) for 9 months beginning the month after the month the educational assistance was received.
- We propose to amend § 416.1111(a) and § 416.1123(a), and add a new § 416.1123(f) to reflect section 436 that states that we may consider wages and unearned income from a uniformed service to be received in the month in which such compensation is earned. We also propose a technical amendment to add a cross-reference in § 416.1123(a) to § 416.1123(e).
- Finally, we propose to amend § 416.1161 by revising paragraph (a)(4) and adding a new paragraph (a)(26) to exclude certain interest and dividends and gifts used to pay educational expenses from the income of an ineligible spouse and ineligible parent for deeming purposes.

#### Clarity of These Regulations

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to comments you may have on these proposed rules, we also invite your comments on how to make these rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

#### Regulatory Procedures

*Executive Order 12866, as Amended by Executive Order 13258*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were reviewed by OMB.

#### Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities as they affect individuals only. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### Paperwork Reduction Act

These proposed rules impose no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

#### List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: August 22, 2005.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, we propose to amend subparts K and L of part 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

#### **PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

##### **Subpart K—[Amended]**

1. The authority citation for subpart K of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); secs. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Section 416.1111, paragraph (a), is amended by adding a sentence at the end to read as follows:

##### **§ 416.1111 How we count earned income.**

(a) \* \* \* We count wages from a uniformed service (as defined in

§ 404.1330 of this chapter) as received in the month in which they are earned.

3. Section 416.1112 is amended by revising paragraph (c)(2) to read as follows:

§ 416.1112 Earned income we do not count.

(c) \* \* \*

(2) The first \$30 of earned income received in a calendar quarter if you receive it infrequently or irregularly. We consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month. We consider income to be received irregularly if you cannot reasonably expect to receive it.

4. Section 416.1123 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

§ 416.1123 How we count unearned income.

(a) When we count unearned income. We count unearned income at the earliest of the following points: when you receive it or when it is credited to your account or set aside for your use. We determine your unearned income for each month. We describe exceptions to the rule on how we count unearned income in paragraphs (d), (e) and (f) of this section.

(f) Uniformed service compensation. We count compensation from a uniformed service (as defined in § 404.1330 of this chapter) as received in the month in which it is earned.

5. Section 416.1124 is amended by revising the first sentence in paragraph (c)(3), by revising paragraph (c)(6), by removing the word "and" at the end of paragraph (c)(20), by removing the period at the end of paragraph (c)(21) and adding a semicolon in its place followed by the word "and", and by adding paragraph (c)(22) to read as follows:

§ 416.1124 Unearned income we do not count.

(c) \* \* \*

(3) Any portion of a grant, scholarship, fellowship, or gift used or set aside for paying tuition, fees, or other necessary educational expenses.

(6) The first \$60 of unearned income received in a calendar quarter if you

receive it infrequently or irregularly. We consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month. We consider income to be received irregularly if you cannot reasonably expect to receive it.

(22) Interest and dividend income from a countable resource or from a resource excluded under a Federal statute other than section 1613(a) of the Social Security Act.

6. Section 416.1161 is amended by revising paragraph (a)(4), by removing the word "and" at the end of paragraph (a)(24), by removing the period at the end of paragraph (a)(25) and adding a semicolon in its place followed by the word "and", and by adding a new paragraph (a)(26) to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

(a) \* \* \*

(4) Any portion of a grant, scholarship, fellowship, or gift used or set aside to pay tuition, fees or other necessary educational expenses;

(26) Interest and dividend income from a countable resource or from a resource excluded under a Federal statute other than section 1613(a) of the Social Security Act.

Subpart L—[Amended]

7. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

8. Section 416.1210 is amended by removing the word "and" at the end of paragraph (s), by removing the period at the end of paragraph (t) and adding a semicolon in its place followed by the word "and", and by adding a new paragraph (u) to read as follows:

§ 416.1210 Exclusions from resources; general.

\* \* \*

(u) Any portion of a grant, scholarship, fellowship, or gift used or set aside for paying tuition, fees, or other necessary educational expenses as provided in § 416.1250.

9. Section 416.1250 is added to read as follows:

§ 416.1250 How we count grants, scholarships, fellowships or gifts.

(a) When we determine your resources (or your spouse's, if any), we will exclude for 9 months any portion of any grant, scholarship, fellowship, or gift that you use or set aside to pay the cost of tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical institutions. The 9 months begin the month after the month you receive the educational assistance.

(b) We will count as a resource any portion of a grant, scholarship, fellowship, or gift you (or your spouse, if any) did not use or set aside to pay tuition, fees, or other necessary educational expenses. We will count such portion of a grant, scholarship, fellowship or gift as a resource in the month following the month of receipt. If you use funds that were set aside for tuition, fees, or other necessary educational expenses for another purpose, or if the funds are no longer set aside for paying tuition, fees, or other necessary educational expenses within the 9-month exclusion period, we will count the funds as income in the month you use them for another purpose, or in the month when they are no longer set aside for paying tuition, fees, or other necessary educational expenses, whichever occurs first. We will consider any remaining funds as a resource in the month following the month we count them as income. We will count any portion of grants, scholarships, fellowships, or gifts remaining unspent after the 9-month exclusion period as a resource beginning with the 10th month after you received the educational assistance.

[FR Doc. 05-17588 Filed 9-2-05; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-108524-00]

RIN 1545-BD80

Section 1446 Regulations; Withholding on Effectively-Connected Taxable Income Allocable to Foreign Partners; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document corrects a notice of proposed rulemaking (REG-108524-00) that was published in the **Federal Register** on Wednesday, May 18, 2005 (70 FR 28743). The document contains regulations providing guidance under section 1446 of the Internal Revenue Code relating to the circumstances under which a partnership may take partner-level deductions and losses into account in computing its withholding tax obligation with respect to a foreign partner's allocable share of effectively connected taxable income.

**FOR FURTHER INFORMATION CONTACT:** Ronald M. Gootzeit, (202) 622-3860 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking and notice of public hearing (REG-108524-00) that is the subject of these corrections are under section 1446 of the Internal Revenue Code.

**Need for Correction**

As published, REG-108524-00 contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG-108524-00), that was the subject of FR Doc. 05-9423, is corrected as follows:

1. On page 28743, column 1, in the preamble, under the caption **DATES:**, last line, the language "must be received by August 16, 2005." is corrected to read "must be received by September 12, 2005."
2. On page 28743, column 2, in the preamble, under the caption **FOR FURTHER INFORMATION CONTACT:**, line 3, the language "the hearing, Jacqueline Turner at (202)" is corrected to read "the hearing, Richard A. Hurst at (202)".
3. On page 28744, column 1, in the preamble, under the paragraph heading, "Comments and Public Hearing", third paragraph, line 8, the language "and eight (8) copies by August 16," is corrected to read "and eight (8) copies by September 12,".

**Cynthia Grigsby,**

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

[FR Doc. 05-17562 Filed 9-2-05; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Part 250**

**RIN 1010-AD10**

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Plans and Information—Protection of Marine Mammals and Threatened and Endangered Species**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would require lessees of federal oil and gas leases in the OCS to provide information on how they will meet the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). It identifies environmental, monitoring, and mitigation information that lessees must submit with plans for exploration and development and production. This rulemaking clarifies our regulations about what information MMS needs to ensure compliance with the ESA and MMPA requirements. The proposed rule would assure that lessees conduct their activities in a manner consistent with the provisions of the ESA and MMPA.

**DATES:** MMS will consider all comments received by November 7, 2005. MMS will begin reviewing comments then and may not fully consider comments received after November 7, 2005.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods listed below. Please use the Regulation Identifier Number (RIN) 1010-AD10 in your message. See also Public Comment Procedure under Procedural Matters:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at [rules.comments@mms.gov](mailto:rules.comments@mms.gov). Use 1010-AD10 in the subject line.
- Fax: 703-787-1093. Identify with 1010-AD10.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference "Plans and Information—Protection of Marine Mammals and Threatened and Endangered Species—AD10" in your comments.

You may also send comments on the information collection aspects of this

rule directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, OMB Attention: Desk Officer for the Department of the Interior (1010-10) via OMB e-mail:

([OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov)); or by fax (202) 395-6566; identify with 1010-AD10. Please also send a copy to MMS.

**FOR FURTHER INFORMATION CONTACT:** Judy Wilson, Endangered Species Coordinator, Environmental Division, (703) 787-1075.

**SUPPLEMENTARY INFORMATION:** The OCS Lands Act at 43 U.S.C. 1333, mandates

"The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the Outer Continental Shelf and to all artificial islands, and all installations and other devices

permanently or temporarily attached to the seabed \* \* \* Those laws include the ESA and the MMPA. The OCS Lands Act, at 43 U.S.C. 1332, requires

"\* \* \* expeditious and orderly development, subject to environmental safeguards \* \* \*" MMS, as a Federal agency, has a duty to carry out agency actions and authorizations in a manner that is not likely to jeopardize species listed under the ESA, or have more than a negligible impact on marine mammals or the availability of marine mammals for subsistence use under the MMPA.

Section 7(a)(1) of the ESA, 16 U.S.C. 1536(a)(1), mandates that the "Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act." Therefore, it is the responsibility of MMS to require that lessees and operators conduct their activities in a manner that is consistent with the provisions of the ESA and MMPA.

For these reasons, MMS proposes to amend 30 CFR part 250, subpart B—Plans and Information, to require lessees to provide more environmental information concerning threatened or endangered species listed under the ESA and marine mammals protected under the MMPA. This information will be required when submitting plans for approval, and also while operating on the OCS, in the form of impact-monitoring data. MMS must often require mitigation measures and monitoring by lessees operating on the

OCS. Mitigation and monitoring may be non-discretionary under the ESA if operations that we permit are to be exempt from prohibitions of ESA section 9, which prohibits taking of listed species.

The ESA requires both monitoring and reporting. Monitoring programs resulting from ESA section 7 (interagency) consultations are designed to:

- Detect adverse effects resulting from a proposed action;
- Assess the actual level of incidental take in comparison with the level of anticipated incidental take documented in the biological opinion;
- Detect when the level of anticipated incidental take is exceeded; and
- Determine the effectiveness of reasonable and prudent alternatives and their implementing terms and conditions.

In addition, there can be no exemptions from ESA section 9 prohibitions regarding listed marine mammals until take of marine mammals has been authorized under the MMPA and/or its 1994 amendments. The MMPA has mitigation, monitoring and reporting requirements similar to the ESA.

In recent biological opinions, MMS has been required by National Oceanic and Atmospheric Administration (NOAA) through ESA section 7 consultations to adopt mitigation, monitoring and reporting requirements. These non-discretionary requirements are related to mitigating the effects of noise, vessel traffic, and marine trash and debris (MMS Notices to Lessees (NTLs) 2003-G10, 2003-G11, 2004-G01, and 2004-G06). The ESA implementing regulations at 50 CFR 402.14(i)(3) state that "In order to monitor the impacts or incidental take, the Federal agency or any applicant must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement." Thus, the reporting requirements from the ESA section 7 consultations require MMS to have OMB information collection approval before collecting and using that information. MMS has OMB information collection approval for the non-discretionary requirements identified above.

These proposed regulatory changes to subpart B will incorporate the general ESA information requirements for which MMS recently has received OMB information collection approval. (While monitoring and reporting are also required under MMPA regulations, NOAA has OMB approval for MMPA information collection.) The proposed revisions to subpart B require industry

to comply with these specific environmental laws in a general way. The proposed rule will assure that lessees mitigate for potential takes and monitor for potential takes to aid in assessing the actual level of take and the effectiveness of the mitigation.

The information collection requirements proposed under this rule will not substitute for a Letter of Authorization or Incidental Harassment Authorization. The reporting requirements do not authorize the taking of any marine mammal under the MMPA. This rule does not enable the MMS to make determinations under the ESA or MMPA on the level or significance of takings that could occur or otherwise substitute MMS judgment for the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) of NOAA. The purpose of this rule is to assure that lessees describe how they will mitigate the potential for takes to occur, monitor for potential takes and report any takes, should they occur.

#### Procedural Matters

##### Public Comment Procedures

All submissions received must include the agency name and RIN for this rulemaking. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the 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.

##### Regulatory Planning and Review (Executive Order 12866)

MMS has determined that this proposed rule is not economically significant under Executive Order 12866 for the reasons stated below.

(1) This proposed rule would not have an effect of \$100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or

communities. The proposed rule is necessary for MMS to implement nondiscretionary terms and conditions to be exempt from prohibitions of the ESA, at section 9 of the ESA, which prohibits the taking of listed species. There are no new costs associated with this rulemaking and it would not cause an annual effect on the economy of \$100 million or more.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. MMS consulted with the FWS and NOAA. These agencies agree that the rule is consistent with their authorities and implementing regulations. The proposed rule does not affect how lessees or operators interact with other agencies. Nor does this proposed rule affect how MMS will interact with other agencies.

(3) This proposed rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule does not raise novel legal or policy issues. The proposed rule is a clarification of existing regulations.

##### Regulatory Flexibility Act (RFA)

The DOI certifies that this proposed rule does not have a significant economic effect on a substantial number of small entities as defined under the RFA (5 U.S.C. 601 *et seq.*). No additional costs are associated with this rule because it clarifies requirements that already exist. This rule reduces the ambiguity in our regulations. Accordingly, no further RFA analysis is necessary.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-REG-FAIR (1-888-734-3247). You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior (DOI).

##### Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not a major rule under the SBREFA, (5 U.S.C. 804(2)). This proposed rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions because the rule incorporates monitoring, mitigation and reporting requirements specified in current NTLs and lease stipulations.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. All lessees and operators, regardless of nationality, must comply with the requirements of this rule. The proposed rule will not affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

#### **Unfunded Mandates Reform Act (UMRA) of 1995 (Executive Order 12866)**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have any Federal mandates; nor does the rule have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### **Takings Implication Assessment (Executive Order 12630)**

This rule does not have significant takings implications. The proposed rule revises existing operation regulations. It does not prevent any lessee or operator from performing operations on the OCS, provided they follow the regulations. Thus, MMS did not need to prepare a Takings Implication Assessment according to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Energy Supply, Distribution, or Use (Executive Order 13211)**

We have evaluated the rule in accordance with E.O. 13211 and have determined that this rule does not have a significant effect on energy supply, distribution, or use because the major purpose for this rule is the restructuring of the rule and clarifying regulatory language. The rule addresses the requirements and processes for submitting various plans and documents for MMS approval before a lessee or operator may explore, develop,

or produce oil and gas in the OCS and contains virtually all the same reporting and recordkeeping requirements and attendant costs as current regulations. There are a few new or expanded areas that have been incorporated. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### **Federalism (Executive Order 13132)**

This rule does not have Federalism implications. This proposed rule does not substantially and directly affect the relationship between the Federal and State Governments. The proposed rule applies to lessees and operators that conduct activities on the OCS. This proposed rule does not impose costs on States or localities. Any costs will be the responsibility of the lessees and operators.

#### **Civil Justice Reform (Executive Order 12988)**

The Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order.

#### **Paperwork Reduction Act (PRA) of 1995**

The proposed revisions to 30 CFR part 250, subpart B, refer to, but do not change, information collection requirements in current regulations. The rule proposes no new reporting or recordkeeping requirements, and an OMB form 83-I submission to OMB under the PRA is not required. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. OMB approved the referenced information collection requirements under OMB control number 1010-0151, expiration 7/31/08.

#### **National Environmental Policy Act (NEPA) of 1969**

The rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

#### **Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)**

This rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

#### **List of Subjects in 30 CFR Part 250**

Administrative practice and procedure, Continental Shelf, Environmental Impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur.

Dated: May 13, 2005.

**James O. Ratliff,**

*Acting Assistant Secretary—Land and Minerals Management.*

For the reasons stated in the preamble, the Minerals Management Service proposes to amend 30 CFR part 250 as follows:

#### **PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*

2. In § 250.216 revise paragraph (a) to read as follows:

#### **§ 250.216 What biological, physical, and socioeconomic information must accompany the EP?**

\* \* \* \* \*

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, federally listed threatened or endangered species, marine mammals protected under the Marine Mammal Protection Act, sensitive underwater features, marine sanctuaries, critical habitat designated under the Endangered Species Act, or other areas of biological concern.

\* \* \* \* \*

3. In § 250.221 revise paragraph (a) to read as follows:

#### **§ 250.221 What environmental monitoring information must accompany the EP?**

\* \* \* \* \*

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your exploration activities. If there is a reason to believe that protected species may be incidentally taken by planned exploration activities, you must describe how you will monitor for incidental take of threatened and endangered species listed under the Endangered Species Act. You must also describe your monitoring program for incidental takes of marine mammals, as appropriate, if you have not already received authorization for incidental

take as may be required under the Marine Mammal Protection Act.

\* \* \* \* \*

4. Revise § 250.223 to read as follows:

**§ 250.223 What mitigation measures information must accompany the EP?**

If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed exploration activities, a description of the measures you will use must accompany your EP. If there is a reason to believe that protected species may be incidentally taken by planned exploration activities, you must include mitigation measures designed to avoid or minimize the incidental take of threatened and endangered species listed under the Endangered Species Act. You must also describe your mitigation measures for marine mammals, as appropriate, if you have not already received authorization for incidental take as may be required under the Marine Mammal Protection Act.

5. Revise paragraphs (a)(3) and (c)(1) in § 250.227 to read as follows:

**§ 250.227 What environmental impact analysis (EIA) information must accompany the EP?**

\* \* \* \* \*

(a) \* \* \*

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws such as the Endangered Species Act and the Marine Mammal Protection Act.

\* \* \* \* \*

(c) \* \* \*

(1) Analyze the potential direct and indirect impacts (including those from accidents, cooling water intake structures, and those identified in relevant Endangered Species Act biological opinions such as, but not limited to, noise, vessel collisions, and marine trash and debris) that your proposed exploration activities will have on the identified resources, conditions, and activities;

\* \* \* \* \*

6. In § 250.247 revise paragraph (a) to read as follows:

**§ 250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?**

\* \* \* \* \*

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, federally listed threatened or endangered species,

marine mammals protected under the Marine Mammal Protection Act, sensitive underwater features, marine sanctuaries, critical habitat designated under the Endangered Species Act, or other areas of biological concern.

\* \* \* \* \*

7. In § 250.252 revise paragraph (a) to read as follows:

**§ 250.252 What environmental monitoring information must accompany the DPP or DOCD?**

\* \* \* \* \*

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions or will provide project-specific data or information on the impacts of your development and production activities. If there is a reason to believe that protected species may be incidentally taken by planned development and production activities, you must describe how you will monitor for incidental take of threatened and endangered species listed under the Endangered Species Act and for marine mammals, as appropriate, if you have not already received authorization for incidental take of marine mammals as may be required under the Marine Mammal Protection Act.

\* \* \* \* \*

8. Revise § 250.254 to read as follows:

**§ 250.254 What mitigation measures information must accompany the DPP or DOCD?**

If you propose to use any measures beyond those required by the regulations in this part to minimize or mitigate environmental impacts from your proposed development and production activities, a description of the measures you will use must accompany your DPP or DOCD. If there is a reason to believe that protected species may be incidentally taken by planned development and production activities, you must include mitigation measures designed to avoid or minimize that incidental take of threatened and endangered species listed under the Endangered Species Act. You must also describe your mitigation measures for marine mammals, as appropriate, if you have not already received authorization for incidental take as may be required under the Marine Mammal Protection Act.

9. Revise paragraphs (a)(3) and (c)(1) in § 250.261 to read as follows:

**§ 250.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?**

\* \* \* \* \*

(a) \* \* \*

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws such as the Endangered Species Act and the Marine Mammal Protection Act.

\* \* \* \* \*

(c) \* \* \*

(1) Analyze the potential direct and indirect impacts (including those from accidents, cooling water intake structures, and those identified in relevant Endangered Species Act biological opinions such as, but not limited to, those from noise, vessel collisions, and marine trash and debris) that your proposed development and production activities will have on the identified resources, conditions, and activities;

\* \* \* \* \*

10. Revise the introductory paragraph to § 250.282 to read as follows:

**§ 250.282 Do I have to conduct post-approval monitoring?**

After approving your EP, DPP, or DOCD, the Regional Supervisor may direct you to conduct monitoring programs, including monitoring in accordance with the Endangered Species Act and the Marine Mammal Protection Act. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to MMS upon request.

The Regional Supervisor may require you to:

\* \* \* \* \*

[FR Doc. 05-17543 Filed 9-2-05; 8:45 am]

BILLING CODE 4310-MR-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Docket ID #: R10-OAR-2005-OR-0001; FRL-7964-7]

**Approval and Promulgation of State Implementation Plans: Oregon; Portland Carbon Monoxide Second 10-Year Maintenance Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the second 10-year maintenance plan for carbon monoxide (CO) for the Portland, Oregon CO Attainment Area. Specifically, in this action EPA

proposes to approve the following: Oregon's demonstration that the Portland CO Attainment Area will maintain air quality standards for CO through the year 2017; a revised CO motor vehicle emissions budget for transportation conformity purposes using the MOBILE6.2 emissions model and latest growth and planning assumptions; and revised state implementation plan (SIP) control strategies and contingency measures.

**DATES:** Comments must be received on or before October 6, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. R10-OAR-2005-OR-0001, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. Federal 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.
3. Mail: Environmental Protection Agency, Office of Air, Waste and Toxics, Attn: Connie Robinson, Mail code: AWT-107, 1200 Sixth Avenue, Seattle, WA 98101.
4. Hand Delivery: Environmental Protection Agency Region 10, Attn: Connie Robinson (AWT-107), 1200 Sixth Ave., Seattle, WA 98101, 9th floor. Such deliveries are only accepted during EPA's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. R10-OAR-2005-OR-0001. EPA's policy is that all comments received will be included in the public docket without change, 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 [regulations.gov](http://www.regulations.gov) or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.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 EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured 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). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**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 may not be publicly available, such as 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 EPA Region 10, Office of Air, Waste, and Toxics, 1200 Sixth Avenue, Seattle, Washington, from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

**FOR FURTHER INFORMATION CONTACT:** Connie Robinson, Environmental Protection Agency, Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Ave., Seattle, WA 98101; phone: (206) 553-1086; fax number: (206) 553-0110; e-mail address: [robinson.connie@epa.gov](mailto:robinson.connie@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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- XI. In Conclusion, How Would This EPA Approval Affect the General Public and Citizens of the Portland Area?
- XII. Statutory and Executive Order Reviews

#### **I. General Information**

##### *A. What Should I Consider as I Prepare My Comments for EPA?*

1. **Submitting CBI.** Do not submit this information to EPA through RME, [regulations.gov](http://www.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 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.

#### **II. What Is the Purpose of This Proposed Rulemaking?**

The purpose of this proposed rulemaking is to solicit comment on the

State of Oregon’s plan to replace the existing CO maintenance plan for the Portland area in Oregon with a second 10-year maintenance plan to demonstrate continued maintenance of the CO ambient air quality standard through 2017.

The State of Oregon presented a trend analysis of the historical CO monitored data for the Portland area demonstrating that since the Portland area was redesignated to attainment, CO concentrations have fallen steadily. That trend reflects a national pattern of new vehicles producing considerably reduced amounts of CO. Implementation of new national control measures including tighter standards for motor vehicle tailpipe emissions and cleaner fuel will result in significant improvements of air quality for the next 10-year period. EPA agrees with Oregon’s analysis and proposes to approve the second 10-year maintenance plan through this rulemaking and notice in the **Federal Register**.

Federal transportation conformity regulations require that transportation agencies use the latest EPA mobile source emissions model for conformity determinations. EPA officially released a new version of motor vehicle emissions model (MOBILE6) on January 29, 2002. All SIPs that are adopted after that date must use the new model to estimate motor vehicle emissions. The release of MOBILE6 also began a 24-month grace period for conformity. All conformity determinations that are initiated after January 29, 2004 must use a MOBILE6 model. The Oregon Department of Environmental Quality (ODEQ) used MOBILE6.2 to estimate CO emissions for the Portland area for the next 10-year maintenance period through 2017 and conducted a technical analysis with MOBILE6.2 that showed new motor vehicle emissions will not cause or contribute to violations of the air quality standards. EPA agrees with this analysis and proposes to approve revised motor vehicle emissions budgets for conformity determinations.

The State of Oregon took this rulemaking opportunity to change several of the emission control strategies and contingency measures. EPA finds these changes acceptable and proposes to approve them in this rulemaking.

**III. What Is the Background for This Action?**

In a March 15, 1991 letter to the EPA Region 10 Administrator, the Governor of Oregon recommended the Portland area be designated as nonattainment for CO as required by section 107(d)(1)(A) of the Clean Air Act (the “Act”). The area was designated by EPA as nonattainment for CO and classified as “moderate” with a design value less than or equal to 12.7 parts per million (ppm) under the provisions outlined in sections 186 and 187 of the Act.

The State of Oregon, following the requirements of the Act, prepared and submitted revisions to the Oregon SIP that first included an attainment plan, and then developed a plan to demonstrate maintenance of the standard for a 10-year period beyond the statutory attainment date. EPA published approval of a redesignation request to attainment and the first 10-year maintenance plan on September 2, 1997.

The first 10-year CO maintenance plan included a commitment for periodic review of the plan and submission of the second 10-year maintenance plan to EPA during the last two years of the first 10-year maintenance period. The planning effort included detailed technical analyses such as preparation of base and future year emissions inventories, review of control measures for CO, etc. The results of this planning effort provide the basis of today’s proposed approval by EPA.

**IV. What Is the Status of Current CO Levels in the Portland Area and How Do They Compare With the Federal Standards?**

The national 8-hour CO ambient standard is attained when the daily average 8-hour CO concentration of 9.0 ppm is exceeded no more than one time in a calendar year for two consecutive years. Since the redesignation of the Portland area to attainment for CO on October 2, 1997, the second highest concentration in a calendar year measured by the approved monitoring network was 7.3 ppm, which is less than 9.0 ppm.

**V. How Have the Public and Stakeholders Been Involved in This Rulemaking Process?**

ODEQ met directly with a variety of stakeholder groups, including representative of the petroleum and ethanol industries, the Oregon Environmental Council and with other state agencies to seek input on the CO maintenance plan. Those state agencies included the Oregon Department of Energy, Agriculture, and Economic and Community Development. Notices were published in the newspaper and public hearings were conducted by ODEQ. ODEQ responded to all comments and the Environmental Quality Commission adopted the revisions to the SIP under OAR 340–200–0040 on December 10, 2004, effective December 25, 2004.

**VI. What Are the Sources and Magnitude of CO Emitted in the Portland Maintenance Area?**

An emissions inventory was prepared for the Portland area for the base year of 1999. The year 1999 was selected for the inventory because that year reflected the highest ambient CO concentrations in Portland’s recent history and therefore represented a conservative base for demonstrating future compliance with the CO NAAQS. The emissions inventory is a list, by source, of the air contaminants directly emitted into the Portland CO Area’s air. The data in the emissions inventory is based on calculations and is developed using emission factors, which is a method for converting source activity levels into an estimate of emissions contributions for those sources. Because violations of the CO NAAQS are most like to occur on winter weekdays, the inventory prepared reflects a “design day” with ambient temperatures, traffic volumes and other emission source activity levels of a typical winter weekday in 1999.

In addition to the base year 1999 inventory, emission forecasts were prepared for 2005, 2010 and 2017. These projected inventories were prepared in accordance with EPA guidance. The projections in Table 1 below show that total calculated CO emissions, are not expected to exceed the level of the 1999 base year inventory during the second 10-year maintenance plan period.

TABLE 1.—1999 BASE YEAR ACTUAL EMISSIONS AND \*2005, \*2010 AND \*2017 PROJECTED EMISSIONS  
[Pounds CO/winter day]

Emissions	1999	*2005	*2010	*2017
Point Source .....	106,590	67,401	71,085	76,241
Area Source .....	809,454	872,852	925,684	999,648

TABLE 1.—1999 BASE YEAR ACTUAL EMISSIONS AND \*2005, \*2010 AND \*2017 PROJECTED EMISSIONS—Continued  
[Pounds CO/winter day]

Emissions	1999	*2005	*2010	*2017
Non-Road Mobile .....	372,098	530,435	619,753	690,469
On-Road Mobile .....	1,525,114	1,226,323	975,074	834,301
Total .....	2,813,256	2,697,011	2,591,596	2,600,659

\* Without oxy fuel program and without enhanced Inspection and Maintenance (I/M) testing.

The large decrease in point source emissions between 1999 and 2005 is the result of permanent closure of a large aluminum company. The emissions inventory predicts substantial future reductions in CO emissions, largely as a result of a decrease in on-road emissions, which are expected to continue to decline as older motor vehicles are replaced by newer vehicles that meet Federal Tier II emission standards and operate on low sulfur fuels.

#### VII. How Does the State Demonstrate Maintenance of the CO Standard for the Second 10-Year Period?

The current, EPA-approved first 10-year CO maintenance plan used a rollforward approach to demonstrate maintenance of the CO standard. A review and update of this methodology to a probabilistic rollback approach using more recent monitored air quality and projected emissions data was conducted to demonstrate continued maintenance of the CO standard for a second 10-year period. The probabilistic analysis showed that the CO standard was maintained on all three permanent monitoring sites in 1999 with at least 99% probability. The probabilistic rollback approach demonstrated regional, long-term maintenance by demonstrating that maintenance at the monitoring site with the highest design value (82nd and Division) will be maintained for a second 10-year period with the same level of assurance.

#### VIII. What Control Measures Are Being Proposed for This Second 10-Year Plan?

The second 10-year plan changes the I/M program requirement for CO from the current Enhanced I/M program to a basic I/M program for CO. Moderate CO Attainment areas were only required to implement a basic I/M program. This is a change to the CO SIP only. The Ozone Maintenance Plan continues to require the Enhanced I/M Program. ODEQ will consider vehicles that meet the enhanced test requirement as also meeting the basic test requirement. If the Ozone Plan is changed to a basic I/

M program, it will already be approved for CO.

The Oxygenated Fuel Program remains a control measure in the Portland CO maintenance area until October 31, 2007 when it will be discontinued. It will then become a contingency measure in the second 10-year maintenance plan as required by 175A(d).

Best Available Control Technology (BACT) continues to be required. The plan also continues to offer an industrial Growth Allowance that may be used by new or expanding sources instead of securing emission offsets.

The Transportation Control Measures (TCMs) in this plan replace the TCMs specified in the first Portland Area CO Maintenance Plan. The emission reduction benefits of these TCMs are included in the emission projections on which the Portland Area CO Maintenance Plan is based. The revised TCMs are:

*Transit Service Increase:* Region transit service revenue hours (weighted by capacity) shall be increased 1.0% per year. The increase shall be assessed on the basis of a 5-year rolling average of actual hours for assessments conducted between 2006 and 2017.

*Bicycle Paths:* Jurisdictions and government agencies shall program a minimum of 28 miles of bikeways or trails within the Portland metropolitan area between the years 2006 through 2017.

*Pedestrian Paths:* Jurisdictions and government agencies shall program at least nine miles of pedestrian paths in mixed use centers between the years 2006 through 2017.

Oregon has a TCM substitution policy under which identified TCMs may be substituted in whole, or in part, with other TCMs providing equivalent emission reductions. See 62 FR 4621, September 2, 1997. Appendix D9-2 of the second 10-year maintenance plan identifies the requirements for TCM substitutions.

#### IX. What Contingency Measures Are Considered, in Case of the Monitored Exceedance or Violation of the Federal Standard?

The maintenance plan is to contain contingency measures to ensure that the State will promptly correct any violation of the standard that occurs during the maintenance period. The contingency measures in the second 10-year maintenance plan for the Portland area are based on risk of violation and actual violation.

If monitored CO levels at any monitoring site register a second high concentration equaling or exceeding 8.1 ppm during a calendar year, ODEQ will form a planning group to evaluate the implementation of additional emission strategies. Additional strategies to be considered include, but are not limited to: Increased parking pricing in the Central City, increased funding for transit, value pricing on major roadways that increase vehicle travel capacity, a trip reduction program, modified regional parking ratios, and accelerated implementation of bicycle and pedestrian networks.

If the Portland area violates the NAAQS for CO, the following contingency measures will automatically be implemented. New Source Review requirements will be changed. The requirement to install Best Available Control Technology will be replaced with Lowest Achievable Emissions Rate technology. The downtown parking lid will be reinstated if the violation occurs in the downtown area formerly subject to the parking lid requirement. If the violation occurs in 2007 or later, the Oxygenated Fuel Program will be reinstated.

#### X. How Does This Action Affect Transportation Conformity?

Under Section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under the Federal Transit Act, must conform to the applicable SIP. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from

implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. The regional

motor vehicle emissions calculated by MOBILE6.2 were used in the probabilistic rollback method to compute a threshold level of regional emissions inventory that would provide maintenance of the CO standard with 99% certainty and confidence through the second 10-year maintenance period.

The computed attainment threshold of regional motor vehicle emissions can be used to assess the long term attainment prospects. The total on-road motor vehicle CO emissions in the Portland area for 2005, 2010 and 2017 are shown in Table 2.

TABLE 2.—PORTLAND MAINTENANCE AREA CO MOTOR VEHICLE EMISSIONS BUDGETS  
[Pounds per winter day]

Year	2005	2010	2017
Budget .....	1,238,575	1,033,578	1,181,341

For the purpose of demonstrating transportation conformity in the timeframe of the area's transportation plan for all years beyond 2017, motor vehicle emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget for 2017.

**XI. In Conclusion, How Would This EPA Approval Affect the General Public and Citizens of the Portland Area?**

This action proposes to approve measures adopted by ODEQ to ensure maintenance of the Federal air quality standards for CO in the Portland area for a second 10-year period and protect the health and welfare of the area citizens from adverse effects of degraded air quality levels.

**XII. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposes to approve 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 proposed 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 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 (15 U.S.C. 272 note) do not apply. This proposed

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.*).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 23, 2005.

**Julie M. Hagensen,**

*Acting Regional Administrator, EPA Region 10.*

[FR Doc. 05-17537 Filed 9-2-05; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R09-OAR-2005-AZ-0003; FRL-7960-9]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Redesignation of Phoenix To Attainment for the Carbon Monoxide Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the regulations that identify revisions to the Arizona state implementation plan and the regulations that identify area designations within Arizona. In so doing, EPA is acting pursuant to the Agency's authority under the Clean Air Act to correct errors made in approving plan revisions and area redesignations. The purpose of this proposed rule is to correct an error in the adoption and submittal date shown for a revision to the implementation plan that EPA recently approved and to correct a transcription error in, and to make a more general correction to, the

boundary description of the metropolitan Phoenix carbon monoxide area that EPA recently redesignated to attainment.

**DATES:** Any comments on this proposal must arrive by October 6, 2005.

**ADDRESSES:** Submit comments, identified by docket number R09-OAR-2005-AZ-0003 by one of the following methods:

1. Agency Web site: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.
3. E-mail: [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).
4. Mail or deliver: Wienke Tax, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal, or e-mail. The agency Web site and eRulemaking portal are "anonymous access" systems, and EPA will not know your identify or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

*Docket:* The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region 9, (520) 622-1622 or e-mail to [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov), or check <http://www.epa.gov/region09/air>.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the correction of a final rule EPA promulgated on March 9, 2005 (at 70 FR 11553) approving two submittals of revisions to the Arizona state implementation plan, redesignating the metropolitan Phoenix carbon monoxide area to attainment, and redesignating the boundary of the metropolitan Phoenix carbon monoxide area to exclude the Gila River Indian Reservation. In the Rules section of this **Federal Register**, we are taking direct final action to correct the State of Arizona's adoption and submittal date for one of the plan revisions that we approved in our March 9, 2005 final rule, to correct a transcription error in the description of the boundary of the metropolitan Phoenix carbon monoxide area, and to correct the description of the boundary of the metropolitan Phoenix carbon monoxide area promulgated in our March 9, 2005 final rule without prior proposal because we believe this correction action is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 15, 2005.

**Laura Yoshii**,  
Deputy Regional Administrator, Region IX.  
[FR Doc. 05-17540 Filed 9-2-05; 8:45 am]  
**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket No. FEMA-D-7632]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood elevations and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.  
*Regulatory Flexibility Act.* The Mitigation Division Director of the

Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of

September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)	
				Existing	Modified
Massachusetts .....	Quincy (City), Norfolk County.	Weymouth Fore River .....	Approximately 760 feet south of German-town Point.	None	•11
			Approximately 700 feet south of German-town Point.	None	•14

Maps available for inspection at the Quincy City Hall, 1305 Hancock Street, Quincy, Massachusetts.

Send comments to The Honorable William J. Phelan, Mayor of the City of Quincy, 1305 Hancock Street, Quincy, Massachusetts 02169.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 23, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.*

[FR Doc. 05-17630 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-D-7630]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to

adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood elevations and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their

floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.*  
This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground		Communities affected	
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)		
		Existing	Modified		
<b>NORTH CAROLINA</b>					
<b>Caswell County</b>					
Benton Branch .....	At the confluence with Stony Creek .....	None	•603	Caswell County (Unincorporated Areas).	
	Approximately 0.5 mile upstream of Senior Allred Road.	None	•680		
Benton Branch .....	At the confluence with Benton Branch .....	None	•619	Caswell County (Unincorporated Areas).	
Tributary 1 .....	Approximately 1.7 miles upstream of the confluence with Benton Branch.	None	•707		
Benton Branch .....	At the confluence with Benton Branch .....	None	•634	Caswell County (Unincorporated Areas).	
Tributary 2 .....	Approximately 1.0 mile upstream of Simmons Road.	None	•725		
Grays Branch .....	At the confluence with Stony Creek .....	None	•618	Caswell County (Unincorporated Areas).	
	Approximately 1.5 miles upstream of Shaw Road.	None	•738		
Grays Branch Tributary 1 .....	At the confluence with Grays Branch .....	None	•623	Caswell County (Unincorporated Areas).	
	Approximately 2.1 miles upstream of the confluence with Grays Branch.	None	•724		
Grays Branch Tributary 2 .....	At the confluence with Grays Branch .....	None	•641	Caswell County (Unincorporated Areas).	
	Approximately 2.9 miles upstream of Underwood Road.	None	•754		
Hughes Mill Creek .....	Approximately 0.5 mile upstream of the confluence with Jordan Creek.	None	•610	Caswell County (Unincorporated Areas).	
	Approximately 1.2 miles upstream of North Carolina Highway 62.	None	•657		
Stony Creek .....	Approximately 0.3 mile downstream of the Caswell/Alamance County boundary.	None	•595	Caswell County (Unincorporated Areas).	
	Approximately 2.4 miles upstream of Moore Road.	None	•712		
Toms Creek .....	At the Caswell/Alamance County boundary .....	None	•596	Caswell County (Unincorporated Areas).	
	Approximately 0.6 mile upstream of Kerr's Chapel Road.	None	•637		

**Caswell County (Unincorporated Areas)**

Maps available for inspection at the Caswell County Planning Department, 144 Courthouse Square, Yancyville, North Carolina.

Send comments to Mr. Nathaniel Hall, Chairman of the Caswell County Commissioners, P.O. Box 98, Yancyville, North Carolina 27379.

**NORTH CAROLINA**  
**Chatham County**

B. Everett Jordan Lake .....	For its entire shoreline .....	None	•238	Chatham County (Unincorporated Areas).	
Bear Creek .....	At the confluence with Rocky River .....	None	•292	Chatham County (Unincorporated Areas).	
	Approximately 0.6 mile upstream of Edwards Hill Church Road.	None	•456		
Bear Creek (into Indian Creek) .....	At the confluence of Indian Creek (into Deep River).	None	•242	Chatham County (Unincorporated Areas).	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Beaver Creek .....	Approximately 400 feet upstream of Bonlee Carbonton Road.	None	•391	Chatham County (Unincorporated Areas).
	At the Chatham and Wake County boundary ....	None	•238	
Beaver Creek Tributary 1 .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with Beaver Creek and B. Everett Jordan Lake.	None	•238	
Beaver Creek Tributary 2 .....	Approximately 1.3 miles upstream of Tody Goodwin Road.	None	•275	Chatham County (Unincorporated Areas).
	At the confluence with Beaver Creek and B. Everett Jordan Lake.	None	•238	
Beaver Creek Tributary 3 .....	Approximately 1.1 miles upstream of Tody Goodwin Road.	None	•251	Chatham County (Unincorporated Areas).
	At the confluence with Beaver Creek and B. Everett Jordan Lake.	None	•238	
Blood Run Creek .....	Approximately 0.6 mile upstream of the confluence with Beaver Creek and B. Everett Jordan Lake.	None	•263	Chatham County (Unincorporated Areas).
Blood Run Creek .....	At Chatham and Randolph County boundary ....	None	•495	Chatham County (Unincorporated Areas).
Brooks Creek .....	Approximately 0.3 mile upstream of U.S. 64 .....	None	•594	Chatham County (Unincorporated Areas).
	At the confluence with the Haw River .....	None	•316	
Brush Creek .....	Approximately 2.2 miles upstream of the confluence with Haw River.	None	•383	Chatham County (Unincorporated Areas).
	At the Chatham and Randolph County boundary.	None	•499	
Buckhorn Creek .....	At the Chatham and Randolph County boundary.	None	•552	Chatham County (Unincorporated Areas).
	At the confluence with Cape Fear River .....	None	•155	
Buckhorn Creek Tributary 1 .....	At the Harris Reservoir Dam .....	None	•177	Chatham County (Unincorporated Areas).
	At the confluence with Buckhorn Creek .....	None	•168	
Buckhorn Creek Tributary 2 .....	Approximately 0.6 mile upstream of the confluence with Buckhorn Creek.	None	•237	Chatham County (Unincorporated Areas).
	At the confluence with Buckhorn Creek .....	None	•175	
Buckhorn Creek Tributary 3 .....	Approximately 0.7 mile upstream of the confluence with Buckhorn Creek.	None	•222	Chatham County (Unincorporated Areas).
	At the confluence with Buckhorn Creek .....	None	•177	
Buckhorn Creek Tributary 4 .....	Approximately 0.1 mile upstream of the Railroad.	None	•191	Chatham County (Unincorporated Areas).
	At the confluence with Harris Reservoir .....	None	•232	
Bush Creek .....	Approximately 0.4 mile upstream of the confluence with the Harris Reservoir.	None	•282	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Cape Fear River .....	Approximately 1.4 miles upstream of Big Woods Road.	None	•253	Chatham County (Unincorporated Areas).
	At the Chatham and Harnett County boundary	None	•152	
Cedar Creek .....	At the confluence with Deep River and Haw River.	None	•177	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•233	
Cedar Creek Tributary 1 .....	Approximately 1.2 miles upstream of Henry Oldham Road.	None	•248	Chatham County (Unincorporated Areas).
	At the confluence with Cedar Creek .....	None	•233	
Cedar Creek Tributary 2 .....	Approximately 1.4 miles upstream of Henry Oldham Road.	None	•252	Chatham County (Unincorporated Areas).
	At the confluence with Cedar Creek Tributary 1	None	•236	
	Approximately 0.4 mile upstream of Unnamed Road.	None	•259	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Collins Creek .....	At the confluence with the Haw River .....	None	•402	Chatham County (Unincorporated Areas).
	Approximately 0.45 mile upstream of the confluence of Persimmons Nursery Branch at the Chatham and Orange County boundary.	None	•451	
Crooked Creek .....	At the Chatham and Durham County boundary	None	•238	Chatham County (Unincorporated Areas).
Crows Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with Terrells Creek .....	None	•369	
Cub Creek .....	Approximately 550 feet upstream of Eagle Point Road or Unnamed Road.	None	•406	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Deep River .....	Approximately 1.0 mile upstream of Nature Trail Road.	None	•271	Chatham County (Unincorporated Areas).
	At the confluence with Cape Fear River .....	None	•177	
Deep River Tributary 5 .....	At the Chatham, Moore, and Lee County boundaries.	None	•250	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•240	
Deep River Tributary 6 .....	Approximately 2,200 feet upstream of Alton King Road.	None	•274	Chatham County (Unincorporated Areas).
	At the confluence with Deep River Tributary 5 ..	None	•240	
Deep River Tributary 7 .....	Approximately 0.7 mile upstream of Alton King Road.	None	•252	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•240	
Deep River Tributary 8 .....	Approximately 1.6 miles upstream of Alton King Road.	None	•300	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•240	
Dry Creek .....	Approximately 0.5 mile upstream of Alton King Road.	None	•245	Chatham County (Unincorporated Areas).
	At the confluence with Haw River .....	None	•337	
East Price Creek .....	Approximately 2.9 miles upstream of Silk Hope Gum Springs Road.	None	•532	Chatham County (Unincorporated Areas).
	At the Chatham and Orange County boundary	None	•402	
Folkner Branch .....	Approximately 0.6 mile upstream of the boundary.	None	•426	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Georges Creek .....	Approximately 500 feet upstream of Farrells Creek Road.	None	•256	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•225	
Georges Creek Tributary 1 .....	Approximately 2.5 miles upstream of Rosser Road.	None	•260	Chatham County (Unincorporated Areas).
	At the confluence with Georges Creek .....	None	•225	
Georges Creek Tributary 2 .....	Approximately 0.8 mile upstream of the confluence with Georges Creek.	None	•244	Chatham County (Unincorporated Areas).
	At the confluence with Georges Creek .....	None	•225	
Greenbriar Creek .....	Approximately 1.1 miles upstream of the confluence with Georges Creek.	None	•237	Chatham County (Unincorporated Areas).
	At the confluence with Rocky River .....	None	•586	
Gulf Creek .....	At the Alamance and Chatham County boundary.	None	•632	Chatham County (Unincorporated Areas).
	At the confluence with Cape Fear River .....	None	•172	
	Approximately 1.7 miles upstream of Unnamed Road.	None	•191	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Harlands Creek .....	At the confluence with Rocky River .....	None	•331	Chatham County (Unincorporated Areas).
Harris Reservoir .....	Approximately 800 feet upstream of U.S. 64 .....	None	•428	Chatham County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the Chatham and Wake County boundary.	None	•252	
Harts Creek .....	At the Chatham and Wake County boundary .....	None	•252	Chatham County (Unincorporated Areas).
	At the confluence with Bear Creek .....	None	•357	
Haw River .....	Approximately 1.6 miles upstream of the confluence with Bear Creek.	None	•403	Chatham County (Unincorporated Areas).
	At the confluence with Deep River and Cape Fear River.	None	•177	
Herndon Creek .....	Approximately 0.74 mile upstream of the confluence of Terrells Creek (West) and the Alamance and Chatham County boundary.	None	•400	Chatham County (Unincorporated Areas).
	At the confluence with Bush Creek .....	None	•238	
Hill Creek .....	Approximately 0.8 mile upstream of Jack Bennett Road.	None	•251	Chatham County (Unincorporated Areas).
	At the confluence with Robeson Creek .....	None	•369	
Indian Creek (into Deep River) .....	Approximately 300 feet upstream of X-Campbell Road.	None	•511	Chatham County (Unincorporated Areas).
	At the confluence of Deep River .....	•250	•240	
Indian Creek (into Jordan Lake) .....	Approximately 0.2 mile upstream of Goldston Glendon Road.	None	•336	Chatham County (Unincorporated Areas).
	Approximately 1.1 miles upstream of State Highway 751.	None	•238	
Kit Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with Northeast Creek .....	None	•238	
Lacy Creek .....	At Chatham and Wake County boundary .....	None	•243	Chatham County (Unincorporated Areas).
	At the confluence with Rocky River .....	None	•539	
Landrum Creek .....	Approximately 0.7 mile upstream of confluence with Rocky River.	None	•565	Chatham County (Unincorporated Areas).
	At the confluence with Rocky River .....	None	•337	
Landrum Creek Tributary .....	Approximately 500 feet upstream of Pleasant Hill Church Road.	None	•500	Chatham County (Unincorporated Areas).
	At the confluence with Landrum Creek .....	None	•456	
Lick Branch .....	Approximately 0.9 mile upstream of Jay Shambley Road.	None	•468	Chatham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of State Highway 751.	None	•238	
Lick Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with Terrells Creek (West) .....	None	•424	
Line Creek .....	Approximately 2.4 miles upstream of the confluence with Terrells Creek (West).	None	•473	Chatham County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•250	
Little Beaver Creek .....	Approximately 1.0 mile upstream of Goldston Carbanton Road.	None	•271	Chatham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with B. Everett Jordan Lake.	None	•238	
Little Beaver Creek Tributary .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Little Beaver Creek.	None	•238	
Little Brush Creek .....	At the confluence with Little Beaver Creek .....	None	•238	Chatham County (Unincorporated Areas).
	At the Chatham and Randolph County boundary.	None	•453	
Little Indian Creek .....	Approximately 1.6 miles upstream of Jim Paige Road.	None	•543	Chatham County (Unincorporated Areas).
	At the confluence with Indian Creek (into Deep River).	None	•240	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
	Approximately 400 feet upstream of Goldston Glendon Road.	None	•378	
Long Branch .....	At the confluence with Dry Creek .....	None	•448	Chatham County (Unincorporated Areas).
	Approximately 1.5 miles upstream of State Route 87.	None	•497	
Loves Creek .....	At the confluence with Rocky River .....	•504	•501	Chatham County (Unincorporated Areas).
	Approximately 0.1 mile upstream of Pine Forest South Drive.	None	•605	
Loves Creek Tributary 1 .....	At the confluence with Loves Creek .....	None	•557	Chatham County
	Approximately 400 feet upstream of U.S. 64 .....	None	•620	(Unincorporated Areas).
Loves Creek Tributary 2 .....	At the confluence with Loves Creek Tributary 1	None	•585	Chatham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of West Dolphin Street.	None	•666	
Loves Creek Tributary 3 .....	At the confluence with Loves Creek Tributary 1	None	•592	Chatham County (Unincorporated Areas).
	Approximately 400 feet upstream of Garden Avenue.	None	•648	
Meadow Branch .....	At the confluence with Terrells Creek .....	None	•381	Chatham County.
	Approximately 350 feet upstream of Jones Ferry Road.	None	•389	(Unincorporated Areas).
Meadow Creek .....	At the confluence with Rocky River .....	None	•437	Chatham County.
	Approximately 1.3 miles upstream of Rives Chapel Church Road.	None	•389	(Unincorporated Areas).
Mill Branch .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with B. Everett Jordan Lake.	None	•244	
Morgan Creek .....	At the Chatham and Durham County boundary	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Morris Branch .....	At the confluence with Panther Creek .....	None	•238	Chatham County
	Approximately 0.7 mile upstream of the confluence with Panther Creek.	None	•249	(Unincorporated Areas).
Mud Lick Creek .....	At the confluence with Rocky River .....	None	•544	Chatham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Silk Hope Liberty Road.	None	•597	
Nancy Branch .....	At the confluence with Panther Creek .....	None	•236	Chatham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Panther Creek.	None	•239	
New Hope River Tributary 1 .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	Approximately 0.3 mile upstream of B. Everett Jordan Lake.	None	•247	
North Prong Rocky River .....	At the confluence with Rocky Road .....	None	•587	Chatham County (Unincorporated Areas).
	At the Alamance and Chatham County boundary.	None	•648	
Northeast Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the Chatham and Durham County boundary	None	•240	
Overcup Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	Approximately 1.1 miles upstream of B. Everett Jordan Lake.	None	•253	
Overcup Creek Tributary .....	At the confluence with Overcup Creek .....	None	•238	Chatham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Overcup Creek.	None	•245	
Panther Creek .....	At the confluence with Northeast Creek .....	None	•238	Chatham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence of Morris Branch.	None	•245	
Parkers Creek .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
	Approximately 0.4 mile upstream of Big Woods Road.	None	•287	
Persimmons Nursery Branch .....	At the confluence with Collins Creek .....	None	•448	Chatham County (Unincorporated Areas).
	Approximately 550 feet upstream of Collins Mountain Road.	None	•450	
Pokeberry Creek .....	At the confluence with Haw River .....	None	•297	Chatham County (Unincorporated Areas).
	Approximately 3.5 miles upstream of Andrews Store Road.	None	•558	
Reedy Fork .....	At the Chatham and Randolph County boundary.	None	•499	Chatham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Wrenn Smith Road.	None	•527	
Robeson Creek .....	At the confluence with the Haw River and B. Everett Jordan Lake.	None	•238	Chatham County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the Power Line Easement.	None	•481	
Robeson Creek Tributary 1 .....	At the confluence with Robeson Creek .....	None	•297	Chatham County (Unincorporated Areas).
	Approximately 0.3 mile upstream of Prince Creek Road.	None	•486	
Robeson Creek Tributary 2 .....	At the confluence with Robeson Creek Tributary 1.	None	•349	Chatham County (Unincorporated Areas).
	Approximately 475 feet upstream of Tom Womble Road.	None	•502	
Robeson Creek Tributary 3 .....	At the confluence with Robeson Creek .....	None	•352	Chatham County (Unincorporated Areas).
	Approximately 0.3 mile upstream of Oakwood Street.	None	•419	
Robeson Creek Tributary 4 .....	At the confluence with Robeson Creek .....	None	•377	Chatham County (Unincorporated Areas).
	Approximately 320 feet upstream of State Route 87.	None	•497	
Robeson Creek Tributary 5 .....	At the confluence with Robeson Creek Tributary 4.	None	•391	Chatham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Arthur Alston Road.	None	•471	
Rocky Branch (into Deep River) .....	At the confluence with Deep River .....	None	•204	Chatham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Deep River.	None	•222	
Rocky Branch (into Georges Creek) ...	At the confluence with Georges Creek .....	None	•232	Chatham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Rosser Road.	None	•256	
Rocky Ford Branch .....	At the confluence with White Oak Branch .....	None	•238	Chatham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Luther Road.	None	•244	
Rocky River .....	At the confluence with Deep River .....	None	•209	Chatham County (Unincorporated Areas).
	At the Chatham and Randolph County boundary.	None	•643	
Rocky River Tributary 1 .....	At the confluence with Rocky River .....	None	•507	Chatham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Siler City Snow Camp Road.	None	•630	
Sandy Branch .....	At the confluence with Bear Creek .....	None	•410	Chatham County (Unincorporated Areas).
	Approximately 200 feet upstream of State Route 902.	None	•425	
Shaddox Creek .....	At the confluence with Haw River .....	None	•177	Chatham County (Unincorporated Areas).
	Approximately 2.5 miles upstream of U.S. Route 1.	None	•214	
South Fork .....	At the Alamance and Chatham County boundary.	None	•525	Chatham County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Stinking Creek .....	Approximately 0.5 mile upstream of Moon Lindley Road.	None	•550	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Terrells Creek .....	Approximately 450 feet upstream of Talon Drive	None	•279	Chatham County (Unincorporated Areas).
	At the confluence with Haw River .....	None	•369	
Terrells Creek (West) .....	At the Chatham and Orange County boundary	None	•420	Chatham County (Unincorporated Areas).
	At the confluence with Haw River .....	None	•397	
Tick Creek .....	Approximately 1.5 miles upstream of Woody Store Road.	None	•530	Chatham County (Unincorporated Areas).
	At the confluence with Rocky River .....	None	•407	
Tick Creek Tributary .....	Approximately 300 feet upstream of Petty Road	None	•555	Chatham County (Unincorporated Areas).
	At the confluence with Tick Creek .....	None	•468	
Tributary A .....	Approximately 0.5 mile upstream of the confluence with Tick Creek.	None	•480	Chatham County (Unincorporated Areas).
	At the confluence with Indian Creek (into Deep River).	None	•240	
Turkey Creek .....	Approximately 350 feet upstream of Little Indian Creek Road.	None	•258	Chatham County (Unincorporated Areas).
	At the confluence with Robeson Creek .....	None	•324	
Tysons Creek .....	Approximately 0.3 mile upstream of Unnamed Road.	None	•452	Chatham County (Unincorporated Areas).
	At the Chatham and Moore County boundary ...	None	•322	
Varnell Creek .....	Approximately 0.4 mile upstream of Mert McManess Road.	None	•414	Chatham County (Unincorporated Areas).
	At the confluence with Rocky River .....	None	•485	
Weaver Creek .....	Approximately 2.3 miles upstream of U.S. 64 ...	None	•528	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
Weaver Creek Tributary .....	Approximately 2.1 miles upstream of B. Everett Jordan Lake.	None	•297	Chatham County (Unincorporated Areas).
	At the confluence with Weaver Creek .....	None	•238	
Welch Creek .....	Approximately 1.3 miles upstream of the confluence with Weaver Creek.	None	•245	Chatham County (Unincorporated Areas).
	At the confluence with Tick Creek .....	None	•466	
White Oak Creek .....	Approximately 0.6 mile upstream of the confluence with Tick Creek.	None	•478	Chatham County (Unincorporated Areas).
	At the Chatham and Wake County boundary ....	None	•238	
White Oak Creek Tributary 1 .....	At the confluence with B. Everett Jordan Lake ..	None	•238	Chatham County (Unincorporated Areas).
	At the confluence with White Oak Creek and B. Everett Jordan Lake.	None	•238	
Wilkinson Creek .....	Approximately 0.9 mile upstream of the confluence with White Oak Creek and B. Everett Jordan Lake.	None	•253	Chatham County (Unincorporated Areas).
	At the confluence with the Haw River .....	None	•330	
Windfall Creek .....	Approximately 1.1 miles upstream of Gilmore Road.	None	•575	Chatham County (Unincorporated Areas).
	At the confluence with B. Everett Jordan Lake ..	None	•238	
	Approximately 0.3 mile upstream of the confluence with B. Everett Jordan Lake.	None	•248	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	

**Town of Pittsboro**

Maps available for inspection at the Pittsboro Planning Office, Town Hall, 635 East Street, Pittsboro, North Carolina. Send comments to The Honorable Nancy May, Mayor of the Town of Pittsboro, P.O. Box 759, Pittsboro, North Carolina 27312.

**Town of Siler City**

Maps available for inspection at the Siler City Zoning Office, Town Hall, 311 North Second Avenue, Siler City, North Carolina. Send comments to The Honorable Charles Turner, Mayor of the Town of Siler City, P.O. Box 769, Siler City, North Carolina 27344.

**Chatham County (Unincorporated Areas)**

Maps available for inspection at the Chatham County Planning Department, 80-A East Street, Pittsboro, North Carolina. Send comments to Mr. Charlie Horne, Chatham County Manager, P.O. Box 87, Pittsboro, North Carolina 27312.

**NORTH CAROLINA  
Forsyth County**

Haw River .....	At the upstream side of Stigall Road .....	None	•860	Forsyth County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Stigall Road.	None	•883	
Reedy Fork .....	At the Forsyth/Guilford County boundary .....	None	•878	Forsyth County (Unincorporated Areas), Town of Kernersville.
	Approximately 0.6 mile upstream of the Forsyth/Guilford County boundary.	None	•892	
West Fork Deep River .....	Approximately 0.7 mile upstream of Interstate 40.	None	•890	Forsyth County (Unincorporated Areas), Town of Kernersville.
	Approximately 240 feet downstream of Industrial Park Drive.	None	•903	

**Forsyth County (Unincorporated Areas)**

Maps available for inspection at the Forsyth County Planning Department, 100 East 1st Street, Winston-Salem, North Carolina. Send comments to Mr. Graham Pervier, Forsyth County Manager, 201 North Chestnut Street, Winston-Salem, North Carolina 27101.

**NORTH CAROLINA  
Randolph County**

Bachelor Creek .....	At the confluence with Richland Creek .....	None	•455	Randolph County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence of Bachelor Creek Tributary 5.	None	•653	
Bachelor Creek Tributary 1 .....	At the confluence with Bachelor Creek .....	None	•472	Randolph County (Unincorporated Areas).
	Approximately 480 feet upstream of Osborn Mill Road.	None	•513	
Bachelor Creek Tributary 2 .....	At the confluence with Bachelor Creek .....	None	•506	Randolph County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Bachelor Creek.	None	•525	
Bachelor Creek Tributary 3 .....	At the confluence with Bachelor Creek .....	None	•515	Randolph County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Bachelor Creek Road.	None	•615	
Bachelor Creek Tributary 4 .....	At the confluence with Bachelor Creek .....	None	•620	Randolph County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Bachelor Creek.	None	•637	
Bachelor Creek Tributary 5 .....	At the confluence with Bachelor Creek .....	None	•637	Randolph County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Bachelor Creek.	None	•656	
Blood Run Creek .....	At the Randolph/Chatham County boundary .....	None	•495	Randolph County (Unincorporated Areas).
	At the confluence with Brush Creek .....	None	•495	
Boodom Creek .....	At the confluence with Sandy Creek .....	None	•565	Randolph County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Unnamed Road.	None	•690	
Boodom Creek Tributary 1 .....	At the confluence with Boodom Creek .....	None	•565	Randolph County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Boodom Creek Tributary 2 .....	Approximately 2.1 miles upstream of the confluence with Boodom Creek.	None	•734	Randolph County (Unincorporated Areas).
	At the confluence with Boodom Creek .....	None	•582	
Brush Creek .....	Approximately 480 feet upstream of Troy Estate Road.	None	•727	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•363	
Brush Creek Tributary 1 .....	Approximately 200 feet upstream of Langley Road.	None	•612	Randolph County (Unincorporated Areas).
	At the confluence with Brush Creek .....	None	•568	
Bush Creek .....	Approximately 630 feet upstream of Browns Crossroads Road.	None	•597	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•491	
Bush Creek Tributary .....	Approximately 0.4 mile upstream of Old Liberty Road.	None	•708	Randolph County (Unincorporated Areas).
	At the confluence with Bush Creek .....	None	•572	
Deep River .....	Approximately 0.7 mile upstream of Whites Memorial Drive.	None	•625	Randolph County boundary (Unincorporated Areas).
	At the Randolph/Moore County boundary .....	None	•354	
Deep River Tributary 15 .....	At the Randolph/Guilford County boundary .....	None	•672	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•446	
Deep River Tributary 16 .....	Approximately 1,160 feet upstream of U.S. Highway 64.	None	•549	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•450	
Deep River Tributary 17 .....	Approximately 1.8 miles upstream of NC 22 .....	None	•520	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•459	
Deep River Tributary 18 .....	Approximately 0.9 mile upstream of U.S. Highway 64.	None	•529	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•467	
Deep River Tributary 19 .....	Approximately 0.5 mile upstream of Depot Street.	None	•600	Randolph County (Unincorporated Areas).
	At the confluence with Deep River Tributary 18 .....	None	•478	
Deep River Tributary 20 .....	Approximately 1,850 feet upstream of Clark Avenue.	None	•562	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•600	
Deep River Tributary 21 .....	Approximately 1,320 feet upstream of Worthville Street.	None	•675	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•604	
Deep River Tributary 22 .....	Approximately 0.4 mile upstream of Sunset Drive.	None	•687	Randolph County (Unincorporated Areas).
	At the confluence with Deep River Tributary 21 .....	None	•634	
Deep River Tributary 23 .....	Approximately 0.7 mile upstream of Bowman Avenue.	None	•698	Randolph County (Unincorporated Areas).
	At the confluence with Deep River Tributary 22 .....	None	•661	
Deep River Tributary 24 .....	Approximately 800 feet upstream of Brookwood Acres Drive.	None	•736	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•623	
Deep River Tributary 26 .....	Approximately 0.9 mile upstream of Business 220.	None	•724	Randolph County (Unincorporated Areas).
	At the confluence with Deep River .....	None	•664	
	At the Randolph/Guilford County boundary .....	None	•704	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD) ●Elevation in feet (NAVD)		
		Existing	Modified	
Dodsons Lake .....	At the confluence with Sandy Creek .....	None	●583	Randolph County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Julian Airport Road.	None	●642	
Dodsons Lake 2 .....	At the confluence with Dodsons Lake .....	None	●613	Randolph County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the confluence with Dodsons Lake.	None	●626	
Dodsons Lake Tributary 1 .....	At the confluence with Dodsons Lake .....	None	●608	Randolph County (Unincorporated Areas).
	Approximately 420 feet upstream of Upper Three Lakes Dam.	None	●655	
Fork Creek .....	At the confluence with Deep River .....	None	●354	Randolph County (Unincorporated Areas).
	Approximately 2.3 miles upstream of the confluence with Fork Creek Tributary 1.	None	●642	
Fork Creek Tributary 1 .....	At the confluence with Fork Creek .....	None	●507	Randolph County (Unincorporated Areas).
	Approximately 600 feet upstream of Seagrove Plank Road.	None	●734	
Fork Creek Tributary 2 .....	At the confluence with Fork Creek Tributary 1 ..	None	● 516	Randolph County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Angel Fire Trail.	None	● 645	
Fork Creek Tributary 3 .....	At the confluence with Fork Creek Tributary 1 ..	None	● 555	Randolph County (Unincorporated Areas).
	Approximately 1.6 miles upstream of the confluence with Fork Creek Tributary 1.	None	● 622	
Gabriels Creek .....	At the confluence with Deep River .....	None	● 548	Randolph County (Unincorporated Areas).
	Approximately 480 feet upstream of Green Valley Road.	None	● 703	
Gabriels Creek Tributary 1 .....	At the confluence with Gabriels Creek .....	None	● 551	Randolph County (Unincorporated Areas).
	Approximately 1,900 feet upstream of Old Cedar Falls Road.	None	● 696	
Gabriels Creek Tributary 2 .....	At the confluence with Gabriels Creek .....	None	● 594	Randolph County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Henley Country Road.	None	● 695	
Hasketts Creek .....	Approximately 1,000 feet upstream of the confluence with Penwood Branch.	● 620	● 619	Randolph County (Unincorporated Areas).
	Approximately 1,270 feet upstream of West Presnell Street.	None	● 816	
Hasketts Creek Tributary 1 .....	Just downstream of Northwood Drive .....	None	● 670	Randolph County (Unincorporated Areas).
	Approximately 420 feet upstream of McKnight Street.	None	● 685	
Hasketts Creek Tributary 2 .....	At the confluence with Hasketts Creek .....	None	● 734	Randolph County (Unincorporated Areas).
	Approximately 0.6 mile upstream of West Presnell Street.	None	● 794	
Lambert Creek .....	At the confluence with Fork Creek .....	None	● 453	Randolph County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Fork Creek.	None	● 468	
Little Brush Creek .....	At the confluence with Brush Creek .....	None	● 409	Randolph County (Unincorporated Areas).
	At the Randolph/Chatham County boundary .....	None	● 454	
Little Polecat Creek .....	At the confluence with Polecat Creek .....	None	● 658	Randolph County (Unincorporated Areas).
	Approximately 1,050 feet upstream of dam .....	None	● 769	
Little Polecat Creek Tributary 1 .....	At the confluence with Little Polecat Creek .....	None	● 681	Randolph County (Unincorporated Areas).
	Approximately 1.4 miles upstream of New Salem Road.	None	● 788	
Little Polecat Creek Tributary 2 .....	At the confluence with Little Polecat Creek Tributary 1.	None	● 746	Randolph County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with Little Polecat Creek Tributary 1.	None	● 789	
Little Polecat Creek Tributary 3 .....	At the confluence with Little Polecat Creek .....	None	● 699	Randolph County (Unincorporated Areas).
	Approximately 0.9 mile upstream Bethel Church Road.	None	● 753	
Little Polecat Creek Tributary 4 .....	At the confluence with Little Polecat Creek .....	None	● 705	Randolph County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
	Approximately 740 feet upstream of Hunting Lodge Road.	None	• 742	
Little Polecat Creek Tributary 5 .....	At the confluence with Little Polecat Creek Tributary 4.	None	• 709	Randolph County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Hunting Lodge Road.	None	• 763	
Mill Creek .....	At the confluence with Deep River .....	None	• 431	Randolph County
	Approximately 1.0 mile upstream of Iron Mountain Road.	None	• 619	(Unincorporated Areas).
Mill Creek Tributary 1 .....	At the confluence with Mill Creek .....	None	• 543	Randolph County
	Approximately 1,500 feet upstream of Woods Stream Lane.	None	• 631	(Unincorporated Areas).
Mill Creek Tributary 2 .....	At the confluence with Mill Creek .....	None	• 547	Randolph County
	Approximately 0.8 mile upstream of the confluence with Mill Creek Tributary 3.	None	• 609	(Unincorporated Areas).
Mill Creek Tributary 3 .....	At the confluence with Mill Creek Tributary 2 ....	None	• 572	Randolph County (Unincorporated Areas).
	Approximately 1,800 feet upstream of dam .....	None	• 600	
Mill Creek Tributary 4 .....	At the confluence with Mill Creek .....	None	• 585	Randolph County
	Approximately 0.9 mile upstream of Creekway Ridge.	None	• 618	(Unincorporated Areas).
Millstone Creek .....	At the confluence with Deep River .....	None	• 429	Randolph County
	Approximately 0.4 mile upstream of Lee Layne Road.	None	• 466	(Unincorporated Areas).
Mount Pleasant Creek .....	At the confluence with Sandy Creek .....	None	• 503	Randolph County
	Approximately 0.7 mile upstream of Land Estates Drive.	None	• 615	(Unincorporated Areas).
Muddy Creek .....	At the confluence with Deep River .....	None	• 638	Randolph County
	Approximately 200 feet upstream of Verta Avenue.	• 843	• 846	(Unincorporated Areas).
Muddy Creek East Tributary .....	At the confluence with Muddy Creek .....	•721	•722	Randolph County (Unincorporated Areas).
	At the Guilford/Randolph County boundary .....	None	•814	
Muddy Creek East Tributary 2 .....	At the confluence with Muddy Creek East Tributary.	•752	•753	Randolph County (Unincorporated Areas).
	At the Guilford/Randolph County boundary .....	None	•771	
Muddy Creek East Tributary 3 .....	At the confluence with Muddy Creek East Tributary 2.	•752	•753	Randolph County (Unincorporated Areas).
	At the Guilford/Randolph County boundary .....	None	•767	
Muddy Creek East Tributary 4 .....	At the confluence with Muddy Creek East Tributary.	•757	•766	Randolph County (Unincorporated Areas).
	At the Randolph/Guilford County boundary .....	None	•783	
Muddy Creek East Tributary 5 .....	At the Randolph/Guilford County boundary .....	None	•771	Randolph County (Unincorporated Areas).
	At the confluence with Muddy Creek East Tributary 4.	None	•771	
Muddy Creek Tributary .....	At the confluence with Muddy Creek .....	•717	•720	Randolph County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Walnut Tree Lane.	None	•756	
Muddy Creek West Tributary .....	At the confluence with Muddy Creek .....	•785	•786	Randolph County (Unincorporated Areas).
	Approximately 160 feet upstream of Playground Road.	None	•842	
North Prong Creek .....	At the Randolph/Alamance County boundary ....	None	•686	Randolph County (Unincorporated Areas).
	Approximately 1,210 feet upstream of Unnamed Road.	None	•712	
North Prong Richland Creek .....	At the confluence with Richland Creek .....	None	•581	Randolph County (Unincorporated Areas).
	Approximately 1,300 feet upstream of Staleys Farm Road.	None	•694	
North Prong Richland Creek Tributary	At the confluence with North Prong Richland Creek.	None	•677	Randolph County (Unincorporated Areas).
	Approximately 370 feet upstream of Tall Pine Street.	None	•700	
North Prong Rocky River .....	At the Randolph/Alamance County boundary ....	None	•677	Randolph County (Unincorporated Areas).

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
	Approximately 210 feet upstream of South Cook Street.	None	•754	
Penwood Branch .....	Approximately 1,320 feet downstream of East Presnell Street.	None	•747	Randolph County (Unincorporated Areas).
	Approximately 1,690 feet upstream of Glenwood Road.	None	•846	
Polecat Creek .....	At the confluence with Deep River .....	None	•599	Randolph County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Polecat Creek Tributary 7.	None	•702	
Polecat Creek Tributary 4 .....	At the confluence with Polecat Creek .....	None	•671	Randolph County (Unincorporated Areas).
	At the Randolph/Guilford County boundary .....	None	•695	
Polecat Creek Tributary 5 .....	At the confluence with Polecat Creek Tributary 4.	None	•683	Randolph County (Unincorporated Areas).
	Approximately 0.5 mile upstream of dam .....	None	•710	
Polecat Creek Tributary 6 .....	At the confluence with Polecat Creek .....	None	•679	Randolph County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with Polecat Creek.	None	•736	
Polecat Creek Tributary 7 .....	At the confluence with Polecat Creek .....	None	•696	Randolph County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Polecat Creek.	None	•716	
Reed Creek .....	At the confluence with Deep River .....	None	•437	Randolph County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Wright Country Road.	None	•619	
Reed Creek Tributary 1 .....	At the confluence with Reed Creek .....	None	•536	Randolph County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Reed Creek.	None	•554	
Reed Creek Tributary 2 .....	At the confluence with Reed Creek .....	None	•537	Randolph County (Unincorporated Areas).
	Approximately 0.4 mile upstream of U.S. Highway 64.	None	•562	
Reedy Fork .....	At the confluence with Brush Creek .....	None	•488	Randolph County (Unincorporated Areas).
	At the Randolph/Chatham County boundary .....	None	•498	
Richland Creek .....	At the confluence with Deep River .....	None	•368	Randolph County (Unincorporated Areas).
	At the confluence of North and South Prong Richland Creek.	None	•581	
Rocky River .....	At the Randolph/Chatham County boundary .....	None	•644	Randolph County (Unincorporated Areas).
	Approximately 0.4 mile upstream of dam .....	None	•736	
Rocky River Tributary 2 .....	At the confluence with Rocky River .....	None	•664	Randolph County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Overman Road Dam.	None	•716	
Rocky River Tributary 3 .....	At the confluence with Rocky River .....	None	•682	Randolph County (Unincorporated Areas).
	Approximately 790 feet upstream of Old U.S. 421.	None	•724	
Rocky River Tributary 4 .....	At the confluence with Rocky River .....	None	•696	Randolph County (Unincorporated Areas).
	Approximately 1,000 feet upstream of dam .....	None	•749	
Sandy Creek .....	At the confluence with Deep River .....	None	•455	Randolph County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Sandy Creek Tributary 11.	None	•730	
Sandy Creek Tributary 1 .....	At the confluence with Sandy Creek .....	None	•558	Randolph County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Sandy Creek.	None	•573	
Sandy Creek Tributary 10 .....	At the confluence with Sandy Creek .....	None	•684	Randolph County (Unincorporated Areas).
	Approximately 1,550 feet upstream of Greeson Country Road.	None	•733	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD)	•Elevation in feet (NAVD)	
		Existing	Modified	
Sandy Creek Tributary 11 .....	At the confluence with Sandy Creek .....	None	•703	Randolph County (Unincorporated Areas).
	Approximately 900 feet upstream of the confluence with Sandy Creek.	None	•718	
Sandy Creek Tributary 2 .....	At the confluence with Sandy Creek .....	None	•576	Randolph County (Unincorporated Areas).
	Approximately 2.0 miles upstream of U.S. Highway 421.	None	•758	
Sandy Creek Tributary 3 .....	At the confluence with Sandy Creek .....	None	•581	Randolph County (Unincorporated Areas).
	Approximately 1.8 miles upstream of York Martin Road.	None	•735	
Sandy Creek Tributary 4 .....	At the confluence with Sandy Creek Tributary 3	None	•587	Randolph County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Sandy Creek.	None	•686	
Sandy Creek Tributary 5 .....	At the confluence with Sandy Creek Tributary 3	None	•596	Randolph County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Bunton Swaim Road.	None	•733	
Sandy Creek Tributary 6 .....	At the confluence with Sandy Creek Tributary 5	None	•599	Randolph County (Unincorporated Areas).
	Approximately 1,320 feet upstream of dam .....	None	•724	
Sandy Creek Tributary 7 .....	At the confluence with Sandy Creek .....	None	•581	Randolph County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Starmount Road.	None	•652	
Sandy Creek Tributary 8 .....	At the confluence with Sandy Creek .....	None	•607	Randolph County (Unincorporated Areas).
	Approximately 2.2 miles upstream of Randolph Church Road.	None	•741	
Sandy Creek Tributary 9 .....	At the confluence with Sandy Creek .....	None	•622	Randolph County (Unincorporated Areas).
	Approximately 1.4 miles upstream of Hollow Hill Road.	None	•708	
Simmons Branch .....	At the confluence with Deep River .....	None	•634	Randolph County (Unincorporated Areas).
	Approximately 1,550 feet upstream of Old Walker Mill Road Extension.	None	•652	
South Prong Richland Creek .....	At the confluence with Richland Creek .....	None	•581	Randolph County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Ross Harris Road.	None	•658	
South Prong Stinking Quarter Creek ...	At the Randolph/Guilford County boundary .....	None	•627	Randolph County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Redbud Lane.	None	•755	
Stinking Quarter Creek Tributary 3 .....	At the Randolph/Guilford County boundary .....	None	•627	Randolph County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Richland Church Road.	None	•681	
Taylor Branch .....	At the confluence with Muddy Creek .....	None	•692	Randolph County (Unincorporated Areas).
	Approximately 1,100 feet upstream of Tuttle Road.	None	•739	
Vestal Creek .....	At the confluence with Richland Creek .....	None	•565	Randolph County (Unincorporated Areas).
	At the confluence with Vestal Creek Tributary 3	None	•651	
Vestal Creek Tributary 3 .....	At the confluence of Vestal Creek Tributary 2 ...	None	•662	Randolph County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Browers Chapel Road.	None	•743	

Source of flooding	Location	#Depth in feet above ground		Communities affected
		*Elevation in feet (NGVD) •Elevation in feet (NAVD)		
		Existing	Modified	
<b>City of Archdale</b>				
Maps are available for inspection at Archdale City Hall, 307 Balfour Drive, Archdale, North Carolina.				
Send comments to The Honorable Bert Lance Stone, Mayor of the City of Archdale, P.O. Box 14068, Archdale, North Carolina 27263.				
Send comments to The Honorable David Jarrell, Mayor of the City of Asheboro, P.O. Box 1106, Asheboro, North Carolina 27204.				
<b>Town of Franklinville</b>				
Maps are available for inspection at the Franklinville City Hall, 163 West Main Street, Franklinville, North Carolina.				
Send comments to The Honorable L. McKay Whatley, Mayor of the Town of Franklinville, 163 West Main Street, Franklinville, North Carolina 27248.				
<b>Town of Liberty</b>				
Maps are available for inspection at the Liberty Town Hall, 239 South Fayetteville Street, Liberty, North Carolina.				
Send comments to The Honorable John Stanley, Mayor of the Town of Liberty, 239 South Fayetteville Street, Liberty, North Carolina 27298.				
<b>Town of Ramseur</b>				
Maps are available for inspection at the Ramseur Town Hall, 724 Liberty Street, Ramseur, North Carolina.				
Send comments to The Honorable Hampton L. Spivey, Mayor of the Town of Ramseur, P.O. Box 545, Ramseur, North Carolina 27316.				
<b>City of Randleman</b>				
Maps are available for inspection at the Randleman City Hall, 101 Hilliary Street, Randleman, North Carolina.				
Send comments to The Honorable Bruce Moore, Mayor of the City of Randleman, 101 Hilliary Street, Randleman, North Carolina 27317.				
<b>Unincorporated Areas of Randolph County</b>				
Maps are available for inspection at the Randolph County Planning Department, 725 McDowell Road, Asheboro, North Carolina.				
Send comments to Mr. William Willis, Randolph County Manager, P.O. Box 4728, Asheboro, North Carolina 27204-4728.				
<b>Town of Seagrove</b>				
Maps are available for inspection at the Seagrove Town Hall, 122 East Main Street, Seagrove, North Carolina.				
Send comments to The Honorable Michael T. Walker, Mayor of the Town of Seagrove, 122 East Main Street, Seagrove, North Carolina 27341.				

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 23, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 05-17629 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket No. FEMA-P-7699]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified

BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and

ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of

September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 12612, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

*Executive Order 12778, Civil Justice Reform.* This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and record keeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground ♦ Elevation in feet ♦ (NAVD)	
				Existing	Modified
NM .....	Silver City (Town) Grant County.	Central Arroyo .....	At the confluence with Maude's Creek .....	None	♦6,013
		Cottonwood Creek .....	Approximately 7,770 feet upstream of the confluence with Maude's Creek.	None	♦6,193
			Approximately 800 feet upstream of the confluence with Silva Creek.	None	♦5,953
		Maude's Creek .....	Approximately 190 feet upstream of Cain Drive.	None	♦6,067
			Approximately 210 feet downstream of U.S. Route 180.	♦5,997	♦6,000
		Pinos Altos Creek .....	Approximately 6,100 feet upstream of U.S. Route 180.	None	♦6,125
			Approximately 1,200 feet upstream of 32nd Street.	♦6,040	♦6,042
		Tributary 2 to Maude's Creek (Lower to Reach).	Approximately 3,770 feet upstream of confluence of Tributary 8 to Pinos Altos Creek.	None	♦6,141
			Approximately 16,260 feet upstream of the confluence with Maude's Creek.	None	♦5,853
		Tributary 2 to Maude's Creek (Upper Reach).	Approximately 17,340 feet upstream of the confluence with Maude's Creek.	None	♦5,868
			Approximately 590 feet upstream of U.S. Route 180.	None	♦6,047
		Tributary 8 to Pinos Altos Creek.	Approximately 5,020 feet upstream of 32nd Street Bypass.	None	♦6,227
At the confluence with Pinos Altos Creek	None		♦6,053		
		Approximately 1,310 feet upstream of 40th Street.	None	♦6,145	

Maps are available for inspection at the City Annex Building, 1211 North Hudson Street, Silver City, New Mexico.

Send comments to The Honorable Terry Fortenberry, Mayor, Town of Silver City, 101 West Broadway, Silver City, New Mexico 88062-1188.

OH .....	Findlay (City) Hancock County.	Blanchard River .....	Approximately 70 feet upstream of Central Parkway.	♦779	♦778
		Eage Creek .....	Approximately 1,120 feet upstream of the confluence of Rush Creek.	♦783	♦781
			At the confluence with Blanchard River ...	♦779	♦778
		Eagle Creek Overflow .....	Approximately 110 feet upstream of Highway 68.	♦794	♦792
			At the confluence Lye Creek .....	N/A	♦779
		Rush Creek .....	Approximately 1,250 feet upstream of Blanchard Avenue.	N/A	♦780
			At the confluence with Blanchard River ...	♦782	♦781
			Approximately 3,570 feet upstream of the confluence with Blanchard River.	♦782	♦781

State	City/town/county	Source of flooding	Location	#Depth in feet above ground ♦ Elevation in feet ♦ (NAVD)	
				Existing	Modified

Maps are available for inspection at the Community Map Repository, City of Findlay, Municipal Building, Room 306, 318 Dorney Plaza, Findlay, Ohio.

Send comments to The Honorable Anthony P. Iriti, Mayor, City of Findlay, Municipal Building, Room 310, 318 Dorney Plaza, Findlay, Ohio 45840.

TX .....	Lufkin (City) Angelina County.	Biloxi Creek North Tributary.	Approximately 2,860 feet downstream of State Highway 287.	None	♦306
			Approximately 210 feet upstream of State Highway 287.	None	♦329
		Biloxi Creek South Tributary.	Approximately 640 feet downstream of Lemans Drive.	None	♦303
			Approximately 1,660 feet upstream of Lemans Drive.	None	♦319
		Cedar Creek .....	At Gobblers Knob Road .....	♦237	♦238
			Approximately 100 upstream of Union Pacific Railroad.	None	♦299
		Cedar Creek North Tributary.	At confluence with Cedar Creek .....	♦277	♦276
			Approximately 50 feet upstream of Lotus Lane.	None	♦286
		Cedar Creek South Tributary.	At confluence with Cedar Creek .....	♦254	♦253
			Approximately 1,350 feet upstream of Berry Road.	None	♦287
		Cedar Creek Tributary 3 ...	At confluence with Cedar Creek .....	♦237	♦240
			Approximately 80 feet upstream of Live Oak Lane.	None	♦266
		One Eye Creek .....	Approximately 2,120 feet downstream of Bartmess Drive.	None	♦289
			Approximately 3,900 feet upstream of Bartmess Drive.	None	♦309
Shirley Creek .....	Approximately 7,350 feet upstream of the confluence with Paper Mill Creek.	None	♦232		
	Approximately 50 feet upstream of Trenton Street.	None	♦297		
Shirley Creek Tributary 2	At the confluence with Shirley Creek .....	♦259	♦260		
	Approximately 1,600 feet upstream of State Highway 237.	None	♦310		
Shriely Creek Tributary 2 East Branch.	At confluence with Shirely Creek Tributary 2.	None	♦277		
	Approximately 970 feet upstream of Freeman Street.	None	♦297		

Maps are available for inspection at City Hall, 300 Shepherd Street, Lufkin, Texas.

Send comments to The Honorable Louis A. Bronaugh, Mayor, City of Lufkin, 300 Shepherd Street, Lufkin, Texas 75902.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 30, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 05-17623 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

# Notices

Federal Register

Vol. 70, No. 171

Tuesday, September 6, 2005

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

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

August 31, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

### Forest Service

*Title:* National Woodland Owner Survey.

*OMB Control Number:* 0596-0078.

*Summary of Collection:* The Forest and Rangeland Renewable Resources Planning Act of 1974 (Pub. L. 93-278) and the Forest and Rangeland Renewable Resources Act of 1978 (Pub. L. 307) are the legal authorities for conducting the National Woodland Owner Survey. The National Woodland Owner Survey collects information to help answer questions related to the characteristics of the landholdings and landowners, ownership objectives, the supply of timber and non-timber products, forest management practices, delivery of the concerns/constraints perceived by the landowners.

*Need and Use of the Information:* The Forest Service will collect information to determine the opportunities and constraints that private woodland owners typically face; and facilitate planning and implementing forest policies and programs. If the information is not collected the knowledge and understanding of private woodland ownerships and their concerns and activities will be severely limited.

*Description of Respondents:* Individuals or households; Business or other for-profit; Not-for-profit Institutions; Farms; State, Local or Tribal Government.

*Number of Respondents:* 7,500.

*Frequency of Responses:* Reporting: Other (every 5 years).

*Total Burden Hours:* 2,500.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 05-17640 Filed 9-2-05; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

**False Island Timber Sale(s), Sitka Ranger District, Tongass National Forest**

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancel notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Department of Agriculture, Forest Service is issuing this notice to advise the public that we are canceling the notice of intent (NOI) to prepare an Environmental Impact Statement (EIS) for the False Island Timber Sale(s) project.

**FOR FURTHER INFORMATION CONTACT:** Carol Goularte, District Ranger or Hans von Rekowski, Team Leader, Sitka Ranger District, 204 Siginaka Way, Sitka, AK 99835, phone (907) 747-4220, fax (907) 747-4253.

**SUPPLEMENTARY INFORMATION:** The False Island Timber Sale(s), Sitka Ranger District, Tongass National Forest Notice of Intent to Prepare an Environmental Impact Statement was published in the **Federal Register** Number 150, Pages 50628-50629). The Forest Service is canceling that NOI to prepare an EIS for the False Island Timber Sale(s) on the southeastern part of Chichagof Island about 35 air miles north of Sitka, Alaska, 20 air miles west of Angoon, Alaska, and 15 air miles south of Tenakee Springs. The project and this NOI are being cancelled because the project is not feasible at this time, primarily due to economic consideration of the potential timber sale offering.

Dated: August 25, 2005.

**Forrest Cole,**

*Forest Supervisor.*

[FR Doc. 05-17563 Filed 9-2-05; 8:45 am]

**BILLING CODE 3410-11-M**

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** Wednesday, September 7th, 2005 1-4 p.m.

**PLACE:** Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

**CLOSED MEETING:** The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well

as sensitive procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

**CONTACT PERSON FOR MORE INFORMATION:**

Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 203-4545.

Dated: August 29, 2005.

**Carol Booker,**

*Legal Counsel*

[FR Doc. 05-17748 Filed 9-1-05; 3:46 pm]

**BILLING CODE 8230-01-M**

**COMMISSION ON CIVIL RIGHTS**

**Agenda and Notice of Public Meeting of the Ohio Advisory Committee**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a conference call of the Ohio Advisory Committee will convene at 1 p.m. and adjourn at 3 p.m., Friday, September 16, 2005. The purpose of the conference call is to provide orientation to new members, approve the report "Hate Crime in Ohio Revisited," and plan future activities.

This conference call is available to the public through the following call-in number: 1-800-473-7796, contact name: Lynwood Battle. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and contact name.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights at (312) 353-8311, (TDD 312-353-8362), by 4 p.m. on Wednesday, September 14, 2005.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 25, 2005.

**Ivy L. Davis,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. 05-17620 Filed 9-2-05; 8:45 am]

**BILLING CODE 6335-01-P**

**COMMISSION ON CIVIL RIGHTS**

**Agenda and Notice of Public Meeting of the South Carolina Advisory Committee**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the South Carolina Advisory Committee will convene at 2 p.m. (e.s.t.) and adjourn at 3:30 a.m. (e.s.t.) on Thursday, September 22, 2005. The purpose of the meeting is to discuss the Committee's work on its project, Unitary Status of School Districts in South Carolina.

This conference call is available to the public through the following call-in number: 800-473-7795, conference contact name Peter Minarik. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and contact name, Peter Minarik.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Peter Minarik, Regional Director, Southern Regional Office, (404) 562-7000 (TDD/TTY 404-562-7004), by Tuesday, September 20, 2005.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 29, 2005.

**Ivy Davis,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. 05-17619 Filed 9-2-05; 8:45 am]

**BILLING CODE 6335-01-P**

**DEPARTMENT OF COMMERCE**

**Submission for OMB Review; Comment Request**

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).  
*Title:* Pacific Islands Region Seabird-Fisheries Side-setting Survey.

*Form Number(s):* None.

*OMB Approval Number:* None.

*Type of Request:* Regular submission.

*Burden Hours:* 12.

*Number of Respondents:* 24.

*Average Hours Per Response:* 30 minutes.

*Needs and Uses:* The Western Pacific Fishery Management Council is proposing mitigation measures to reduce interactions between seabirds and the Hawaii-based pelagic longline fishery, by requiring longline vessel operators to use either side-setting (setting the longline fishing gear from the side of the vessel rather than the stern) or the current suite of seabird mitigation measures, plus tori lines. Although side-setting shows to be the most promising mitigation technique in terms of effectiveness, additional information is needed.

Vessel operators currently voluntarily side-setting will be asked to provide data on the operational benefits of side-setting as well as the effectiveness of side-setting as a seabird deterrent. This collection of information is intended to provide NMFS with information as to the cost, availability of equipment, and operational use of equipment, required for side-setting. This information will be used to determine whether it is feasible and cost effective for Hawaii longline vessels to convert to side setting, and to formulate specifications for vessels side-setting.

*Affected Public:* Business or other for-profit organizations; individuals or households.

*Frequency:* One time only.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by

calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov).

Dated: August 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-17576 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Institute of Standards and Technology (NIST).

*Title:* National Voluntary Conformity Assessment System Evaluation (NVCASE) Program.

*Form Number(s):* None.

*OMB Approval Number:* 0693-0019.

*Type of Request:* Regular submission.

*Burden Hours:* 30.

*Number of Respondents:* 10.

*Average Hours Per Response:* 3.

*Needs and Uses:* This information is required by NIST to evaluate laboratories, certification bodies, quality system registrars, and accreditation entities that apply for recognition to provide services to U.S. manufacturers. The information collected is essential to enable NIST to thoroughly evaluate applicant's conformance with all the requirements of 15 CFR part 286. The manufacturers' products must satisfy mandatory regulations of the importing country prior to import.

*Affected Public:* Business or other for-profit organizations; not-for-profit institutions.

*Frequency:* Annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek,

Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jacqueline Zeiher, OMB Desk Officer, FAX number (202) 395-5806, or [JZeiher@omb.eop.gov](mailto:JZeiher@omb.eop.gov).

Dated: August 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-17577 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-13-P

## DEPARTMENT OF COMMERCE

### Census Bureau

#### Quarterly Survey of the Finances of Public-Employee Retirement Systems

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before November 7, 2005.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [DHynek@doc.gov](mailto:DHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ellen Thompson, Chief, Employment Branch, Governments Division, U.S. Census Bureau, 4700 Silver Hill Road, Stop 6800, Washington, DC 20233-6800, (301-763-1531) (or via the Internet at [ellen.ann.thompson@census.gov](mailto:ellen.ann.thompson@census.gov)).

#### SUPPLEMENTARY INFORMATION

##### I. Abstract

The Census Bureau plans to request an extension for the quarterly retirement

survey. The quarterly survey was initiated by the Census Bureau in 1968 at the request of both the Council of Economic Advisers and the Federal Reserve Board. It gathers data on the assets of the 100 largest state and local government public-employee retirement systems. These systems hold over \$2 trillion in assets, which represent approximately 90 percent of all state and local government public-employee retirement system assets.

These important data are used by the Federal Reserve Board to track the public sector portion of the flow of funds accounts. The Bureau of Economic Analysis uses the data on corporate stock holdings to estimate dividends received by state and local government public-employee retirement systems. These estimates, in turn are used as a component in developing the national income and product accounts.

##### II. Method of Collection

Canvass methodology consists of a mail out/mail back questionnaire. Responses are screened manually, then put into an electronic format. No statistical methods are used to calculate the data.

Respondents may choose to report their data over our Internet site. In addition to reporting current quarter data on the Internet, respondents may report for the first time for the previous two quarters or submit revisions to their previously submitted data if needed.

In those instances when we are not able to obtain a response, estimates are made for nonrespondents based on historical data for that same system.

##### III. Data

*OMB Number:* 0607-0143.

*Form Number:* F-10.

*Type of Review:* Regular.

*Affected Public:* State and local government retirement systems.

*Estimated Number of Respondents:* 100.

*Estimated Time Per Response:* 45 minutes.

*Estimated Total Annual Burden Hours:* 300.

*Estimated Total Annual Cost:* \$5,934.

**Note.**—Based upon the average hourly pay of \$19.78 for full-time employment for the financial administration function for state government employees in the 2004 Survey of State and Local Government Employment.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C., Section 182.

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 30, 2005.

**Madeleine Clayton,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-17574 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Census Bureau

#### **Precanvass Operation for the 2007 Economic Census Covering Transportation of Commodities**

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before November 7, 2005.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [DHynek@doc.gov](mailto:DHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Fowler, Census Bureau, Room G-023-Building 3, Washington, DC 20233.

**SUPPLEMENTARY INFORMATION:**

#### **I. Abstract**

The Census Bureau plans to conduct a Precanvass Operation in preparation for the 2007 Commodity Flow Survey to improve the efficiency and accuracy of the sample frame. The Commodity Flow Survey itself will be the subject of a later notice planned for publication in early 2006.

The Commodity Flow Survey, a component of the Economic Census, is the only comprehensive source of multi-modal, system-wide data on the volume and pattern of goods movement in the United States. The Commodity Flow Survey is conducted in partnership with the Bureau of Transportation Statistics, U.S. Department of Transportation.

In conducting the Precanvass, the Census Bureau will mail a one-page questionnaire to selected manufacturing, mining, and wholesale establishments, and to enterprise support establishments in its Business Register. The precavass will determine if these establishments are engaged in shipping activities, and if so obtain an estimate of the annual value of those shipments, along with contact information for the 2007 Commodity Flow Survey. Those establishments that do not ship will be eliminated from the sample frame. This will significantly improve the sample for the 2007 Commodity Flow Survey. Also, those establishments excluded from the sample frame will be saved the added burden of reporting in the Commodity Flow Survey.

#### **II. Method of Collection**

The Census Bureau will mail the Precanvass Questionnaire to (a) enterprise support establishments in the Census Bureau's Business Register, and (b) the largest establishments in the industries listed above that are likely to be included in the 2007 Commodity Flow Survey. The estimated size of the Precanvass mailing is 75,000 establishments.

The Census Bureau will use a mail-out, mail-back methodology, with telephone follow-up for selected non-response cases. General information on shipping activity and value of shipments will be collected via check box style questions. Contact information also will be collected and used to improve the mailing and follow-up activities for the 2007 Commodity Flow Survey.

#### **III. Data**

*OMB Number:* Not Available.

*Form Number:* CFS-0001.

*Type of Review:* Regular review.

*Affected Public:* Businesses and other for-profit organizations.

*Estimated Number of Respondents:* 75,000.

*Estimated Time Per Response:* 5 minutes.

*Estimated Total Annual Burden Hours:* 6,250.

*Estimated Total Annual Cost:* \$200,000.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13, U.S.C. 131.

#### **IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 30, 2005.

**Madeleine Clayton,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-17575 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### **Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting**

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet September 13, 2005, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

#### **Agenda**

*Public Session*

1. Opening remarks by the Chairman

2. Presentation of papers or comments by the Public
3. Regulations update
4. Wassenaar Statement of Understanding on Military End-uses
5. Update on Missile Technology controls
6. Country policy update: India
7. Country policy updates: Libya, Iraq
8. Update on Country Group revision project
9. Update on proposed rule on deemed export related regulatory requirements (RIN 0694-AD29)
10. Update on Automated Export System
11. Export Enforcement update
12. Update on De Minimis controls
13. Update on Encryption controls
14. Working group reports

#### Closed Session

15. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10a(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov)

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on August 16, 2005, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public. For more information, call Yvette Springer at (202) 482-4814.

Dated: August 30, 2005

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 05-17580 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-JT-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-810]

#### Notice of Final Rescission of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, from Argentina

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

**SUMMARY:** On July 12, 2005, the Department of Commerce (the Department) published the preliminary rescission of antidumping administrative review on oil country tubular goods, other than drill pipe, from Argentina. The review covers one manufacturer/exporter, Siderca S.A.I.C. (Siderca). The period of review is August 1, 2003, through July 31, 2004. We gave interested parties an opportunity to comment on our preliminary rescission. We received no comments. Therefore, we are rescinding this administrative review.

**EFFECTIVE DATE:** September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2924 and (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 12, 2005, the Department published its preliminary rescission of antidumping duty administrative review of oil country tubular goods, other than drill pipe, from Argentina. *See Notice of Preliminary Rescission of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, from Argentina*, 70 FR 39995 (July 12, 2005). We gave interested parties an opportunity to comment. No party submitted comments.

##### Period of Review

The period of review (POR) is August 1, 2003, through July 31, 2004.

##### Scope of the Review

Oil country tubular goods (OCTG) are hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or

unfinished (including green tubes and limited service OCTG products).

This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium. Drill pipe was excluded from this order beginning August 11, 2001. *See Continuation of Countervailing and Antidumping Duty Orders on Oil Country Tubular Goods From Argentina, Italy, Japan, Korea and Mexico, and Partial Revocation of Those Orders From Argentina and Mexico With Respect to Drill Pipe*, 66 FR 38630 (July 25, 2001).

The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

##### Rescission of Review

On October 18, 2004, Siderca informed the Department that it did not ship OCTG to the United States during the POR, and requested rescission of the administrative review. On April 19, 2005, the Department issued a supplemental questionnaire to Siderca. The Department attached to it a list of shipments of OCTG from Argentina that entered the United States during the POR that the Department had reason to believe had been manufactured by Siderca or its affiliates. We obtained this list from the U.S. Customs and Border Protection (CBP) by doing a CBP automated commercial service (ACS) data query. Siderca submitted its response on April 22, 2005. Siderca explained that it did not sell to the

importer identified on the list of entries that we had attached to the April 19, 2005, supplemental questionnaire. The Department subsequently requested, and received from Customs, documentation regarding certain of those entries. We placed these documents on the record of this review on June 22, 2005, and gave parties an opportunity to comment. We received no comments. Based upon Siderca's explanation and the evidence on the record, we are satisfied that Siderca did not make any consumption entries, exports, or sales of subject merchandise during the POR.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Because the evidence shows that there were no entries of OCTG made by Siderca during the POR, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(3).

We are issuing and publishing this notice in accordance with sections 751(a)(1) of the Tariff Act and 19 CFR 351.213(d)(4).

Dated: August 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-4843 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-879]

#### **Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China**

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

**EFFECTIVE DATE:** September 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6412.

**SUPPLEMENTARY INFORMATION:**

## Background

The Department of Commerce ("the Department") published an antidumping duty order on polyvinyl alcohol ("PVA") from the People's Republic of China ("PRC") on October 1, 2003. *See Antidumping Duty Order: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 56620 (October 1, 2003). On October 29, 2004, the petitioners<sup>1</sup> requested that the Department conduct an antidumping duty administrative review of Sinopec Sichuan Vinyon Works.

On November 19, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of PVA from the PRC for the period March 20, 2003, through September 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004).<sup>2</sup> On June 23, 2005, the Department published in the **Federal Register** a notice extending the time limit for the preliminary results of the administrative review from July 3, 2005, to August 2, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 36375 (June 23, 2005). On July 22, 2005, the Department published in the **Federal Register** a notice extending the time limit for the preliminary results of the administrative review from August 2, 2005, to September 16, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 42309 (July 22, 2005). The preliminary results of review are currently due no later than September 16, 2005.

#### **Extension of Time Limit of Preliminary Results**

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), the Department shall issue

<sup>1</sup> Celanese, Ltd. and E.I. du Pont de Nemours & Co. (collectively "petitioners").

<sup>2</sup> We note that the beginning date (*i.e.*, March 20, 2003) of the announced period of review ("POR") was not correct. The Department inadvertently published an incorrect beginning date which was the date of the preliminary determination of the investigation. Because the only respondent in this proceeding had a *de minimis* rate in the preliminary determination, the correct beginning date for the POR should have been the date of the final determination in the investigation. Thus, the Department corrected the beginning date of the POR to reflect the correct POR which is August 11, 2003, through September 30, 2004. *See Memorandum to the File from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager*, dated May 9, 2005.

preliminary results in an antidumping administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order.

The Act further provides, however, that the Department may extend the deadline for completion of the preliminary results of review from 245 days to 365 days if it determines that it is not practicable to complete the preliminary results within the 245-day period. Completion of the preliminary results of this review within the 245-day period is not practicable because the Department needs additional time to research and analyze a significant amount of information pertaining to the respondent company's large number of factors of production, surrogate values, and to evaluate certain issues raised by the petitioners and the respondent company.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of review by an additional 45 days until October 31, 2005, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: August 30, 2005.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5-4844 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 080205A]

#### **Issuance of an Incidental Take Permit (1528)**

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

**ACTION:** Notice of permit issuance.

**SUMMARY:** Notice is hereby given that NMFS issued on August 26, 2005, an incidental take permit (Permit 1528) to the North Carolina Division of Marine Fisheries (NCDMF) pursuant to the Endangered Species Act of 1973 (ESA), as amended. As required by the ESA, NCDMF's Permit 1528 includes a conservation plan designed to minimize and mitigate any such take of endangered or threatened species. Permit 1528 is for the incidental take of

ESA-listed adult and juvenile sea turtles associated with otherwise lawful commercial fall gill net fisheries for flounder operating in Pamlico Sound, NC. The duration of Permit 1528 is for 6 years.

**ADDRESSES:** The application, permit, and related documents are available in the following office by appointment:

Marine Mammal and Turtle Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

The application and permit are also available for download at [http://www.nmfs.noaa.gov/prot\\_res/PR3/Permits/ESAPermit.html](http://www.nmfs.noaa.gov/prot_res/PR3/Permits/ESAPermit.html).

**FOR FURTHER INFORMATION CONTACT:**

Therese Conant (ph. 301-713-1401, fax 301-427-2522, e-mail

[Therese.Conant@noaa.gov](mailto:Therese.Conant@noaa.gov); Dennis Klemm (ph. 727-824-5312, fax 727-824-5309, e-mail [Dennis.Klemm@noaa.gov](mailto:Dennis.Klemm@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** Issuance of permits and permit modifications, as required by the ESA (16 U.S.C. 1531-1543), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Incidental take permits are issued under section 10(a)(1)(B) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

**Species and Geographic Area Covered**

The following species are included in Permit 1528 conservation plan: Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles. The conservation plan includes managing the shallow water large and small mesh gill net fisheries operating from September through mid-December in areas adjacent to the Outer Banks and along the western shore of the continental mainland in Pamlico Sound. Seven gill net restricted areas (GNRAs) will be designated for the eastern Pamlico Sound and one GNRA in the western Pamlico Sound along the mainland in Hyde and Pamlico Counties.

**Conservation Plan**

Permit 1528 includes measures to limit the commercial fall gill net fishery

for flounder such that the impacts on ESA-listed sea turtles will be minimized. NCDMF would use a variety of adaptive fishery management measures and restrictions through their state proclamation authority to reduce lethal and non-lethal sea turtle incidental capture.

Specific measures to be implemented each year include: (1) tending for gillnets less than 5-inch (12.7-cm) stretched mesh from September 1 through October 31; (2) prohibiting gillnets  $\geq 5$ -inch  $\geq 12.7$ -cm stretched mesh in areas adjacent to Ocracoke, Hatteras, and Oregon Inlets from September 1 through December 15 (note: Although the restrictions specified in Permit 1528 apply through December 15 each year, NCDMF is closing the entire shallow water flounder fishery on December 1 each year to prevent overfishing); (3) restricting the maximum net length per fishing operation to 2,000 yards (1,828 m); (4) requiring NCDMF-issued permits for active fishing operations employing large mesh gillnets in restricted areas between September 1 and December 15; (5) requiring reporting, safe-handling, and resuscitation for sea turtles caught incidental to fishing; and (6) monitoring gear interactions in large and small mesh gillnets through a mandatory observer program as well as through reports from fishermen and NCDMF Marine Patrol.

**Comments**

NMFS published a notice of availability on April 1, 2005 (70 FR 16803), and requested comments on the NCDMF application. NMFS received comments from the States of North Carolina, South Carolina, Georgia, and Florida, as well as comments from 4 non-governmental organizations.

NMFS received eight comment letters from individual citizens, of which seven were from communities located on the North Carolina coast. After the comment period closed, NMFS received a petition with nearly 1,800 signatures recognizing that the ocean, sounds, and estuaries belong to all citizens and protesting the issuance of the permit to allow lethal take of 100 sea turtles each year. NMFS also received over 1,300 e-mails protesting the permit's issuance.

*Comment 1:* All individual citizens, as well as the petition signers, were concerned about the take levels identified in the application and were opposed to issuing the permit. Several respondents raised the concern that the benefits of ongoing conservation efforts on the nesting beaches to protect eggs as well as efforts to rehabilitate and release injured or diseased turtles would be

negated by the loss of turtles through the issuance of this permit. One respondent cited other state's prohibitions on gillnets and questioned North Carolina's management of sea turtle bycatch.

*Response.* The annual anticipated lethal and nonlethal incidental take of sea turtles has been 100 and 320, respectively, and represented the upper 95-percent confidence limit in the estimates derived from the at-sea observer program conducted from 1999 through 2001. Thus, the take level was a worse-case scenario and did not necessarily represent what occurred each year. Based on the point estimate, take each year has been much lower than what was anticipated in the previous permit: 2001 = 16 lethal and 46 nonlethal; 2002 = 8 lethal and 162 nonlethal; 2003 = 15 lethal and 19 nonlethal; and 2004 = 26 lethal and 40 nonlethal. Indeed, analyses of the data collected in more recent years indicate take levels are at least 43 percent lower than previously estimated. Based on the new data, NMFS anticipates the new take level for Permit 1528 to be 65 lethal and 185 nonlethal. This take level is based on the upper 95 percent confidence limit of the estimate for 2002 which represented the worst year for estimated take. NMFS analyzes the highest impact to the protected species (see response to Comment 14), but, as stated earlier, it is more likely that the annual take level will be much lower than the level specified in Permit 1528. NCDMF will monitor its activities on a weekly basis, and should take levels exceed those specified in the permit, NCDMF will, in concurrence with NMFS, take necessary action to ensure no further takes occur.

NMFS has determined that each sea turtle species has the capacity to replace the lethal take levels specified in Permit 1528 without jeopardizing the continued existence of each species. A prerequisite to issuing the permit is that NMFS must consult under ESA section 7 to determine whether the permitted activities would jeopardize the continued existence of the listed sea turtles. NMFS considered the status and trends of the sea turtle populations affected by the southern flounder fishery. The analysis included all factors, including conservation efforts, that have led to the species status. NMFS concluded in its section 7 consultation that the permit would not jeopardize the continued existence of sea turtles by appreciably reducing the likelihood of both the survival and recovery of these species. Further, NMFS has determined that NCDMF Permit 1528 meets the issuance criteria

at 50 CFR 222.307(c) in that the southern flounder fishery is a legal operation, the 'take' is incidental to the legal activity, and the NCDMF has developed and implemented a conservation plan that reduces and minimizes the impacts of the take. NCDMF Permit 1528 proscribes specific measures to reduce sea turtle incidental take in the southern flounder fishery and provides specific monitoring and evaluation measures.

NMFS recognizes that several states have prohibited gillnets to prevent interactions with sea turtles. In 2002, NMFS closed Pamlico Sound to fishing with large mesh gillnets from September 1 through December 15 in order to protect sea turtles. NMFS subsequently issued NCDMF a permit to allow the more traditional shallow water fishery to operate in the closed area. This earlier permit, as well as NCDMF Permit 1528, includes closures around the inlet areas where sea turtle interactions were documented to be more frequent. The deepwater closure along with the management measures identified in the NCDMF permits have greatly reduced sea turtle interactions in the southern flounder gillnet fishery. As stated earlier, NCDMF will closely monitor the fishery to ensure that sea turtle interactions do not exceed those anticipated in the permit.

*Comment 2:* The 6-year permit duration was a concern for several commenters. They felt the long duration period would hinder timely changes to management and weaken evaluation of management measures. They also wanted assurances that the management program would be evaluated annually and adjusted accordingly.

*Response.* Although Permit 1528 is for a 6-year period, it must be renewed on an annual basis. Renewal of this permit is not automatic. Yearly evaluation of this permit by NMFS will include re-analyses of all data. Data include at-sea monitoring, NC Trip Ticket Program, fish house checks, enforcement, strandings and other relevant information. The permit requires weekly, monthly, and yearly reporting. This requirement is unchanged from the previous 3-year permit issued to NCDMF. Based on the ongoing reports, weekly, monthly and yearly evaluations, NMFS and NCDMF will make adaptive management (see Permit 1528 IV.A.10. Adaptive Management Protocols) changes to ensure conservation of sea turtles. Should a potential problem occur, the Adaptive Management Protocols establish a decision making process for changing management based on ongoing events and evaluation of data collected.

*Comment 3:* Additional research should focus on gear modifications (e.g., reduced mesh size) or changes to fishing practices (e.g., more frequent net-tending) to determine methods to further reduce lethal take in the southern flounder fishery

*Response.* The goal of NCDMF Permit 1528 is to reduce sea turtle take levels by 50 percent from the level recorded in 1999. In tandem with the deepwater closure, this goal has been realized each year, and take levels have remained well below authorized thresholds for the last three years. The majority (70 percent) of all interactions have been with live individuals that have been subsequently sampled, and released in good condition at or near inlets. NCDMF Permit 1528 stipulates measures to reduce interactions including yardage limits, attendance requirements on small mesh, and area closures. NCDMF Permit 1528 also provides for adaptive management should data and events indicate that additional changes to management are necessary to reduce lethal take. NCDMF is currently focusing research on modifications to gillnets in the deepwater fishery. However, NCDMF will consider testing modifications to the shallow water fishery to reduce lethal take of sea turtles, while maintaining a viable target catch, should funds become available. Additional testing would be done through a modification of Permit 1528 or through a separate permit.

*Comment 4:* Only one adaptive management measure should be implemented at any one time. Should sea turtle mortality rates increase, NCDMF must be able to determine which measures may have caused the increase.

*Response.* Management changes from previous permits specified in the new NCDMF Permit 1528 include shifting observer effort to better direct resources to time and areas with increased fishing effort and where turtle interactions are known to occur. Specifically, there will be a goal of 2 percent observer coverage for the first two weeks and the last four weeks of the season, while maintaining a goal of 10 percent during the rest of the season. Second, fishermen along the mainland side of Pamlico Sound will not be required to obtain a permit. Finally, only active fishermen need to report each week. These management shifts are designed to better direct resources where most necessary for the continued protection of sea turtle populations and will be expedited through adaptive management and increased enforcement capabilities as described below.

NCDMF anticipates that actual percent coverage may be higher than the 2-percent coverage goal for the first two and last four weeks of the season. Should an interaction occur during these times, NCDMF will increase monitoring in the area in order to characterize and identify potential 'hot spots' for turtle interactions. This also facilitates the ability to implement management alternatives, such as partial area closures, in a timely manner.

Concerning the mainland side of Pamlico Sound, elimination of the permit requirement is warranted due to the lack of observed turtle interactions and reduced effort in this area. While fishermen in this area will not need a permit, all other stipulations will remain: maximum yardage limit, mandatory observer coverage, fishing within 200 yards (0.18 km) of shore only (shallow water), and proper sea turtle reporting, handling, and resuscitation protocols.

Reporting requirements will be limited to active fishermen as opposed to requiring all permitted fishermen to report. This will eliminate the staff hours generated in the past in tracking fishermen down only to find out they have not fished. For example, in 2004, a total of 153 permits were issued from September 1 December 15. The highest number of active participants in any week was 61, which occurred during the fourth week of the season. Prior to, and after that, the mean number of participants each week was 47 and 36, respectively. Therefore, the elimination of non-active reporting requirements will decrease the amount of resources that NCDMF expends, and the added burden to the industry.

NCDMF Permit 1528 includes Adaptive Management Protocols which describe the decision process that will be undertaken to facilitate timely (within 48hrs by State proclamation) response to potential problems. This will allow for weekly, monthly, and annual changes to be made in the management program to protect and conserve sea turtles while maintaining an economically viable fishery.

NCDMF also intends to establish a state closure on top of the NMFS closure throughout the Pamlico Sound from December 1 - December 15. This will allow increased enforcement capabilities. NCDMF will conduct weekly boat patrols, spot checks, and flight surveys. NCDMF anticipates a minimum of 30 boat patrols, 15 spot checks and 10 aerial surveys, depending on weather. NCDMF observers will also conduct weekly fish house visits to obtain names, numbers and landings information that can be cross referenced

to weekly standardized reporting forms from the commercial fishing industry, enforcement patrols, and the trip ticket database.

The changes to management and monitoring measures are designed to increase compliance and ensure that the management changes remain effective in protecting and conserving sea turtles. The additional monitoring through fish house checks, increased enforcement, and at-sea observer coverage in areas of concern, provide adequate monitoring to ensure that NCDMF can evaluate a suite of changes to management rather than implementing each change individually. These changes are anticipated to enhance, not decrease, NCDMF's ability to respond to and evaluate increases in sea turtle mortality rates as a result of the Pamlico Sound shallow water gillnet fishery.

*Comment 5:* A commenter requested that each gillnet set should be reduced, at a minimum, to 1,000 yards (914.4 m). They estimated that, currently, nearly 150 miles (241.4 km) of net would be in the water each day during a 3-month period in the fall.

*Response:* NCDMF estimated approximately 3.7 to 7.1 miles (5.9 to 11.4 km) of net are in the water each day from September 1 through December 15. Although fishermen are allowed to set 2,000 yards (1.8 km), many deploy less net than the maximum allowed due to safety, weather, and equipment considerations. However, some fishermen rely on the maximum allowable yardage to limit adverse economic impacts. The existing management measures (e.g., closures around the inlets, tending requirements) including the 2,000 yard (1.8 km) limit on sets have been shown to be successful at reducing sea turtle interactions. NCDMF and NMFS will continue to monitor the effectiveness of the yard limits through the Adaptive Management Protocols specified in Permit 1528.

*Comment 6:* The conservation plan should include development of other ways to harvest flounder in Pamlico Sound without the use of gill nets.

*Response:* The NCDMF gear development program is committed to working with the commercial industry to develop better fishing gears that decrease finfish and protected species bycatch, while maintaining target catches. In the Pamlico Sound deep-water region, there have been two experimental gillnet configurations tested in 2002 and 2004, and a third and final project is scheduled for 2006. These projects have tested gillnets designed to reduce sea turtle interactions, while maintaining flounder

catches. The technology from this research will offer fishery managers the knowledge to discuss the potential use of this gear in the deep-water region of Pamlico Sound, as well as the potential use of this gear in other fisheries throughout the Atlantic States. NCDMF will continue working with the commercial fishing industries to identify fishing gear that is more efficient and decreases bycatch.

*Comment 7:* The conservation plan states that if takes exceed the threshold, NCDMF will selectively close fisheries to reduce interactions between sea turtles and commercial fishing gear. However, if take is exceeded, all gillnet fisheries must be closed.

*Response:* NMFS will maintain the provisions of previous permits in that if estimated or observed sea turtle interactions or mortalities under the permit exceed thresholds within the GNRA specified in the permit, NCDMF must immediately close the GNRA to fishing with gillnets. NCDMF must then analyze the available observer data and consult with NMFS to determine the appropriate next steps.

*Comment 8:* Attendance should be required of all gill nets to ensure that sea turtles are removed as soon as possible from the gear.

*Response:* Attendance of large mesh gillnets during the fall months throughout Pamlico Sound could pose a serious threat to commercial fishermen operating at that time. Prevailing wind directions and speed, and subsequent shifting water currents throughout Pamlico Sound during the fall can be unpredictable and changing in a short amount of time. Fishermen who use large mesh gillnets for southern flounder deploy their gear typically in the evenings and retrieve in the mornings. Because this is a shallow-water fall fishery where nets are generally soaked 12 hours or less, and waters are cooler, the mortality of finfish bycatch and protected species bycatch is lower. The majority (70 percent) of all sea turtles observed captured in this gear to date have been alive, examined, and released.

*Comment 9:* NCDMF should increase observer coverage to greater than 10 percent to ensure statistically valid monitoring of endangered and threatened sea turtles.

*Response:* A goal of 10-percent observer coverage has been the protocol since the inception of the first permit issued in 2000. This coverage level has resulted in statistically valid bycatch estimates for 2000 through 2004. The relatively small area fished, number of vessels, access to vessels, and excellent observer training program, limit the

degree of bias in the estimates. Although we agree that increasing coverage will result in better estimates, NCDMF's resources are finite and the 10 percent coverage has been sufficient to ensure monitoring and evaluating sea turtle interactions in the Pamlico Sound shallow water gillnet fishery. NCDMF will also redirect observer coverage when and where needed through the Adaptive Management Protocols established in Permit 1528.

*Comment 10:* Observer coverage should be maintained at 10 percent during September 1–15 and in November because of annual variability and the possibility of a clumped distribution of turtles.

*Response:* While a minimum goal of 2-percent coverage will be established during these times, if a sea turtle interaction is observed or reported, the coverage will increase significantly. Monitoring efforts have always been increased when sea turtle interactions occur to accurately characterize interactions and identify potential "hotspots". Therefore, if sea turtle interactions are reported (by the fishermen) or observed between September 1 - September 15, and November 1 November 30, increased monitoring will occur. Characterizing the fishery in this way has allowed NCDMF the opportunity to implement management alternatives (i.e., area closures) in a timely manner.

*Comment 11:* At-sea observer programs should not be supplanted by self-reporting.

*Response:* Permit 1528 will not supplant at-sea monitoring with reports from fishermen. Data have been collected from both sources since the inception of the management program in 2000. To ensure proper coverage is maintained and industry compliance continues, NCDMF will implement increased enforcement efforts (see responses to Comments 2 and 4).

*Comment 12:* Several commenters were unclear on how compliance of non-active fishermen will be monitored, given fishermen are no longer required to report during weeks they are not fishing.

*Response:* In previous years, only one-half of permitted fishermen actually fished, yet all were required to submit weekly reports. Maintaining this reporting requirement was costly and burdensome to NCDMF and to those individuals who were not actively fishing. Although Permit 1528 removes this requirement, NCDMF has developed a monitoring program that will ensure compliance (see response to Comments 2 and 4).

*Comment 13:* The application lacks detail on how estimates are derived. This information is important in order to assess the effectiveness of the conservation plan.

*Response:* The sampling area has been stratified by area and week for sea turtle bycatch estimates. Observed point estimates are made each week for each area. A stratified ratio method will be used to estimate the number of sea turtles caught per unit of fishing effort (fishing effort is measured by yards of gillnet multiplied by soak days reported through logbooks). These observed takes are extrapolated by the total reported effort each week in each area to obtain an estimate. These weekly estimates are cumulative such that reaching the estimated threshold would result in revocation of Permit 1528.

*Comment 14:* Take levels are meant to represent expectations and, therefore, a mean estimated take derived from the previous years estimates would be a more appropriate take level for the new permit.

*Response:* Take levels are based on the anticipated take that may occur as a result of the action. However, because of natural variability in sea turtle abundance, environmental conditions, and chance events, annual variability in sea turtle interactions can be quite high. It is more appropriate to utilize a reasonable worst-case scenario. We used the upper one-sided 95-percent confidence limit calculated from observer program and effort data, from the year with the highest estimated take. Similarly, we used a worst-case scenario in order to determine whether issuance of Permit 1528 would result in jeopardizing the continued existence of listed species. This is a conservative approach that considers the impacts to the species at a higher take level than what is likely to occur in any given year. Every year since the shallow-water Pamlico Sound flounder gillnet fishery has been opened under a section 10 permit, the estimated take levels have been significantly lower than the levels specified in the permits (see response to Comment 1).

*Comment 15:* NCDMF should complete an analysis of the impact of the pre-1999 mortality rate on the larger sea turtle populations, with a special emphasis on juvenile and sub-adult mortality. Permit 1528's 50-percent take reduction goal is based on the 1999 levels of strandings, which did not represent normal stranding years. Permit 1528 should have reduced take levels which more closely track previous inshore strandings from all sources.

*Response:* The 50-percent take reduction goal based on the 1999 levels of strandings in the original permit was a result of a lack of fishery data to estimate the expected take levels from the gillnet fishery. It was expected that the measures enacted would be sufficient to result in a 50-percent reduction in strandings, which was being used as a proxy for take in the fishery because of a lack of observer data. The results were as expected, and strandings dropped below 50 percent of 1999 levels. As a result of observer coverage in the large-mesh Pamlico Sound flounder gillnet fishery required by the previous ESA section 10 permits, Permit 1528 is now established based on the expected take levels in the fishery as calculated from observer and effort data. Using observer and effort data provides the most appropriate reflection of the expected fishery impacts. Under the original strandings-based permit issued in 2000, loggerhead and Kemp's ridley turtles were the predominant species expected to be taken, because strandings from other sources, including the now closed deep water gillnet component of the fishery, were included. With the more accurate and fishery-specific data from the observers, it is evident that the shallow water flounder gillnet fishery predominantly takes green sea turtles, with loggerhead and Kemp's ridley turtles taken more sporadically and in lesser numbers.

Section 7 biological opinions related to this and previous permits for this fishery have determined that the expected take levels as a result of a deep-water closure and issuance of a permit to allow a managed, shallow water fishery do not jeopardize the continued existence of any of the sea turtle species. This analysis is based on the anticipated take level of the proposed action, the status and trends on the sea turtle populations, and any past, present, or future impacts that may occur in the action area. Because this expected take level does not jeopardize the continued existence of any sea turtle species, the biological reduction goal which is based on a reduction from the higher stranding levels in 1999 has been determined to be adequate under the issuance criteria of 50 CFR 222.307(c).

It is also important to note that since the inception of the deep-water closure (66 FR 50350, October 3, 2001) and the management restrictions specified under the ESA section 10 permits, stranding levels in Pamlico Sound have remained substantially lower than in previous years.

*Comment 16:* The application does not specify whether takes of leatherbacks and hawksbills are live or

lethal. The takes should include live or lethal take.

*Response:* As in previous permits, Permit 1528 includes two hawksbills and two leatherbacks, observed, not extrapolated, live or dead.

*Comment 17:* NMFS must conduct an ESA section 7 consultation which accounts for baseline information and cumulative impacts as specified under 50 CFR 402.02.

*Response:* As with previous permits, NMFS conducted a section 7 analysis which assessed baseline information and considered cumulative effects and concluded on August 19, 2005, that the issuance of Permit 1528 would not likely jeopardize the continued existence of listed sea turtles. See ADDRESSES for a copy of the biological opinion.

*Comment 18:* The application qualifies as a major Federal action and thus must be analyzed through an Environmental Impact Statement (EIS).

*Response:* NMFS has determined that the issuance of Permit 1528 does not constitute a major Federal action that may significantly affect the quality of the human environment. The management of the shallow water gillnet fishery in Pamlico Sound does not pose a public health or safety concern, and the effects can be sufficiently analyzed under an Environmental Assessment (EA) (NOA 216-6 section 6.03.e.2(d)).

The shallow water fishery is composed of less than 100 active participants operating in a limited geographic area next to the barrier islands in Pamlico Sound. The fishermen are all local, with home ports in the surrounding counties of Carteret, Pamlico, Hyde, and Dare. The economies in these fishing communities are heavily dependent on the seafood industry, and many of these fishermen have diversified into other fisheries, particularly blue crab or ocean gillnet fisheries, and some have other income from shoreline work. Pamlico Sound is a complex estuarine system and is highly productive. The area supports a diverse array of submerged aquatic vegetation, shorebird species, and marine organisms such as shrimp, crabs, oysters, clams, and finfish. NMFS analyzed the impacts to society, both beneficial and adverse, that may result by issuing Permit 1528 and determined the impact to be not significant. See ADDRESSES for a copy of the EA.

*Comment 19:* NMFS should make its analyses on the issuance of Permit 1528 available to the public and solicit another round of comments prior to issuance of the permit.

*Response:* While a second round of public comments may be beneficial to

the public at large, the Pamlico Sound shallow water fishery begins September 1. A second round of public comments would likely result in issuing Permit 1528 well past the September start date. NMFS will accept, at any time, comments and additional data on Permit 1528. This information will be considered in annual reauthorization of Permit 1528.

*Comment 20:* Observer coverage must be mandatory and adequate, and funding must be assured. One commenter felt that NMFS should fund at least 50 percent or more of the observer program.

*Response:* Observer coverage will be a mandatory requirement of the permit. NCDMF is expected to have adequate funds to provide the mandatory observer coverage. The permit requires the stipulated levels of observer coverage, and therefore if the required levels cannot be met, management actions would be undertaken to address the issue.

As to NMFS funding some level of the observer program, ESA section 10(a)(2) clearly specifies that the applicant is responsible for identifying available funds for conservation plans under section 10(a)(1)(B). However, NMFS works closely with NCDMF to help identify appropriate funding sources, as well as provide funding support when appropriate and when funds are available.

*Comment 21:* NMFS needs to expeditiously address the problem of the cumulative impact of Atlantic gillnets, not just the impacts from the Pamlico Sound gillnet fisheries.

*Response:* NMFS recognizes the need to take a broader, gear-based approach to dealing with fishery impacts on sea turtles. NMFS has devoted staff to gather information on a coastwide gear-basis, however, assimilation and evaluation of this information is a long-term process that is still in its early stages. In managing impacts to sea turtles, however, cumulative impacts from both fishery and non-fishery sources are always considered and are taken into account when we analyze actions in pursuant to ESA section 7 jeopardy determinations.

*Comment 22:* NMFS should continue to support research on the seasonal abundance and distribution of sea turtles in North Carolina waters to determine which inshore, nearshore, and offshore habitats and migratory routes are used by turtles.

*Response:* NMFS, along with NCDMF, has continuing programs that provide valuable information to help determine migratory routes and important sea turtle habitats. Various sources of

information including observer programs and directed research conducted and/or funded by NMFS and NCDMF are providing information leading to a better understanding of sea turtles in North Carolina waters.

*Comment 23:* Pound net interactions data need to be made available to help develop future management efforts.

*Response:* Interaction data from various fishery observer programs, and directed research, including the pound net fisheries, are always used where appropriate to get a better understanding of sea turtle abundance, distribution, behavior, and habitat use in order to aid future management efforts. When pound net data are fully analyzed and available, NMFS will review the data to determine whether changes are necessary to future management efforts.

Upon a review of the application, relevant documents, public comments, and further discussions with NCDMF, NMFS found that the application met the criteria for issuance of 50 CFR 222.307(c). Permit 1528 was issued on August 26, 2005, and expires on December 31, 2010.

Dated: August 30, 2005.

**Thomas C. Eagle,**

*Acting Chief, Marine Mammal and Turtle Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 05-17638 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 081905A]

#### New England Fishery Management Council; Public Meeting; Correction

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

**ACTION:** Notice of public meeting notice; correction.

**DATES:** The New England Fishery Management Council has changed the location of its 3-day Council meeting which will be held on September 13, 14, and 15, 2005. The meeting was initially announced in the Federal Register on August 24, 2005.

**ADDRESSES:** The meeting, previously scheduled at the Holiday Inn Express, Fairhaven, MA will now be held at the Providence Biltmore Hotel, 11 Dorrance Street, Providence, Rhode Island; telephone:(401) 421-0700.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978)465-0492.

**SUPPLEMENTARY INFORMATION:** The initial meeting notice published on Wednesday, August 24, 2005. This document replaces the information regarding the location of the meeting. All other details remain unchanged.

Dated: August 31, 2005.

**Emily Menashes,**

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

[FR Doc. E5-4841 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 083005B]

#### South Atlantic Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Committee, Controlled Access Committee, Joint Executive and Finance Committees, Advisory Panel Selection Committee, Scientific and Statistical Selection Committee, and a meeting of the full Council.

**DATES:** The meeting will be held on September 19, 2005 through September 23, 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: (1-800) 334-6660 or (843) 571-1000, fax: (843) 766-9444.

Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer; telephone: (843) 571-4366 or toll free at (866) SAFMC-10; fax: (843) 769-4520; e-mail: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

**SUPPLEMENTARY INFORMATION:**

**Meeting Dates**

1. *Snapper Grouper Committee Meeting: September 19, 2005, 1:30 p.m. until 5 p.m. and September 20, 2005, 8:30 a.m. until 5 p.m.*

The Snapper Grouper Committee will meet to review the Snapper Grouper Regulatory Amendment document to finalize it for public hearings. The Regulatory Amendment addresses management measures for snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy. The Committee will also receive a report on the development of an evaluation team for review of the Oculina Experimental Closed Area and develop recommendations for Council consideration. The Committee will develop recommendations relative to addressing marine protected areas. In addition, the Committee will review issues relative to the draft of Amendment 13B to the Snapper Grouper Fishery Management Plan regarding mandates under the Sustainable Fisheries Act to address overfishing.

2. *Controlled Access Committee Meeting: September 21, 2005, 8:30 a.m. until 12 noon*

The Controlled Access Committee will discuss goals and objectives of a rights-based system in the South Atlantic, receive a presentation on "Who Owns America's Fisheries" by Dr. Seth Macinko, and review controlled access issues in the draft Senate Bill of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) reauthorization.

3. *Joint Executive Committee and Finance Committee Meeting: September 21, 2005, 1:30 p.m. until 5 p.m.*

The Committees will receive updates on current budget items, review the Council's 2006 Fishery Management Plan/Amendment/Framework timelines, discuss participation in the Southeastern Aquatic Resources Partnership, develop Council comments on the Senate Bill working draft for MSFCMA reauthorization and proposed modifications to National Standard 1, discuss the function and duties of the joint Council and National Marine Fisheries Service Fishery Management Plan Teams, review the NMFS Status of Stocks Report to Congress, receive a report on the Southeastern Data, Assessment, and Review (SEDAR) Steering Committee meeting and discuss the Council's current committee structure.

4. *Advisory Panel Selection Committee Meeting: September 22, 2005, 8:30 a.m. until 10:30 a.m. (CLOSED SESSION)*

The Advisory Panel Selection Committee will review advisory panel applications and develop recommendations for Council consideration.

5. *Scientific and Statistical Committee (SSC) Meeting: September 22, 2005, 10:30 a.m. until 12 noon (CLOSED SESSION)*

The Scientific and Statistical Committee will meet to discuss the role of the SSC relative to the SEDAR process. In addition, the Committee will review applications and develop recommendations for Council for appointing SSC members.

6. *Council Session: September 22, 2005, 1:30 p.m. until 5:30 p.m. and September 23, 2005, 8:30 a.m. until 12 noon*

From 1:30 p.m. until 2 p.m., the Council will call the meeting order, make introductions and roll call, adopt the meeting agenda, and approve earlier meeting minutes. The Council will also hold elections for Chairman and Vice-Chairman.

From 2 p.m. until 4 p.m., the Council will receive a presentation on new fishing regulations proposed for Atlantic tunas, sharks, swordfish, and billfish and provide comment.

From 4 p.m. until 4:30 p.m., the Council will receive a presentation on the Sustainable Seafood Initiative.

From 4:30 p.m. until 5:30 p.m., the Council will hear a report from the Snapper Grouper Committee, approve the Regulatory Amendment for public hearings, take other action as appropriate.

*Council Session: September 23, 2005, 8:30 a.m. until 12 noon.*

From 8:30 a.m. until 9 a.m., the Council will receive a briefing from NOAA General Counsel on litigation (CLOSED SESSION).

From 9 a.m. until 9:15 a.m., the Council will receive a report from the Controlled Access Committee and take action as appropriate.

From 9:15 a.m. until 9:30 a.m., the Council will receive a report from the Joint Executive/Finance Committee and take action as appropriate.

From 9:30 a.m. until 9:45 a.m., the Council will hear a report from the Advisory Panel Selection Committee and appoint advisory panel members.

From 9:45 a.m. until 10 a.m., the Council will hear a report from the Scientific and Statistical Selection Committee and take action as appropriate.

From 10 a.m. until 11:15 a.m., the Council will hear status reports from NOAA Fisheries' Southeast Regional Office and the Southeast Fishery Science Center.

From 11:15 a.m. until 12 noon, the Council will receive agency and liaison reports, discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 15, 2005.

Dated: August 30, 2005.

**Emily Menashes,**

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

[FR Doc. E5-4829 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 052405C]

**Small Take of Marine Mammals Incidental to Specified Activities; Maintenance Dredging Around Pier 39, San Francisco, California**

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

**ACTION:** Notice; receipt of application and proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received an application from Bay Marina Management Incorporated (BMMI) to take small numbers of marine mammals,

by harassment, incidental to dredging on the west side of the Pier 39 Marina on the San Francisco waterfront, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to BMMI for 1 year.

**DATES:** Comments and information must be received no later than October 6, 2005.

**ADDRESSES:** Comments on the application should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is [PR1.052405C@noaa.gov](mailto:PR1.052405C@noaa.gov). NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Comments may also be submitted via facsimile to (301) 427-2521. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications). Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, (301) 713-2289, or Monica DeAngelis, NMFS Southwest Region, (562) 980-3232.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization may be granted if the Secretary finds that the total taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of

taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of actions not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

**Summary of Request**

On August 9, 2004, NMFS received an application from Bay Marina Management Incorporated (BMMI) requesting an IHA for the take, by harassment, of small numbers of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to the maintenance dredging the I, J, and K Docks on the west side of Pier 39 Marina on the San Francisco waterfront, California.

**Description of the Activity**

BMMI proposes to perform maintenance dredging using a small, self-contained clamshell-style crane barge between docks I, J, and K at the Pier 39 west marina. These maintenance measures are necessary to maintain safe navigation depths at the marina, which currently has reduced water depths attributed to the accretion of bay sediment. The proposed dredging at Pier 39 will remove sediment to create water depths in the project area of 9 ft (2.7 m) Mean Lower Low Water (MLLW), plus an additional two-foot overdredge allowance. Dredging design area limits

(footprints) include the faces, approaches, and entrance channels to each berthing area up to the limit of the adjacent pier. Dredging will occur between June 1 and November 30 to avoid impacts to steelhead trout and Chinook salmon.

Dredging operations at the Pier 39 west marina are expected to occur in late fall of 2005 or the summer of 2006 and are estimated to take approximately one to two weeks to complete. Dredge machinery would operate from 8 a.m. to 3:30 p.m. daily. Approximately 13,000 yd<sup>3</sup> (9,939 m<sup>3</sup>) of material would be removed. Material to be dredged will be tested for pollutants and toxins by the Dredge Material Management Office prior to approval to begin dredging, and deposition of dredged materials will be deposited in accordance with local, state and federal regulations. Once removed, the dredged material will be transferred to Piers 96/98, which are owned and operated by the Port of San Francisco, and from there it will be disposed of at an approved upland disposal site.

The proposed dredging of the Pier 39 west berthing area will focus on the channels and slips of I and J docks and half of the channel between J and K docks. The original K dock was destroyed by the combined weight of hundreds of California sea lions that frequently use the area as a haul-out. Pier 39 replaced the damaged dock with a number of ten by twelve-foot floats for the sea lions to use. Since there are no actual berthing sites at K dock, no dredging will be necessary in the area immediately surrounding or under K dock. The crane barge will be situated at the furthest distance possible from K dock during each dredging episode. The closest that the barge will be to the K dock haul-out is when dredging the channel between J and K docks. When the barge is dredging this channel it will be moored to the bayside of J dock and extend the clamshell dredge arm out into the channel, towards K dock. Since the distance between J and K docks is 100 ft (30 m) and the barge is 30 ft (9 m) wide, it will never be positioned closer than 50 ft (15 m) to K dock at any time during the dredging project.

**Description of Habitat and Marine Mammals Affected by the Activity**

The marine mammal species known to be present at the Pier 39 Marina area are the California sea lion (*Zalophus californianus*) and the Pacific harbor seal (*Phoca vitulina*). Since 1993, a single adult male Steller sea lion (*Eumetopias jubatus*) has been observed hauled out on K dock intermittently during the months of July and August,

and occasionally in September (30 sightings in the last 10 years). However, this project will not affect the Steller sea lion because dredging activities will be halted if a Steller sea lion is observed.

Additional information on these species can be found in Marine Mammal Stock Assessment Reports, which are available online at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html).

#### California Sea Lions

California sea lions range from southern Mexico to southwestern Canada. In the U.S., they breed during July after pupping in late May to June, primarily in the Channel Islands of California. Most individuals breed on the Channel Islands off southern California and off Baja and mainland Mexico, although a few pups have been born on Ano Nuevo Island and this year a pup was born on the docks at Monterey and subsequently transferred to Ano Nuevo Island with its mother. Following the breeding season on the Channel Islands, most adult and sub-adult males migrate northward to central and northern California and to the Pacific Northwest, while most females and young animals either remain on or near the breeding grounds throughout the year or move southward or northward, as far as Monterey Bay.

Since nearing extinction in the early 1900's, the California sea lion population has increased and is now growing at a rate of 5.4 to 6.1 percent per year (based on pup counts) with an estimated minimum population of 138,881 animals. Actual population numbers may be as high as 237,000 to 244,000 animals. The population is not listed as "endangered" or "threatened" under the Endangered Species Act (ESA), nor is this species listed as "depleted" or as a "strategic stock" under the MMPA.

California sea lions first appeared at Pier 39 in September, 1989. Numbers of hauled-out sea lions were relatively low the first year and K Dock was only used as a haul out from late summer through the winter. Within a few years, larger numbers of sea lions were observed at K Dock and they began using the haul-out throughout the year. The Marine Mammal Center (MMC) began monitoring California sea lions at Pier 39 in the late 1990's and counts indicate peak usage of K dock at Pier 39 in May and early June, just prior to the breeding season. Although numbers decrease during mid-summer, since most adults relocate to the rookeries for pupping and breeding, some sea lions, of all age classes, remain in the area and continue

to haul out at Pier 39. Within the dredging work window (June 1 to November 30) the largest numbers of California sea lions are found at K Dock in the late summer and fall. The highest number of individuals ever observed at once between June 1 and November 30 at Pier 39 to date was 1244, in August of 2003. If the number of individuals observed at one count is averaged by month, from June to November, since 2000, the averages range from 169 for July to 709 in September. Since monitoring began in 1991, only 10 California sea lion pups have been observed at Pier 39, in 1997 and 1998. These pups, which were all weaned, most likely hauled out at K Dock due to the El Nino, and pups are not expected at the project site in "normal" years.

#### Pacific Harbor Seals

Although not commonly observed at Pier 39, Pacific harbor seals have been documented as visitors to K dock numerous times in the past decade. Harbor seals range from Baja California in Mexico northward to the Aleutian Islands of Alaska. The population estimate for the California stock is 27,863 individuals (Caretta, *et al.*, 2004) and is relatively stable.

Harbor seals inhabit coastal waters within their range and prefer sheltered bays and inlets to the exposed coastline. Daily haul-out behavior of harbor seals is typically dependent on the tides, weather and time of day. Harbor seals exhibit seasonal variation in reproductive timing depending on geography. The pupping season for California populations is in the spring, with populations in the San Francisco Bay typically bearing young from March 15 through May 31 (Green *et al.*, 2001). There are two active pupping sites in the San Francisco Bay, Mowry Slough in the South Bay and Castro Rocks in the North Bay. Pups have been observed at Yerba Buena Island and Corte Madera Marsh in the San Francisco Bay. No births have been witnessed at these locations, but Yerba Buena is thought to be a potential pupping site. No harbor seal pups have ever been seen at Pier 39.

Annual counts of harbor seals at Pier 39 range from 0 seals observed in 1999 and 2004, to a high of nine observations in 2000 for a total of 28 observations between 1997–2004. No more than two harbor seals have been observed hauled out simultaneously at any given time at K Dock. No harbor seals have been observed hauling out at Pier 39 July through September. No pups have been observed at Pier 39. Observations by MMC volunteers indicate that observed harbor seals at Pier 39 tend to distance

themselves from the California sea lions hauling out in the vicinity.

#### Potential Effects on Marine Mammals

The applicant requests authorization for incidental taking, by Level B harassment, of California sea lions and Pacific harbor seals. Level B harassment may occur if hauled animals flush the haulout and/or move to increase their distance from dredging-related activities, such as noise associated with dredging, presence of a crane barge, the presence of workers, or unfamiliar activity in proximity to the haulout site. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Sudden brief noises have been shown to elicit startle reactions in some pinnipeds. Novel looming visual stimuli may induce similar startle reactions in pinnipeds. Daily engine starts and movements of the dredge bucket and vessel may induce startled and/or flight behavior in marine mammals using K dock as a haul out. However, this area has become a tourist spot for viewing sea lions, and the current population of animals utilizing K dock is accustomed to human activities and regular noise levels from people, traffic, use of nearby boat slips, and other marine operations. If animals do flush into the water, they may return to the haul-out site immediately, stay in the water for a length of time and then return to the haul-out, or temporarily haul-out at another site. Many factors contribute to the degree of behavioral modification, if any, including seasonality, group composition of the pinnipeds, type of activity they are engaged in and what noises they may be accustomed to experiencing. Short-term reactions such as startle or alert reactions are unlikely to disrupt behavior patterns such as migrating, breeding, feeding and sheltering and would not likely cause serious injury to marine mammals.

The small, self-contained, clamshell dredge used for this activity may produce noise of a sufficient level to harass marine mammals at K dock. Measured sound energy levels (SELs) of similar equipment ranged between 75–88 dBA (re 20 microPa) measured at 50 feet (the closest distance that the dredge unit will be to K dock) (Boeing, 2005). Results of an ongoing study at Vandenberg Air Force Base of the effects of rocket launches on pinnipeds indicate that the percentage of Pacific harbor seals leaving the haul-out increases with noise level up to an SEL of approximately 100 dBA, after which almost all seals leave, although recent data has shown that an increasing

percentage of seals have remained on shore, and those that remain are adults. Though harbor seals are more sensitive to audio stimuli than sea lions, these results indicate that animals are flushed at an SEL less than 100 dBA, and it is possible that marine mammals at K Dock may modify their behavior as a result of the lesser dredge noise.

If a startled reaction is accompanied by large-scale movements of marine mammals, such as stampedes into the water, the disruption may escalate into Level A harassment and could result in injury of individuals, especially if pups are present. However, due to the uniqueness of this particular haul-out area, the unlikely presence of pups, and the proposed shut-down procedures should pups be sighted, NMFS believes there is a very low likelihood of such injury occurring at the Pier 39 site.

Specifically, the haul-out consists of many separate floating platforms that can hold up to about 25 marine mammals each. If disrupted to the point of flushing off the platforms, pinnipeds can quickly leap or roll into the water in any direction off the relatively small platforms, avoiding a dangerous stampede-like situation that may occur at normal haul-out locations such as exposed rocks. Additionally, marine mammal pups use this haul-out very infrequently (approximately 10 pups have been sighted at K Dock, in 1997 and 1998, during the El Nino), further reducing potential harm to the species.

Over the last 13 years, BMMI has observed the sea lions either ignore various unfamiliar intrusions and remain hauled out, or adapt to them and eventually become acclimated and return to their normal behavior. Disturbance from these proposed dredging activities is expected to have a only a short-term negligible impact to a small number of California sea lions and a few Pacific harbor seals. At a maximum, short-term impacts are expected to result in a temporary reduction in utilization of K dock as a haulout site while work is in progress or until seals acclimate to the disturbance. The project is not expected to result in any permanent reduction in the number of animals at Pier 39. NMFS preliminarily agrees with BMMI that effects will be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment.

### Mitigation

To minimize disturbance of marine mammals from visual and acoustic stimuli associated with the dredging activities, BMMI will use a small (relative to the range of sizes of

equipment that could accomplish the task) clamshell dredge that can easily target the specific areas to be dredged. The smaller equipment will also minimize the amount of turbidity resulting from the dredging activities. The dredge material will be immediately loaded onto a barge and transported to a nearby terrestrial disposal site at Piers 96 and 98, which will allow for a shorter project duration.

When not in use, the clamshell dredge and dredge barge will be parked as far as feasible from the K Dock. After starting engines in morning, the clamshell dredge will be moved as slowly as possible to the area to be dredged and the dredge head lowered slowly and carefully into the water.

As mentioned previously, if a Steller sea lion of any age or a marine mammal pup of any species is spotted at any time during dredging operations, operations will cease until the animal has left the area.

### Monitoring

The K dock haulout will be monitored periodically during dredging activities by two NMFS-approved observers according to the following schedule:

(1) During the week prior to the commencement of dredging activities, morning counts will be taken every morning at the same time. One afternoon count will be taken at approximately the same time the dredging is scheduled to stop in the following days.

(2) During the dredging operations:

(a) One count will be taken every morning before dredging work begins and every afternoon once operations cease.

(b) On the first day of dredging and on one other day near the end of dredging operations, monitors will be present all day (starting one hour before operations begin and remaining until 2 hours after operations cease) and they will document specific behaviors as they relate to specific aspects of the dredging operations and other activities. An additional count will be conducted 2 hours after dredging operations cease. Rates of departure and arrival of animals from/to the haulout will be noted.

(3) Following completion of the dredging:

(a) Morning counts (taken at approximately same time as those taken previously (See 1)) will be made every day for a week.

(b) An afternoon count will be conducted the day after dredging ceases and on the last day of the post-dredging monitoring.

(4) During all monitoring periods the following data will be recorded: date,

time, observer, tidal height, species present, maximum number of animals hauled out, number of adults and sub-adults, number of males and females (if possible), any observed disturbances to the animals, and the number of animals disturbed (for example, if animals flushed, reports should include the number of animals that returned to the water, and those that remained hauled out). During periods of dredging a description of dredging activities will also occur (including location of dredge, i.e., between J and K Docks, or between I and J Docks).

### Reporting

A draft report will be submitted to the NMFS Southwest Regional Administrator and the Office of Protected Resources within 90 days after project completion. A final report will be submitted within 30 days of receiving NMFS' comments, if any, on the draft report. The Report will contain, analyze, and summarize the information required under Monitoring, above, as well estimating the number of animals taken by Level B Harassment. BMMI will share data collected as a result of these monitoring activities with other interested parties, such as the Marine Mammal Center and other boat marinas.

### Numbers of Marine Mammals Expected to be Harassed

The highest number of California sea lions ever counted at one time on the K Dock between June 1 and November 30 was 1244 individuals in August 2003. The average number of individuals counted at one time within the work window since 2000 is lowest in July (169) and highest in September (709). The effects of the proposed dredging activities are expected to be limited to Level B Harassment in the form of short-term startle responses and localized behavioral changes. Based on an average of 169 to 709 animals over the maximum of 14 days, NMFS estimates that California sea lions could be exposed to audio or visual stimulus likely to cause harassment between 2360 and 9930 times. However, based on review of the Pier 39 observer logs maintained over the last 14 years, which indicate that sea lions may remain in the area and haul out for several days in a row at the K dock, NMFS estimates that between 1180 to 4965 individual animals will be harassed. The highest total number of harbor seals ever seen in one month between June 1 and November 30 was 3 in November of 1997. NMFS anticipates that no more than 3 Pacific harbor seals will be harassed by this activity. These are

small numbers relative to the size of the affected species or stocks.

#### **Possible Effects of Activities on Marine Mammal Habitat**

NMFS anticipates that the action will result in minor and short-term effects on marine mammal habitat, including a temporary increase in the turbidity in the area of the dredging and a temporary decrease in the quality of K dock as a haul-out site as a result of increased visual and audio stimuli.

#### **Possible Effects of Activities on Subsistence Needs**

There are no subsistence uses for California sea lions or Pacific harbor seals in California waters, and thus, there are no anticipated effects on their availability for subsistence uses.

#### **Endangered Species Act (ESA)**

Though a single Steller sea lion has infrequently been sighted at the K Dock, BMMI plans to cease dredging operations immediately if one is seen, and not begin dredging again until the animal has left the area of its own volition. NMFS does not anticipate any impacts to Steller sea lions to result from the issuance of the IHA.

In the 1998 programmatic Biological Opinion addressing dredging in San Francisco Bay, NMFS established a June 1 to November 30 work window for dredging activities in the San Francisco Bay to avoid impacts to steelhead trout and Chinook salmon. BMMI proposes to dredge between June 1 and November 30, and therefore NMFS does not anticipate any impacts to ESA-listed fish.

#### **National Environmental Policy Act (NEPA)**

NMFS has conducted a preliminary NEPA analysis and produced a draft Environmental Assessment (EA) on the Issuance of an IHA for the Incidental Take, by Harassment, of Marine Mammals During the Dredging of Pier 39, San Francisco, California. Concurrently with the publication of this document, the EA has been posted on the NMFS website at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications). Public comments are solicited regarding both the EA and this notice. NMFS will issue a record of decision under NEPA prior to the issuance or denial of this IHA.

#### **Preliminary Conclusions**

NMFS has preliminarily determined that the dredging activities described in this document and in the application for

an IHA may result in short-term and localized changes in behavior by small numbers of California sea lions and Pacific harbor seals. While behavioral modifications may be made by the seals, including temporarily vacating the K Dock haulout, this action is expected to have a negligible impact on the animals. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of California sea lions and Pacific harbor seals, and that the takings will have no more than a negligible impact on these marine mammal stocks. Accordingly, NMFS proposes to issue an IHA to BMMI for the potential harassment of small numbers of California sea lions and Pacific harbor seals incidental to dredging around Pier 39, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

#### **Information Sought**

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: August 30, 2005.

#### **Donna Wieting,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 05-17639 Filed 9-2-05; 8:45 am]

**BILLING CODE 3510-22-S**

#### **COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

#### **Announcement of Request for Bilateral Textile Consultations with the Government of the People's Republic of China and the Establishment of Import Limits for Certain Cotton and Man-made Fiber Brassieres and Other Body Supporting Garments (Category 349/649) and Other Synthetic Filament Fabric (Category 620), Produced or Manufactured in the People's Republic of China**

September 1, 2005.

**AGENCY:** Committee for the Implementation of Textile Agreements (Committee).

**ACTION:** Notice

**EFFECTIVE DATE:** August 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist,

Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Bureau of Customs and Border Protection website (<http://www.cbp.gov>), or call (202) 344-2650. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

#### **SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On August 31, 2005, as provided for under paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization (Accession Agreement), the United States requested consultations with the Government of the People's Republic of China with respect to imports of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments (Category 349/649) and other synthetic filament fabric (Category 620).

Paragraph 242 of the Accession Agreements provides that, upon receipt of the request, the People's Republic of China will hold its shipments to a level no greater than 7.5 percent above the amount entered during the first 12 months of the most recent 14 months preceding the month in which the request for consultations was made. Because this restraint period will be for less than 12 months, the quantitative limit will be prorated to conform to the number of days remaining in the year, beginning on August 31, 2005 (i.e., by a ratio of 123/365). Consistent with paragraph 242, consultations with the People's Republic of China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If no mutually satisfactory solution were reached during this 90-day consultation period, the United States could continue these limits.

To ensure that the limitations provided for under Paragraph 242 are carried out, the Committee is establishing prorated limits on Chinese-origin textile and apparel products in Categories 349/649 and 620, beginning on August 31, 2005, and extending through December 31, 2005. If agreement on a different limit is reached as a result of the consultations with China, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and

Border Protection to implement the negotiated limit.

The Committee solicited public comments with regard to whether imports of Chinese-origin textiles and textile products in Categories 349/649 and 620 were, due to the threat of market disruption, threatening to impede the orderly development of trade in these products. **Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, (69 FR 70661 (Dec. 7, 2004) (Category 620) & 69 FR 77998 (Dec. 29, 2004) (Category 349/649)). The Committee solicited public comments with regard to whether imports of Chinese-origin textiles and textile products in Categories 349/649 and 620 were, due to actual market disruption, threatening to impede the orderly development of trade in these products. **Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 23113 (May 4, 2005) (Category 349/649) & 70 FR 23124 (May 4, 2005) (Category 620).

On December 30, 2004, the United States Court of International Trade preliminarily enjoined the members of the Committee from considering or taking any further action on this request and any other requests that are based on the threat of market disruption. *U.S. Association of Importers of Textiles and Apparel v. United States*, 350 F. Supp. 2d 1342 (CIT 2004). On April 27, 2005, the United States Court of Appeals for the Federal Circuit granted the U.S. government's motion for a stay of that injunction and ultimately reversed the preliminary injunction. *U.S. Association of Importers of Textiles and Apparel v. United States*, Ct. No. 05-1209, 413 F.3d 1344 (Fed. Cir. June 28, 2005). Thus, the Committee resumed consideration of these cases. (See 70 FR 24397, published on May 9, 2005).

The Committee determined that imports of Chinese-origin textiles and textile products in Categories 349/649 and 620, are, due to the existence of market disruption and the threat of market disruption, threatening to impede the orderly development of trade in these textile products. A summary statement of the reasons and justifications for the U.S. request for consultations concerning imports of Chinese-origin textiles and textile products in Categories 349/649 and 620 from the People's Republic of China follows this notice.

A description of the textile and apparel categories in terms of Harmonized Tariff Schedule of the United States numbers is available in the CORRELATION: Textile and

Apparel Categories with the Harmonized Tariff Schedule of the United States (refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>).

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 1, 2005.

Commissioner,  
*Bureau of Customs and Border Protection,*  
*Washington, DC 20229.*

Dear Commissioner: Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 31, 2005, entry into the United States for consumption and withdrawal from warehouse for consumption of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments (Category 349/649) and other synthetic filament fabric (Category 620), produced or manufactured in the People's Republic of China and exported during the period beginning on August 31, 2005, and extending through December 31, 2005, in excess of the following limits.

Category	Quantity
349/649 .....	7,275,216 dozen.
620 .....	12,328,306 square meters.

Products which have been exported to the United States prior to August 31, 2005, shall not be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**SUMMARY OF REASONS AND JUSTIFICATIONS FOR U.S. REQUEST FOR CONSULTATIONS WITH CHINA PURSUANT TO PARAGRAPH 242 OF THE REPORT OF THE WORKING PARTY ON THE ACCESSION OF CHINA TO THE WORLD TRADE ORGANIZATION**

**Cotton and Man-made Fiber Brassieres and Other Body Supporting Garments**

**Category 349/649**

The United States believes that imports of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments are, due to the existence of market disruption, threatening to impede the orderly

development of trade in these products. Further, the United States believes that imports of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments are, due to the threat of market disruption, threatening to impede the orderly development of trade in these products. Either finding supports a request for consultations with the Government of the People's Republic of China under Paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization ("Paragraph 242"). The following facts, and others contained in this Statement, support these beliefs:

**U.S. Imports from China Are Increasing Rapidly in Absolute Terms.** U.S. imports of cotton and man-made fiber brassieres and other body supporting garments from China were 17,734,954 dozens for the entire twelve months of 2004. In the first half of 2005, U.S. imports from China increased to 11,139,910, an increase of 35 percent from the first half of 2004.

**U.S. Imports from the World Are Increasing Rapidly in Absolute Terms.**

U.S. imports of cotton and man-made fiber brassieres and other body supporting garments from all sources, excluding cotton and man-made fiber brassieres and other body supporting garments containing U.S. components that were imported under outward processing programs, increased from 19,381 thousand dozens in the first half of 2004 to 21,043 thousand dozens in the first half of 2005 - an increase of 9 percent. The absolute increase in imports from China in the first half of 2005 (2,908 thousand dozens) is greater than the absolute increase in U.S. imports of this category from the world as a whole (1,663 thousand dozens).

**The Average Unit Value of Imports from China is Significantly Lower Than Rest of World in 2005.**

In the first half of 2005, the average unit value of U.S. cotton and man-made fiber brassieres and other body supporting garment imports from China was US\$31.17 per dozen, compared to US\$50.25 per dozen for "rest of world" imports.

**The U.S. Brassieres and Other Body Supporting Garments Industry is Vulnerable to Increasing Imports.**

U.S. production fell by 2 percent between the first quarter of 2004 and the first quarter of 2005, while the share of the market held by U.S. producers fell by 3 percentage points during this period.

**SUMMARY OF REASONS AND JUSTIFICATIONS FOR U.S. REQUEST FOR CONSULTATIONS WITH CHINA PURSUANT TO PARAGRAPH 242 OF THE REPORT OF THE WORKING PARTY ON THE ACCESSION OF CHINA TO THE WORLD TRADE ORGANIZATION**

**Other Synthetic Filament Fabric**

**Category 620**

The United States believes that imports of Chinese-origin other synthetic filament fabric are, due to the existence of market disruption, threatening to impede the orderly development of trade in these products. Further, the United States believes that imports of Chinese-origin other synthetic filament fabric are, due to the threat of market disruption, threatening to impede the orderly development of trade in these products. Either finding supports a request for consultations with the Government of the People's Republic of China under Paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization ("Paragraph 242"). The following facts, and others contained in this Statement, support these beliefs:

**U.S. Imports from China Are Increasing Rapidly in Absolute Terms.** U.S. imports of other synthetic filament fabric from China were 5,895,247 square meters for the entire twelve months of 2004. In the period January-June 2005, U.S. imports from China increased to 39,973,330 square meters, an increase of 1,185 percent from the January-June 2004 level.

**U.S. Imports from the World Are Increasing Rapidly in Absolute Terms.** U.S. imports of other synthetic filament fabric from all sources increased from 135,921 thousand square meters in January-June 2004 to 256,020 thousand square meters in January-June 2005 - an increase of 88 percent. Over thirty percent of this increase was attributable to imports from China.

**The Average Unit Value of Imports from China Is Falling in 2005.** In 2004, the average unit value of U.S. other synthetic filament fabric imports from China was US\$2.36 per square meter. In the period January-June 2005, the average unit value of those imports fell to US\$0.70 per square meter compared to US\$0.77 per square meter for "rest of world" imports.

**The U.S. Other Synthetic Filament Fabric Industry is Vulnerable to Increasing Imports.** U.S. production fell by 13 percent between the first quarter of 2004 and the first quarter of 2005, while the share of the market held by U.S. producers fell by 15 percentage points during this period.

[FR Doc. 05-17692 Filed 9-1-05; 12:04 pm]

**BILLING CODE 3510-DS-S**

**COMMODITY FUTURES TRADING COMMISSION**

**Agency Information Collection Activities Under OMB Review**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICF describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instrument [if any].

**DATES:** Comments must be submitted on or before October 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Gail B. Scott, Office of General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5139; FAX: (202) 418-5524; e-mail: [gscott@cftc.gov](mailto:gscott@cftc.gov). and refer to OMB Control No. 3038-0033.

**SUPPLEMENTARY INFORMATION:**

This is a request for extension of a currently approved information collection.

**Abstract:** Title: Notification of Pending Legal Proceedings Pursuant to 17 CFR 1.60, OMB Control No. 3038-0033—Extension.

The rule is designed to assist the Commission in monitoring legal proceedings involving the responsibilities imposed on contract markets and their officials and futures commission merchants and their principals by the Commodity Exchange Act, or otherwise. These rules are promulgated pursuant to the Commission's rulemaking authority contained in sections 4a(a), 4i, and 8a(5) of the Act, 7 U.S.C. 6a(1), 6i, and 12a(5).

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 the CFTC's regulations were published on December 30, 1981. See 48 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on June 21, 2005 (70 FR 35641).

**Burden statement:** The respondent burden for this collection is estimated to average .10 hours per response.

**Respondents/Affected Entities:** 235.

**Estimated number of responses:** 1.

*Estimated total annual burden on respondents:* .10 hours.

*Frequency of collection:* On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038-0033 in any correspondence.

Gail B. Scott, Office of General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: August 30, 2005.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05-17603 Filed 9-2-05; 8:45 am]

**BILLING CODE 6351-01-M**

**COMMODITY FUTURES TRADING COMMISSION**

**Agency Information Collection Activities Under OMB Review**

**AGENCY:** Commodity Futures Trading Commission

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

**DATES:** Comments must be submitted on or before October 6, 2005.

**FOR FURTHER INFORMATION OR A COPY CONTACT:** Lawrence B. Patent, Division of Clearing and Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5439; FAX: (202) 418-5536; e-mail: [lpatent@cftc.gov](mailto:lpatent@cftc.gov) and refer to OMB Control No. 3038-0007.

**SUPPLEMENTARY INFORMATION:**

**Title:** Rules Relating to Regulation of Domestic Exchange-Traded Options (OMB Control No. 3038-0007). This is a request for extension of a currently approved information collection.

**Abstract:** Rules Relating to Regulation of Domestic Exchange-Trade Options, OMB Control No. 3038-0007—Extension.

The rules require futures commission merchants and introducing brokers (1)

to provide their customers with standard risk disclosure statements concerning the risk of trading commodity interests; and (2) to retain all promotional material and the source of authority for information contained therein. The purpose of these rules is to ensure that customers are advised of the risks of trading commodity interests and to avoid fraud and misrepresentation. These rules are promulgated pursuant to the Commission's rulemaking authority contained in Sections 4a(a), 4i, and 8a(5) of the Act, 7 U.S.C. 6a(1), 6i, and 12a(5).

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 the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on June 27, 2005 (70 FR 36929).

*Burden statement:* The respondent burden for this collection is estimated to average .10 hours per response.

*Respondents/Affected Entities:* 415.

*Estimated number of responses:* 20,380.

*Estimated total annual burden on respondents:* 7,985 hours.

*Frequency of collection:* On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038-0007 in any correspondence.

Lawrence B. Patent, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: August 30, 2005.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05-17604 Filed 9-2-05; 8:45 am]

BILLING CODE 6351-01-M

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## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will

hold an informal conference followed by a public hearing on Monday, September 26, 2005. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10:30 a.m. Topics of discussion will include presentations on Basin Plan implementation activities to date, sedimentology of the Delaware River Estuary, the water supply plan for the State of Delaware, and coordinated response to a coal ash spill to the Delaware River from a settling basin at PPL's Martins Creek power plant.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Town of Middletown D-78-64 CP-*

2. An application for approval of a ground water withdrawal project to supply up to 24 million gallons per thirty days (mg/30 days) of water to the applicant's public water supply system from new Wells Nos. 4 and 6 and to increase the existing withdrawal from all wells to 51 mg/30 days. The project is located in the Magothy Aquifer in the Town of Middletown, New Castle County, Delaware.

2. *Hercules Incorporated Research Center D-84-28-3.*

An application for the renewal of a ground water withdrawal project to reduce withdrawal from 10 mg/30 days to 5 mg/30 days to supply the applicant's research facility from existing Wells Nos. 8, 9, 10, 13, 14, 15, 18, 19, 20, 21 and 23. The project is located in the Red Clay Creek Watershed in the City of Wilmington, New Castle County, Delaware.

3. *Town of Middletown D-2003-30 CP.*

An application for approval of a ground water withdrawal project to supply up to 6.48 mg/30 days of water to the applicant's golf course irrigation system from new Well No. FH 1 in the Magothy Formation. The project is located in the Appoquinimink River Watershed in the Town of Middletown, New Castle County, Delaware.

4. *Ralph Franceschini D-81-49-3.*

An application for the renewal of a ground water withdrawal project to increase withdrawal from 5.83 mg/30 days to 21.3 mg/30 days to supply the applicant's field crops from existing Wells Nos. 1 and 3. The project is located in the Manantico Creek Watershed in the City of Vineland, Cumberland County, New Jersey.

5. *Mount Laurel Municipal Utilities Authority D-85-9 CP-3.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 120 mg/30 days to supply the applicant's public supply distribution system from existing Wells Nos. 3, 4 and 6 and to convert existing Well No. 7 to an Aquifer Storage and Recovery Well. The project is located in the North Branch Pennsauken Creek Watershed in Mount Laurel Township, Burlington County, New Jersey.

6. *Aican Packaging D-92-14-2.* An application for the renewal of two of the applicant's existing Wells Nos. 5A and 11; Wells Nos. 13, 14, 15 and 16 have been transferred to The Glass Group, Inc. and Wells Nos. 1 and 12 have been abandoned and sealed. The total combined allocation of 65.3 mg/30 days for the existing wells has been reduced to 30.0 mg/30 days. The wells will continue to supply the applicant's manufacturing facility in the Maurice River Watershed. The project is located in the city of Millville, Cumberland County, New Jersey. (This was NAR'd as Lawson Mardon Wheaton, Inc. D-92-14 Renewal.)

7. *Newton Country Club D-92-25-2.*

An application for renewal of a ground water and surface water withdrawal project to continue to supply up to 6.167 mg/30 days of water for supplemental irrigation of the applicant's golf course from existing Wells Nos. 1 and 2 in the Martinsburg Shale Formation and existing surface water Intakes Nos. 1 and 2. The project is located in the Paulins Kill Watershed in Andover Township, Sussex County, New Jersey.

8. *Upper Deerfield Township D-93-16 CP-2.*

An application for renewal of a ground water withdrawal project to continue to supply up to 19.8 mg/30 days to the applicant's public water supply distribution system from existing Wells Nos. 3 and 4, located in the Cohansey Formation within the Cohansey River Watershed in Upper Deerfield Township, Cumberland County, New Jersey.

9. *Magnesium Elektron, Inc. D-94-73.*

An application for approval of a ground water withdrawal project to supply up to 9.8 mg/30 days of water as part of the applicant's ground water remediation system and industrial supply from Wells Nos. 1, 2, 3, 4, 5, 6, 8 and S2. The project is located in the Wickecheoke Creek Watershed in Kingwood Township, Hunterdon County, New Jersey.

10. *Township of Medford D-95-55 CP-2.*

An application to replace the withdrawal of water from Well No. 4 in the applicant's water supply system that

has become an unreliable source of supply and to retain the withdrawal limit of 77 mg/30 days from all wells combined. The project is located in the South Branch Rancocas Creek Watershed in Medford Township, Burlington County, New Jersey.

11. *Six Flags Great Adventure D-96-6*. A revised application for a surface water withdrawal for irrigation of the applicant's Safari Park. The proposed project withdrawal is from two existing intakes on Lahaway Creek, a tributary of Crosswicks Creek, and to be operated in conjunction with water imported from Well No. IR-1 located in the Atlantic Basin as well as 18 existing wells for washing animals and structures. The total combined withdrawal from all sources is limited to 11.59 mg/30 days. The project is located in Jackson Township, Ocean County, New Jersey.

12. *New Jersey-American Water Company D-2001-3 CP*. An application for approval of a ground water withdrawal project to supply up to 4.1 mg/30 days of water to the applicant's public water distribution system from recently acquired Well No. 1. The project well is located in the Mt. Laurel-Wenonah Aquifer in the North Branch Rancocas Creek Watershed in Pemberton Township, Burlington County, New Jersey and will continue to serve Sunbury Village.

13. *Citgo Asphalt Refining Company D-2001-27*. An application for an increase in surface water withdrawal from 4.69 mg/30 days to 7.79 mg/30 days for the applicant's asphalt manufacturing process. The water is used as industrial non-contact process water for the purpose of steam production to heat storage tanks and pipelines in the petroleum refining process. The increase in surface water is intended to offset the previous use of ground water from the Potomac-Raritan-Magothy Aquifer from two wells which are now abandoned. Following 10 percent consumptive loss in the asphalt refining process, wastewater generated from the facility is routed to the Gloucester County Utility Authority Sewage Treatment Plant for treatment and discharge to the Delaware River. The applicant will continue to withdraw water from the tidal portion of Mantua Creek adjacent to the facility, approximately 3,000 feet from the Delaware River in West Deptford Township, Gloucester County, New Jersey.

14. *Narrowsburg Water District D-92-81 CP-2*. An application for the renewal of a ground water withdrawal project to continue withdrawal of 4.11 mg/30 days to supply the applicant's public water supply system. The renewal continues

the use of Well Nos. 2 and 3 as sources, and includes a request to approve the use of replacement Well No. 1, TTW-1R, which replaces old Well No. 1, TTW-1. Old Well No. 1, TTW-1, was taken out of service in 1994 due to potential contamination. The project is located in the Glacial Outwash and Honesdale Formations in the Town of Tusten, Sullivan County, New York.

15. *Borough of Kutztown D-83-23 CP-3*. An application for the renewal of a ground water withdrawal project to continue withdrawal of 60 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2, 3A, 4 and 5 in the Epler and Ontelaunee Formations. The project is located in the Sacony Creek Watershed in Maxatawny Township, Berks County, Pennsylvania.

16. *Reliant Energy Mid Atlantic Power Holdings, LLC D-87-26-2*. An application to modify an industrial wastewater and stormwater discharge to the Schuylkill River from the Titus Generating Station. The coal-fired 225 megawatt electric generating station is located in Cumru Township, Berks County, Pennsylvania. The docket holder is currently permitted to discharge an average monthly total dissolved solids (TDS) concentration of 2,500 milligrams per liter (mg/l) from Outfall 004, which is used only on an intermittent basis. The Pennsylvania Department of Environmental Protection (PADEP) has based its NPDES permit limits for this outfall on a flow of 1.007 million gallons per day (mgd). The docket holder has requested modification of its docket to allow an increase in its average monthly discharge concentration of TDS to 3,500 mg/l, which equals the existing daily maximum limit. In support of its requested modification, the docket holder has completed an environmental study that indicates the proposed change would result in no significant adverse impact on the Schuylkill River. No increase in industrial waste treatment plant capacity or modification of the facilities is proposed. No increase in cooling water supply or approved discharge amounts from the docket holder's other outfalls is proposed. The project discharges to the Schuylkill River in an area that is conditionally designated "Modified Recreational" in DRBC's Comprehensive Plan.

17. *Alpine Mountain Ski Area D-90-8-2*. An application for the renewal of a surface water withdrawal project to continue withdrawal of 15 mg/30 days to supply the applicant's snow making operations from two surface water intakes in the Brodhead Creek. The

project is located in Price Township, Monroe County, Pennsylvania.

18. *Upper Gwynedd Township D-91-88 CP-2*. An application to modify a 4.5 mgd sewage treatment plant (STP) to process up to 7 mgd during wet weather periods, without increasing the annual average flow. The proposed modifications will enable the STP to continue to provide advanced treatment and meet NPDES permit limitations. STP effluent will continue to be discharged to Wissahickon Creek in the Schuylkill River Watershed. The STP is located just north of Township Line Road and east of North Wales Road in Upper Gwynedd Township, Montgomery County, Pennsylvania and will continue to serve portions of Whitpain and Upper Gwynedd Townships in Montgomery County.

19. *North Penn Water Authority D-92-44 CP-2*. An application for the renewal of a ground water withdrawal project to continue withdrawal of 280 mg/30 days to supply the applicant's public water supply distribution system from 27 existing production wells, 11 emergency wells and 1 test well. The project is located in the East Branch Perkiomen, Perkiomen, Indian, Skippack, West Branch Skippack, Zacharias, Towamencin, Wissahickon, Three Mile Run, North Branch Neshaminy, West Branch Neshaminy and Pine Run watersheds in Franconia Township, Skippack Township, Lower Salford Township, Souderton Borough, Towamencin Township, Worcester Township, Lansdale Borough, Montgomery Township, Upper Gwynedd Township, East Rockhill Township, New Britain Township, Hatfield Township, Hilltown Township and New Britain Borough in Bucks and Montgomery counties, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

20. *Pennsylvania American Water Company D-99-30 CP-3*. An application for approval of a ground water withdrawal and water supply interconnection project to transfer up to 1.548 mgd from the applicant's Glen Alsace public water supply distribution system in Exeter Township, Pennsylvania to the applicant's Douglasville public water supply distribution system in Amity Township, Pennsylvania. The applicant intends to transfer water derived from existing ground water sources in the Glen Alsace distribution system, and supplement demand in the Glen Alsace distribution system from existing interconnections with the Reading Area Water Authority (45 mg/30 days) and the Mount Penn Water Authority (6 mg/30 days). The

applicant requests to retain its existing withdrawal of 50 mg/30 days from all wells in the Glen Alsace distribution system. The project is located in the Antietam Creek Watershed in Exeter Township, Berks County, Pennsylvania.

21. *Buckingham Township D-2003-13 CP-2*. An application for approval of a ground water withdrawal project to supply up to 3.5 mg/30 days of water to the applicant's public water supply distribution system from new Wells Nos. F-6 and F-7 in the Locketong Formation. The requested allocation represents an increase from 37.5 mg/30 days to 41 mg/30 days. The project is located in the Neshaminy and Pine Creek watersheds in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

22. *Upper Hanover Authority D-2004-17 CP*. An application to expand a 0.06 mgd STP to process 0.098 mgd, while improving upon secondary treatment via chemical addition for phosphorus removal. The plant is located on North State Street just outside the northwest border of East Greenville Borough in Upper Hanover Township, Montgomery County, Pennsylvania. The Perkiomen STP was formerly owned by TTT Realty, Inc. and Pillsbury, Inc. The plant will continue to treat wastewater from the processing of pierogies, but the additional capacity is needed to serve proposed residential development in Upper Hanover Township. Treatment plant effluent will continue to be discharged to Perkiomen Creek in the Schuylkill River Watershed via the existing outfall.

23. *Bucks County Water and Sewer Authority D-2004-39 CP-1*. An application for approval of a ground water withdrawal project to supply up to 0.9 mg/30 days from Well No. 2C, 2.4 mg/30 days from Well No. 3B, 3.4 mg/30 days from the Morrissey B Well, 0.9 mg/30 days from the Morrissey C Well, 5.2 mg/30 days from the New Hope Manor C Well and 1.5 mg/30 days from the Delaware River intake at the Waterworks Treatment Plant to the applicant's public supply distribution system and to limit the existing withdrawal from all sources to 14.3 mg/30 days. The project is located in the Rabbit Run and Delaware River Watersheds in New Hope Borough, Bucks County, Pennsylvania.

In addition to the public hearing on the dockets listed above, the Commission's 1:30 p.m. business meeting will include public hearings on a resolution extending temporary designation of the Lower Delaware River as Special Protection Waters and a resolution to approve the Water

Resources Program for 2006-2011, as well as consideration of a resolution renaming the Flow Management Technical Advisory Committee and modifying its membership and a resolution authorizing the executive director to enter into memoranda of agreement with partners in accordance with a U.S. EPA grant for the development of tools for sustainable watershed management based upon hydrologic relationships in the Pocono Creek Watershed.

The meeting will also include: adoption of the Minutes of the July 20, 2005 business meeting; announcements; a report on basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; and an opportunity for public dialogue. Draft dockets and the resolutions scheduled for public hearing on September 26, 2005 will be posted on the Commission's Web site, <http://www.drbc.net>, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609-883-9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609-883-9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: August 29, 2005.

**Pamela M. Bush,**

*Commission Secretary.*

[FR Doc. 05-17587 Filed 9-2-05; 8:45 am]

**BILLING CODE 6360-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Filings

August 30, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: *ER01-1011-007*; *ER01-1335-005*.

Applicants: Redbud Energy LP; Magnolia Energy LP.

Description: *Redbud Energy LP and Magnolia Energy LP submit notification*

*of change in status and Magnolia Energy LP submits a revised tariff sheet to its market-based rate tariff.*

Filed Date: 08/25/2005.

Accession Number: 20050829-0002.

Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: *ER01-2071-003*.

Applicants: Desert Power, L.P.

Description: *Desert Power, L.P. submits a notification of change in status to report a planned modification to the natural gas-fired, electric generating facility that it owns and operates.*

Filed Date: 08/25/2005.

Accession Number: 20050826-0191.

Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: *ER03-40-001*.

Applicants: Accent Energy Midwest, LLC.

Description: *Accent Energy Midwest, LLC submits its updated market power analysis and a revision to its market-based rate tariff.*

Filed Date: 08/25/2005.

Accession Number: 20050829-0008.

Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: *ER03-811-004*.

Applicants: Entergy Services, Inc.

Description: *Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., submits a substitute Interconnection and Operating Agreement with Occidental Chemical Corporation in compliance with the Commission's Order issued 7/26/05, 112 FERC ¶61,125 (2005).*

Filed Date: 08/25/2005.

Accession Number: 20050829-0011.

Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: *ER04-938-004*.

Applicants: California Independent System Operator Corporation.

Description: *The California Independent System Operator Corporation submits Second Revised Sheet No. 204 and Original Sheet No. 204-01 to its FERC Electric Tariff, First Replacement Volume No. 1, in compliance with the Commission's Order issued 7/26/05, 112 FERC ¶61,136 (2005).*

Filed Date: 08/25/2005.

Accession Number: 20050829-0005.

Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: *ER05-413-004*.

Applicants: Southern Company Services, Inc.

Description: *Southern Company Services, Inc. Submits a Motion to Withdraw Compliance Filing and Reinstate Original Agreement.*

Filed Date: 08/25/2005.

Accession Number: 20050825-5054.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1029-001.  
Applicants: Midwest Independent Transmission System Operator, Inc.  
Description: *Midwest Independent Transmission System Operator, Inc. submits Fifth Revised Sheet No. 208 to its FERC Electric Tariff, Third Revised Volume No.1, in compliance with the Commission's Order issued 7/26/05, 112 FERC ¶ 61,122 (2005).*

Filed Date: 08/25/2005.

Accession Number: 20050826-0190.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1052-001.  
Applicants: Southwest Power Pool, Inc.  
Description: *Southwest Power Pool, Inc. (SPP) submits a compliance filing providing for a revision to an unexecuted ancillary services agreement between SPP, Westar Energy, Inc. and Kansas Power Pool, pursuant to the Commission's Order issued 7/26/05, 112 FERC ¶ 61,121 (2005).*

Filed Date: 08/25/2005.

Accession Number: 20050829-0007.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1149-001.  
Applicants: South Carolina Electric and Gas Company.  
Description: *South Carolina Electric and Gas Company (SCE&G) submits an amendment to its 6/27/2005 filed of an executed Service Agreement for Network Integration Transmission Service and a Network Operating Agreement between SCE&G and Central Electric Power Cooperative, Inc..*

Filed Date: 08/25/2005.

Accession Number: 20050829-0009.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1165-001.  
Applicants: South Carolina Electric and Gas Company.  
Description: *South Carolina Electric and Gas Company submits a supplement to its 6/29/05 filing of an executed Relay Equipment Agreement and a Cross Town Tie Breaker Agreement between SCE&G and the City of Orangeburg, South Carolina, Department of Public Utilities.*

Filed Date: 08/25/2005.

Accession Number: 20050829-0006.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1388-000.  
Applicants: Pacific Gas and Electric Company.

Description: *Pacific Gas and Electric Company submits a fully executed Generator Special Facilities Agreement*

*and an unexecuted Generator Interconnection Agreement with Federal Power Avenal, LLC.*

Filed Date: 08/25/2005.

Accession Number: 20050829-0001.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1390-000.  
Applicants: El Paso Electric Company; Public Service Company of New Mexico; Texas-New Mexico Power Company.

Description: *El Paso Electric Company, Public Service Company of New Mexico and Texas-New Mexico Power Company (collectively, Utilities) submit Second Revised Interconnection Agreement between the Utilities and Phelps Dodge Energy Services, LLC; Tucson Electric Power Company; PNMR Development and Management Corporation; and Luna Power Company.*

Filed Date: 08/25/2005.

Accession Number: 20050826-0216.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1391-000.  
Applicants: Peak Power Generating Company, Inc.

Description: *Peak Power Generating Company, Inc. submits a Notice of Cancellation of its FERC Electric Tariff, Original Volume No. 1, originally accepted for filing under RAMCO, Inc.*

Filed Date: 08/25/2005.

Accession Number: 20050826-0186.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1392-000.  
Applicants: Duquesne Light Company.

Description: *Duquesne Light Company submits a notice of cancellation of their Open Access Transmission Tariff.*

Filed Date: 08/25/2005.

Accession Number: 20050826-0184.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1393-000.  
Applicants: Entergy Services, Inc.

Description: *Entergy Services, Inc., on behalf of Entergy Gulf States, Inc. and Entergy Louisiana, Inc. submits an amendment to the System Interconnection Agreement between Entergy Gulf States, Inc. and Central Louisiana Electric Company, Inc.*

Filed Date: 08/25/2005.

Accession Number: 20050826-0185.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1394-000.  
Applicants: KGen Hot Spring LLC.

Description: *KGen Hot Spring LLC submits a rate schedule under which specifies its rates for providing cost-based Reactive Support and Voltage*

*Control from Generation Sources Service from its natural gas-fired, combined cycle electric generation facility located in Hot Spring County, Arkansas that is currently in the Entergy Arkansas, Inc. control area.*

Filed Date: 08/25/2005

Accession Number: 20050826-0194.  
Comment Date: 5 p.m. eastern time on Thursday, September 15, 2005.

Docket Numbers: ER05-1400-000.  
Applicants: Sussex Rural Electric Cooperative.

Description: *Sussex Rural Electric Cooperative withdraws its Rate Schedule No. 1, which was accepted as a jurisdictional rate schedule, and is no longer subject to the Commission's jurisdiction.*

Filed Date: 08/18/2005.

Accession Number: 20050819-0086.  
Comment Date: 5 p.m. eastern time on Thursday, September 08, 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 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 protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the

appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5-4836 Filed 9-2-05; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. EC05-21-000, et al.]

#### Reliant Energy Wholesale Generation, LLC, et al. Electric Rate and Corporate Filings

August 29, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

##### 1. Reliant Energy Wholesale Generation, LLC

[Docket No. EC05-21-000]

Take notice that on August 25, 2005, Reliant Energy Wholesale Generation, LLC tendered for filing a withdrawal of the application filed November 23, 2004 in Docket No. EC05-21-000.

*Comment Date:* 5 p.m. eastern time on September 15, 2005.

##### 2. United States Department of Energy and Western Area Power Administration

[Docket No. EF05-5161-000]

Take notice that on August 17, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved Rate Order No. WAPA-119 and Rate Schedule SNF-6, placing a non-firm power formula rate from the Stampede Powerplant of the Washoe Project of the Western Area Power Administration into effect on an interim basis. Rate Schedule SNF-6 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after October 1, 2005, and will be in effect until the Commission confirms, approves, and places the rate schedule in effect on a final basis through September 30, 2010, or until the rate schedule is superseded.

*Comment Date:* 5 p.m. eastern time on September 7, 2005.

##### 3. Larswind, LLC

[Docket No. EG05-99-000]

Take notice that on August 24, 2005, Larswind, LLC (Larswind) filed with the Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission regulations.

*Comment Date:* 5 p.m. eastern time on September 14, 2005.

##### 4. Wisconsin Public Service Corporation v. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. EL03-40-004 and EL05-51-004]

Take notice that on August 22, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted a compliance filing pursuant to the Commission's Order issued July 22, 2005, 112 FERC ¶ 61,093 (2005).

*Comment Date:* 5 p.m. eastern time on September 12, 2005.

##### Standard Paragraph

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](mailto:FERCOnlineSupport@ferc.gov), or call

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

Linda Mitry,

Deputy Secretary.

[FR Doc. E5-4837 Filed 9-2-05; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7964-9]

### Clean Air Scientific Advisory Committee; Science Advisory Board (SAB) Staff Office; Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel; Request for Nominations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office is announcing the formation of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel (Panel) and is soliciting nominations for this Panel. Nominees in response to this request for nominations will be considered for membership on the CASAC Lead Review Panel. This process supplements other efforts to identify qualified candidates for this Panel.

**DATES:** New nominations should be submitted by September 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this Request for Nominations may contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board Staff: by telephone at (202) 343-9994; by e-mail at [butterfield.fred@epa.gov](mailto:butterfield.fred@epa.gov); or by mail at the U.S. Environmental Protection Agency, EPA Science Advisory Board Staff Office (Mail Code 1400F), 1200 Pennsylvania Avenue, NW., Washington, DC, 20640. General information concerning the CASAC or the SAB can be found on the EPA Web site at: <http://www.epa.gov/sab>.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient

air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC Lead Review Panel will consist of the seven members of the chartered CASAC, supplemented by additional subject matter experts. This solicitation is seeking nominations for the additional experts. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Lead Review Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The CAA Act requires periodic review and, if appropriate, revision of the criteria and NAAQS for lead. EPA's Air Quality Criteria Document (AQCD) for Lead was first published in 1978, and revised in 1986. An addendum was published in 1986, and a Supplement to the Lead AQCD was published in 1990. The latter document evaluated lead effects on cardiovascular endpoints, pregnancy, and early postnatal exposures. The 1990 supplement did not lead to revision of the primary and secondary lead standards issued in 1978. The National Center for Environmental Assessment, Research Triangle Park, NC (NCEA-RTP), in EPA's Office of Research and Development, released a draft Project Work Plan for Revised Air Quality Criteria for Lead in January 2005. The chartered CASAC conducted a consultation on this draft work plan on March 28, 2005. The Agency is scheduled to release the First External Review Draft AQCD for Lead (First Draft Lead AQCD) in January 2006. At that time, the Agency will also invite public comments on the First Draft Lead AQCD. The Agency has asked CASAC to peer-review the First Draft Lead AQCD at a public meeting in May 2006.

The SAB Staff Office is announcing the formation of the CASAC Lead Review Panel to review the criteria and the Agency's Staff Paper for Lead. The Staff Paper for Lead evaluates policy implications of the key scientific and technical information contained in the AQCD for Lead. As such, the staff paper bridges the gap between the science in the Lead AQCD, and the public health and welfare policy judgments that the EPA Administrator must also consider when reviewing the Lead National Ambient Air Quality Standard (NAAQS).

The SAB Staff Office is soliciting nominations for qualified scientists to serve on the CASAC Lead Review Panel. The CASAC Lead Review Panel will operate for two to four years, and will be provided with a separate charge for each review or project.

#### Technical Contact

Any questions concerning the AQCD for Lead should be directed to Dr. Robert Elias, NCEA-RTP, at phone: (919) 541-4167; or e-mail: [elias.robert@epa.gov](mailto:elias.robert@epa.gov). NCEA-RTP expects to release and post the First Draft Lead AQCD on the NCEA Web site at: <http://www.epa.gov/ncea/> for external review in January 2006.

#### Nominator's Assessment of Expertise

The SAB Staff Office requests nominees who are nationally-recognized experts in one or more of the following disciplines:

(a) *Chemistry, environmental sources, transport and deposition of lead.* Includes expertise in: (1) Inorganic and organometallic chemistry of lead; (2) methods of measuring environmental sources and source strengths from smelters, coal combustion plants, vehicles (historic and modern) and natural sources; (3) atmospheric transport, including methods of detecting transported lead (e.g., isotope analysis) in the gas phase, liquid phase, particle phase (both primary and resuspended); and (4) deposition of lead, including measurement of deposition rate as a function of surface properties.

(b) *Multimedia routes of human exposure to lead.* Includes knowledge of measurement methods (e.g., air sampling methodology) and observed environmental concentrations for multimedia human exposure pathways via inhalation and ingestion (relevant concentrations for various sources: soil, dust, drinking water, food, as well as others such as lead-based paint, pica for paint or soil, etc.).

(c) *Modeling of multimedia human exposure uptake/absorption of lead to predict internal biokinetic distribution (blood/bone lead burdens):*

(1) *Lead exposure pathway assessment.* Expertise in the physical and chemical properties of lead and the biogeochemical processes involved in the pathways involved in human exposure to lead. These pathways include:

(i) Air (both direct inhalation and deposition to surfaces likely to be contacted by humans);

(ii) drinking water (from typical sources including municipal systems, bottled water, public drinking fountains, and private wells);

(iii) food (including market sources, home gardens and recreational and subsistence fishing/hunting); and

(iv) soil/dust ingestion.

(2) *Lead uptake/absorption.* Expertise in the processes of uptake or absorption

of lead in the digestive tract and lungs, including knowledge of digestive processes that affect the form of lead thus making it more (or less) available for absorption. Experience on the fate of inhaled particles is also desirable, including olfactory uptake.

(3) *Internal biokinetic distribution and physiological effects of lead.* Expertise on the physiological processes that determine the distribution of absorbed lead among the various organs and tissues of the human body. This would include expertise on the mechanisms of transport within the human body, the organs and tissues that accumulate significant amounts of lead, the concentrations at the organ/tissue level that might impair physiological processes, and the residence times (or other measures of potential impact) of lead in these tissues and organs. Expertise on the various mechanisms and routes of elimination and the mechanisms of this elimination is desirable.

(4) *Tissue concentrations of lead.* Includes expertise on measurement methods and observed concentrations for various biological tissues, including blood, teeth, and bone lead concentrations and lead levels in soft tissues such as brain, kidney, etc.

(5) *Human growth and activity patterns.* Expertise on growth patterns and typical human activity patterns from prenatal to elderly, including recreational, occupational, leisurely, and household activities. This would include knowledge of published data and of modeling applications.

(6) *Exposure assessment modeling.* Expertise and experience in measuring human population exposure to lead and/or in modeling human exposure to ambient and indoor pollutants. Expertise in relating indicators of human exposure to potential health outcomes and quantification of risk related to adverse health outcomes.

(d) *Lead-induced health effects.* Experience in epidemiologic/clinical evaluation and/or evaluation in laboratory animals or in in vitro test systems of lead-induced effects on:

(1) Neurological development and other neurological endpoints;

(2) Cardiovascular function;

(3) Immune system function;

(4) Heme synthesis;

(5) Genotoxic effects; and

(6) Carcinogenicity.

(e) *Risk assessment and uncertainty characterization.* Expertise in human health risk assessment for lead or other pollutants causing non-cancer and cancer health effects, including Bayesian statistical approaches and biostatistics. Expertise in designing

uncertainty characterization frameworks for complex multi-media health assessments involving use of PBPK models, empirical data, microenvironmental exposure modeling and concentration-response functions drawing on both toxicological and epidemiological data. Specific areas of expertise should include probabilistic methods and Bayesian techniques.

(f) *Evaluation of environmental effects of lead on terrestrial and aquatic ecosystems.* Includes expertise and/or knowledge of most current methods and state-of-the-science for assessing: modes of action of lead in plants, animals, and microorganisms; exposure of aquatic and terrestrial organisms to lead in various forms and from various sources; bioavailability of lead and factors which modify the lead uptake by aquatic and terrestrial ecosystems; ecosystem responses at a range of spatial and temporal scales; lead sources, fate, transport, and mobility using stable isotopes; and critical loads for lead in aquatic and terrestrial ecosystems.

(g) *Evaluation of economic effects of lead.* Experience in evaluating economic effects of lead on consumptive-use ecological entities such as agriculture, commercial forests, aquaculture, shell fisheries, and commercial fisheries; and ability to monetize non-consumptive-use ecological entities such as recreation, aesthetics, biodiversity, and other ecological goods and services that are not typically assigned a monetary value.

#### Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified individuals to add expertise to the CASAC Lead Review Panel in the areas of expertise described above. Nominations should be submitted in electronic format through the SAB Web site at the following URL: <http://www.epa.gov/sab/>; or directly via the Form for Nominating Individuals to Panels of the EPA Science Advisory Board link found at URL: <http://www.epa.gov/sab/panels/paneltopics.html>. Please follow the instructions for submitting nominations carefully. To be considered, nominations should include all of the information required on the associated forms. Anyone unable to submit nominations using the electronic form and who has any questions concerning the nomination process may contact Mr. Fred Butterfield, DFO, as indicated above in this notice. Nominations should be submitted in time to arrive no later than September 27, 2005.

To be considered, all nominations should include: a current curriculum

vite (C.V.) which provides the nominee's background, qualifications, relevant research expertise and publications for service on the Panel; and a brief biographical sketch ("biosketch"). The biosketch should be no longer than one page and should contain the following information for the nominee:

(a) Current professional affiliations and positions held;

(b) Area(s) of expertise, and research activities and publications relevant to the Panel;

(c) Leadership positions in national associations or professional publications or other significant distinctions;

(d) Educational background, especially advanced degrees, including when and from which institutions these were granted;

(e) Service on other advisory committees or professional societies, especially those associated with issues under discussion in this review; and

(f) Sources of recent (*i.e.*, within the preceding two years) grant and/or other contract support, from government, industry, academia, etc., including the topic area of the funded activity.

Please note that even negative responsive information (*e.g.*, no recent grant or contract funding) should be indicated on the biosketch (by "N/A" or "None"). Incomplete biosketches will not be considered. The EPA SAB Staff Office will acknowledge receipt of nominations.

The credentials of nominees received in reply to this notice will be compared to the specific expertise sought for the CASAC Lead Review Panel. Qualified nominees will be included in a smaller subset (known as the "Short List"). The Short List will be posted on the SAB Web site at: <http://www.epa.gov/sab/>, and will include, for each candidate, the nominee's name and their biosketch. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates. Panelists will be selected from the Short List.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In establishing the final Panel, the SAB Staff Office will consider public responses to the Short List, information

provided by candidates, and background information independently-gathered by the SAB Staff Office on each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating Short List candidates for Panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; and (e) skills working in committees, subcommittees and advisory panels; and, for the Panel as a whole, (f) diversity of, and balance among, scientific expertise, viewpoints, etc.

Prospective candidates will also be required to fill-out the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110-48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: [http://www.epa.gov/sab/sge\\_course/pdf\\_sge/epaform3110\\_48.pdf](http://www.epa.gov/sab/sge_course/pdf_sge/epaform3110_48.pdf).

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board (EPA-SAB-EC-02-010), which is posted on the SAB Web site at: <http://www.epa.gov/sab/pdf/ec02010.pdf>.

Dated: August 30, 2005.

**Anthony Maciorowski,**

*Acting Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 05-17615 Filed 9-2-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7965-1]

### Federal Advisory Committee To Examine Detection and Quantitation Approaches in Clean Water Act Programs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; FACA Committee Meeting Announcement.

**SUMMARY:** As required by the Federal Advisory Committee Act, Public Law 92-463, the Environmental Protection Agency is announcing two meetings of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act (CWA) Programs.

**DATES:** Two meetings of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act (CWA) Programs will be held on Thursday and Friday, September 29, 2005, and September 30, 2005, and on December 8, 2005 and December 9, 2005. The meeting on September 29, will be from 9 a.m. until 5 p.m. e.d.t.; and on September 30, 2005, from 8 a.m. to 4 p.m. e.d.t.; and the meeting on December 8, 2005, will be from 9 a.m. until 5 p.m.; and on December 9, 2005, will be from 9 a.m. until 5 p.m. All times are eastern time.

**ADDRESSES:** The September 2005 and December 2005 meetings of the Committee will be held at the L. William Seidman Center, 3501 North Fairfax Drive, Arlington, Virginia, across from the Virginia Square Metro stop on the Orange line. Members of the public may attend this meeting in person or via teleconference. The public may obtain the call-in number and access code for the teleconference lines from Marion Kelly, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice.

**Document Availability:** The draft agenda for this meeting is provided in the General Information section of this notice or may be obtained from Marion Kelly whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. The draft agenda may also be viewed through EDOCKET, as provided in section I.A. of the **SUPPLEMENTARY INFORMATION** section of this notice.

Any member of the public interested in making an oral presentation at the Committee meeting may contact Richard Reding, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. Requests

for making oral presentations will be accepted up to 2 business days prior to each meeting date. In general, each individual making an oral presentation will be limited to a total of three minutes.

#### Submitting Comments

Written comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in section I.B of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to two business days prior to each meeting date.

#### FOR FURTHER INFORMATION CONTACT:

Marion Kelly, Engineering and Analysis Division, Mail Code 4303T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566-1045; Fax number: (202) 566-1053; E-mail address:

*Kelly.Marion@EPA.GOV*; Richard Reding, Designated Federal Officer, Environmental Protection Agency, Office of Water, Mail Code 4303T, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566-2237; Fax number: (202) 566-1054; E-mail address:

*Reding.Richard@EPA.GOV*.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

This notice announces two meetings of the Federal Advisory Committee on Detection and Quantitation Procedures and Uses in Clean Water Act (CWA) Programs. The purpose of these meetings is to evaluate and recommend detection and quantitation procedures for use in EPA's analytical methods programs for compliance monitoring under 40 CFR part 136. The Committee will analyze and evaluate relevant scientific and statistical approaches, protocols, review data and interpretations of data using current and recommended approaches. The major objectives are to provide advice and recommendations to the EPA Administrator on policy issues related to detection and quantitation, and scientific and technical aspects of procedures for detection and quantitation.

The draft agenda for September 29 includes a report from the state caucus on how states use detection and quantitation approaches; it also includes reports from the committee's Technical Work Group on draft definitions of terms and an initial analysis of detection and quantitation procedures. On September 30, the advisory committee is expected to discuss policy

issues, identify criteria for narrowing the list of detection and quantitation procedures, discuss how pilot testing of promising procedures might occur, and assign tasks to the Technical Work Group to carry out before the December 8 and 9 meeting. When the advisory committee reconvenes in December, the agenda is expected to include the following matters. On December 8, 2005, the Technical Work Group will report on assignments from the September 28-29 advisory committee meeting, including analysis of detection and quantitation approaches and procedures. On December 9, 2005, the meeting will include discussions concerning the Technical Work Group's reports and further assignments to the Technical Work Group to carry out before the next advisory committee meeting. Agendas for the two meetings are available on the Internet at <http://www.epa.gov/methods/det>.

#### A. How Can I Get Copies of Related Information?

1. Docket. EPA has established an official public docket for this committee under Docket ID NO. OW-2004-0041. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Documents in the official public docket are listed in the index in EPA's electronic public docket and comment system, EDOCKET. Documents are available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copies of the draft agendas may be viewed at 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 am to 4:30 pm, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OW Docket is (202) 566-2426.

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

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at <http://www.epa.gov/edocket/>. To submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the

appropriate docket identification number (OW-2004-0041).

For those wishing to make public comments, it is important to note that EPA's policy is that comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks mailed or delivered to the Docket will be transferred to EPA's electronic public docket. Written public comments mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket.

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number (OW-2004-0041) in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment, and it allows EPA to contact you if further information on the substance of the comment is needed or if your comment cannot be read due to technical difficulties. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for

clarification, EPA may not be able to consider your comment.

i. EDOCKET. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EDOCKET at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, <http://www.epa.gov>, select "Information Sources," "Dockets," and "EDOCKET." Once in the system, select "search," and then key in Docket ID No. OW-2004-0041. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to [OW.Docket@epa.gov](mailto:OW.Docket@epa.gov), Attention Docket ID No. OW-2004-0041. In contrast to EPA's electronic public docket, EPA's e-mail system is not an anonymous access system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM mailed to the mailing address identified in section I.B.2 of this notice. These electronic submissions will be accepted in Word, WordPerfect or rich text files. Avoid the use of special characters and any form of encryption.

2. By Mail. Send your comments to: U.S. Environmental Protection Agency, OW Docket, EPA Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW-2004-0041.

3. By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW-2004-0041 (note: this is not a mailing address). Such deliveries are only accepted during the docket's normal hours of operation as identified in section I.A.1 of this notice.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Marion Kelly at (202) 566-1045 or email: [Kelly.Marion@EPA.GOV](mailto:Kelly.Marion@EPA.GOV) to

request accommodation of a disability, at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 26, 2005.

**Richard Reding,**

*Designated Federal Officer.*

[FR Doc. 05-17616 Filed 9-2-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2005-0084; FRL-7730-5]

### Dimethoate Revised Risk Assessments; Notice of Availability and Solicitation of Risk Reduction Options

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's revised risk assessments for the organophosphate pesticide dimethoate. In addition, this notice solicits public comment on risk reduction options for dimethoate. The public is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing an Interim Reregistration Eligibility Decision (IREED) for dimethoate through the full, 6-Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

**DATES:** Comments must be received on or before November 7, 2005.

**ADDRESSES:** Comments, identified by docket identification (ID) number OPP-2005-0084, may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Stephanie Plummer, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0076; fax number: (703) 308-7042; e-mail address: [plummer.stephanie@epa.gov](mailto:plummer.stephanie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP-2005-0084. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

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

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket,

will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

### C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to

consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2005-0084. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2005-0084. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address

identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2005-0084.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP-2005-0084. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

#### D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

#### E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## II. Background

### A. What Action is the Agency Taking?

EPA is making available the Agency's revised risk assessments, initially made available to the public for comment through a technical briefing on December 14, 1999, as well as related documents for dimethoate. EPA also is soliciting public comment on risk reduction options for dimethoate, namely, possible ways to mitigate drinking water risks, risks to workers, and risks to wildlife, as well as any data that may be available on the rate of conversion of dimethoate to omethoate during drinking water treatment. EPA developed the risk assessments for dimethoate as part of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Dimethoate is a systemic organophosphate insecticide used for control of a wide variety of insect pests on a number of fruit, vegetable, grain, and field crops, as well as ornamentals and non-cropland adjacent to agricultural fields.

EPA is providing an opportunity, through this notice, for interested parties to provide risk management proposals or otherwise comment on risk management for dimethoate. Risks of concern associated with the use of dimethoate are as follows:

1. Dietary risks from food and drinking water together exceed the Agency's level of concern on an acute basis for all population subgroups, and on a chronic basis for infants and children.

2. Risks to occupational handlers for some handler scenarios exceed the level of concern.

3. Post-application risks for some exposure scenarios exceed the level of concern.

4. The Agency's ecological levels of concern are exceeded for birds on an acute and chronic basis, mammals on an acute and chronic basis, freshwater fish on a chronic basis, and freshwater invertebrates on an acute and chronic basis.

In targeting these risks of concern, the Agency solicits information on effective and practical risk reduction measures.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819) (FRL-7357-9), explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, dimethoate is being reviewed through the full 6-Phase public participation process.

All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the comment period deadline. Comments and proposals will become part of the official public docket for dimethoate. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

After considering comments received, EPA will develop and issue for comment the dimethoate IRED. The decisions presented in this IRED may be supplemented by further risk mitigation measures when EPA considers its cumulative assessment of the organophosphate pesticides.

### B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA, as amended, directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product specific data on individual end-use products and either reregistering products or taking other "appropriate regulatory action."

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review

tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

#### List of Subjects

Environmental protection,  
Dimethoate, Pesticides and pests.

Dated: August 30, 2005.

#### Debra Edwards,

Director, Special Review and Reregistration  
Division, Office of Pesticide Programs.

[FR Doc. 05-17545 Filed 9-1-05; 9:12 am]

BILLING CODE 6560-50-S

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7964-8]

#### Reissuance of the NPDES General Permit for the Territorial Seas Off Texas (TXG260000)

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Notice of Final NPDES General  
Permit Reissuance.

**SUMMARY:** The Regional Administrator of Region 6 today issues the final National Pollutant Discharge Elimination System (NPDES) "General Permit for the Territorial Seas off Texas" (No. TXG260000) for discharges from existing and new dischargers and New Sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) as authorized by section 402 of the Clean Water Act, 33 U.S.C. 1342. The permit supercedes the previous general permit (TX0085651) issued on September 15, 1983 and published in the **Federal Register** at 48 FR 41494. That permit authorized discharges from exploration, development, and production facilities located in and discharging to the territorial seas off Texas. Through this reissuance, EPA includes current technology and water quality based effluent limitations consistent with National Effluent Limitations Guidelines, Federal Ocean Discharge Criteria, and State Water Quality Standards.

A copy of the Region's responses to comments and the final permit may be obtained by mail from the address listed below or from the EPA Region 6 Internet site: <http://www.epa.gov/earth1r6/6wq/6wq.htm>.

A Record of Decision which completes the Environmental Assessment process required by the

National Environmental Policy Act is also available at the above Internet address or by mail from the address listed below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Smith, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665-7191, or via e-mail to the following address: [smith.diane@epa.gov](mailto:smith.diane@epa.gov).

#### SUPPLEMENTARY INFORMATION:

*Regulated Entities.* Entities potentially regulated by this action are those which operate offshore oil and gas extraction facilities located in the territorial seas off Texas.

Category	Examples of regulated entities
Industry .....	Offshore Oil and Gas Extraction Platforms.

This table lists the 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, company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in part I, section A.1. of the general permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit TXG260000 at 66 FR 29948 (November 17, 2003). Notice of this proposed permit was also published in the Houston Chronicle on November 20, 2003. The comment period closed on January 16, 2004.

Region 6 received comments from the Offshore Operators Committee, the International Association of Drilling Contractors, and the Railroad Commission of Texas.

EPA Region 6 has considered all comments received. In response to those comments the following changes were made to the proposed permit. Ambient density stratification data were examined and the critical dilutions required for the produced water toxicity limits were recalculated. The proposed 48-hour acute toxicity limit was replaced with a seven day chronic toxicity limit in the final permit. An exemption for toxicity caused by total dissolved solids was included for the 24-hour acute toxicity limits. The permit allows collection of a single grab sample for toxicity testing. The State lease and well numbers are required to

be reported on the notice of intent to be covered. Unmeasurable de minimis discharges of drilling fluids such as wind blown splatters from pipe racks are authorized. A number of minor typographical changes and clarifications were also made to the permit's language.

Dated: August 26, 2005.

#### Miguel I. Flores,

Director, Water Quality Protection Division,  
Region 6.

[FR Doc. 05-17614 Filed 9-2-05; 8:45 am]

BILLING CODE 6560-50-P

### FARM CREDIT ADMINISTRATION

#### Farm Credit Administration Board; Regular Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

*Date and Time:* The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 8, 2005, from 9 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883-4009, TTY (703) 883-4056.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

#### Open Session

##### A. Approval of Minutes

- August 11, 2005 (Open and Closed).

##### B. Reports

- FCS Building Association Quarterly Report.

##### C. New Business—Regulations

- Receivership Repudiation Authorities—Final Rule.

#### Closed Session\*

- OSMO Quarterly Report.

\*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: September 1, 2005.

**Jeanette C. Brinkley**,  
Secretary, Farm Credit Administration Board.  
[FR Doc. 05-17706 Filed 9-1-05; 12:39 pm]  
BILLING CODE 6705-01-P

## GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0248]

### General Services Administration Acquisition Regulation; Information Collection; Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause

**AGENCY:** Office of the Chief Acquisition Officer, GSA.

**ACTION:** Notice of request for comments regarding a renewal to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding solicitation provisions and contract clauses, placement of orders clause, and ordering information clause. A request for public comments was published at 70 FR 37858, June 30, 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: October 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Linda Nelson, Procurement Analyst, Contract Policy Division, GSA, at telephone (202) 501-1900, or via e-mail to [linda.nelson@gsa.gov](mailto: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. 3090-0248, Solicitation provisions and contract clauses, Placement of Orders

clause, and Ordering Information clause, in all correspondence.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of Federal Supply Service's (FSS's) Stock, Special Order, and Schedules Programs. These mission responsibilities generate requirements that are realized through the solicitation and award of various types of FSS contracts. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

##### B. Annual Reporting Burden

*Respondents:* 6,493.

*Responses Per Respondent:* 1.

*Total Responses:* 6,493.

*Hours Per Response:* .25.

*Total Burden Hours:* 1,623.

##### 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. 3090-0248, Solicitation provisions and contract clauses, Placement of Orders clause, and Ordering Information clause, in all correspondence.

Dated: August 29, 2005.

**Julia Wise**,  
Director, Contract Policy Division.  
[FR Doc. 05-17558 Filed 9-2-05; 8:45 am]

BILLING CODE 6820-61-S

## GENERAL SERVICES ADMINISTRATION

[FMR Bulletin 2005-B3]

### Federal Management Regulation; Redesignations of Federal Buildings

**AGENCY:** Public Buildings Service (P), GSA.

**ACTION:** Notice of a bulletin.

**SUMMARY:** The attached bulletin announces the redesignations of eight (8) Federal buildings.

**EXPIRATION DATE:** This bulletin expires January 11, 2006. However, the building redesignations announced by this bulletin will remain in effect until canceled or superseded.

**FOR FURTHER INFORMATION CONTACT** Anthony E. Costa, General Services

Administration, Public Buildings Service (P), Washington, DC 20405, telephone (202) 501-1100, e-mail at [anthony.costa@gsa.gov](mailto:anthony.costa@gsa.gov).

Dated: August 24, 2005.

**Stephen A. Perry**,  
Administrator of General Services.

## GENERAL SERVICES ADMINISTRATION

[FMR Bulletin 2005-B3]

### Federal Management Regulation; Redesignations of Federal Buildings

TO: Heads of Federal Agencies  
SUBJECT: Redesignations of Federal Buildings

1. *What is the purpose of this bulletin?* This bulletin announces the redesignations of eight (8) Federal Buildings.

2. *When does this bulletin expire?* This bulletin expires January 11, 2006. However, the building redesignations announced by this bulletin will remain in effect until canceled or superseded.

3. *Redesignations.* The former and new names of the buildings being redesignated are as follows:

Former name	New name
United States Courthouse, 100 North Palafox, Pensacola, FL 32502.	Winston E. Arnow United States Courthouse, 100 North Palafox, Pensacola, FL 32502.
Federal Building and United States Courthouse, 615 East Houston Street, San Antonio, TX 78205.	Hipolito F. Garcia Federal Building and United States Courthouse, 615 East Houston Street, San Antonio, TX 78205.
United States Courthouse, 125 Bull Street, Savannah, GA 31401.	Tomochichi United States Courthouse, 125 Bull Street, Savannah, GA 31401.
Federal Building, 324 Twenty-Fifth Street, Ogden, UT 84401.	James V. Hansen Federal Building, 324 Twenty-Fifth Street, Ogden, UT 84401.
Federal Building, Fifth and Richardson Avenues, Roswell, NM 88201.	Joe Skeen Federal Building, Fifth and Richardson Avenues, Roswell, NM 88201.
United States Courthouse, 501 I Street, Sacramento, CA 95184.	Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, CA 95184.
Federal Building and United States Courthouse, 131 East 4th Street, Davenport, IA 52801.	United States Courthouse, 131 East 4th Street, Davenport, IA 52801.

Former name	New name
United States Courthouse, Seventh and East Jackson Street, Brownsville, TX 78520.	Reynaldo G. Garza and Filemon B. Vela United States Courthouse, Seventh and East Jackson Street, (aka 600 E. Harrison Street), Brownsville, TX 78520.

4. *Who should we contact for further information regarding redesignation of these Federal Buildings?* General Services Administration, Public Buildings Service (P), Attn: Anthony E. Costa, 1800 F Street, N.W., Washington, DC 20405, telephone number: (202) 501-1100, e-mail at [anthony.costa@gsa.gov](mailto:anthony.costa@gsa.gov).  
[FR Doc. 05-17596 Filed 9-2-05; 8:45 am]  
BILLING CODE 6820-23-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Announcement of Availability of Funds for a Cooperative Agreement To Improve and Sustain the Leadership and Management Capacity and To Improve Operations and Delivery of Quality Health Care Within the Rabia Balkhi Women's Hospital

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Global Health Affairs.

*Announcement Type:* Cooperative Agreement—FY 2005 Initial Announcement.

*Funding Opportunity Number:* OGHA 05-018.

*OMB Catalog of Federal Domestic Assistance:* TBD, In Process.

**Authority:** Section 103(a)(1); Section 103(a)(7) of Public Law 107-327; Public Health Service Act, Section 307.

**SUMMARY:** The Office of Global Health Affairs (OGHA) announces that an estimated \$1.5 million in fiscal year (FY) 2005 funds are available for one (1) cooperative agreement to strengthen leadership, healthcare administration and facility management and to improve operations and improve health care delivery at Rabia Balkhi Women's Hospital (RBH) in Kabul, Afghanistan. This effort is a joint undertaking by the U.S. Department of Health and Human Services (HHS) and the Afghanistan Ministry of Public Health (MOPH). The goal of this project is to create equitable and high quality care at Rabia Balkhi Women's Hospital by developing effective leadership and management

and improving operations. The funding will provide essential material resources within budgetary limitations for patient care, operations, facility management and for grant activities related to leadership and management development at RBH. A Memorandum of Understanding (MOU) between the grantee and the Afghan MOPH will detail the differentiated responsibilities of the awardee toward RBH and the conditions under which the MOPH will transfer operational and logistical authority and responsibility for management and operations of RBH to the awardee. Alongside this support, through a separate, ongoing cooperative agreement, HHS is currently providing support for staff development and continuing education at RBH, and the Department of Defense is providing approximately \$1.4M in infrastructure upgrades. This new cooperative agreement is not anticipated to involve training of the clinical staff at RBH, but should include limited training and capacity-building of administrative or executive management staff.

HHS, in partnership with other relevant United States Government (USG) agencies anticipates involvement in the development, administration and oversight of this hospital management improvement program. The program will be approved initially for a three-year period. It is estimated that approximately \$1.5 million (including indirect costs) will be available in the first year. Funding for the cooperative agreement in subsequent years is contingent upon the availability of funds.

**DATES:** Application Availability: September 6, 2005. Optional Letter of Intent due by 5 p.m. e.t. September 13, 2005.

Application due by 5 p.m. e.t.: September 21, 2005.

Award date: September 30, 2005.

**ADDRESSES:** Application kits may be requested from, and applications submitted to: Ms. Karen Campbell, Director, Office of Grants Management, Office of Public Health and Science (OPHS), HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852.

#### I. Funding Opportunity Description

##### *Purpose of the Agreement*

Afghanistan has one of the highest maternal mortality rates (MMR) in the world with a rate of 1,600 maternal deaths per 100,000 live births. In Badakhshan Province, the MMR is 6,500, the highest maternal mortality rate ever reported globally. Preventable complications related to childbirth cause more than 85 percent of deaths

among women of childbearing age in Afghanistan. An estimated one in four children dies before reaching their fifth birthday.

The government of Afghanistan has established the improvement in women and child health as one of its highest priorities. Hospital management within Afghanistan is of great concern to the MOPH and the international donor community. Competent hospital and clinic administration is critical to the efficient and effective provision of health care, particularly in resource-constrained environments. Afghanistan is recovering from more than twenty years of civil unrest and war. This period has taken its toll on the quality of the entire spectrum of health care delivery, public health and health professional education.

The public hospitals in Afghanistan, including those that provide critical care to women and children, face overwhelming problems in the areas of staffing, training, equipment, supplies and pharmaceuticals. One area of increasing concern is hospital leadership and management. Without effective and efficient administration, investments in the problem areas will have little probability of success. Without functioning hospital support services, such as patient record-keeping, human resources, financial management, housekeeping, laundry, physical plant and grounds maintenance, security and many other departments that allow a hospital to function well, the physicians, nurses and other clinical staff are not able to provide quality care.

Rabia Balkhi Hospital was one of the referral hospitals for women under the Taliban and was declared the only women's hospital in 1997. It is located adjacent to a major bazaar in District 2 of Kabul and consists of a large two-story building and two ancillary buildings within a courtyard. It has a theoretical in-patient capacity of 212 to 250 beds of which 80 to 100 are designated for Gynecology and Obstetrics. Approximately 25 to 30 deliveries occur each day and approximately 7,500 to 11,000 babies are delivered there each year. The hospital sees approximately 300 to 400 out patients daily. It is a referral hospital with no formal relations with other maternity departments or pediatric hospitals. Its main partner for sick newborns is Indira Gandhi Children's Hospital, also in Kabul.

A study of hospitals in Afghanistan by the Embassy of France (2002) indicated there were 95 physicians and 100 paramedics at RBH while MOPH data (2002) stated there were 265 health care

workers at RBH of which 110 were doctors and 120 other workers. *Medicins du Monde* (2002) reported 110 doctors, 75 nurses, 100 workers and 8 administrative staff. Both French Mission data and MOPH data indicate approximately a 1.00 total staff to bed ratio at RBH.

MOPH leadership has approached the U.S. Government with a request for assistance to augment their capacity to develop policy and implement best practices in hospital management and operations. HHS and its partners are committed to working with the MOPH and Ministry of Finance (MOF) to address these problems.

The United States Government is currently engaged in numerous cooperative efforts with other countries, NGOs, donor and implementing organizations to assist the MOPH improve the health status of Afghan people. Former HHS Secretary Tommy G. Thompson signed a Memorandum of Understanding (MOU) with the Afghanistan Minister of Health (MOH) on October 9, 2002, pledging the support of American citizens to help in these efforts. In early 2003, HHS entered into collaboration with the MOPH to improve the maternal and child health services available within Afghanistan. One of the long-term goals of this HHS-MOPH collaboration is to develop an Afghan-appropriate OB/GYN graduate medical education program in Kabul that reflects Afghan culture within the context of evidence-based obstetrical and gynecological medical practice and meets appropriate international standards.

As a first step, HHS funded a clinical knowledge and skills refresher training program at RBH in April 2003. The intent of this refresher training has been to update the knowledge and skills of the current RBH attending physicians and other professional staff. HHS is providing focused, short-term training to the RBH staff to improve their basic knowledge levels and to update the clinical skills needed to respond to the critical needs of the high-risk patient community accessing care at this facility. Additionally, HHS, through HHS/Centers for Disease Control and Prevention (CDC), provides expert technical guidance and advisory consultation for the continued development and implementation of a facility-based Health Management System (HMIS), Surveillance, Quality Assurance and Hospital Infection Program (HIPP) at RBH. Simultaneously, the Department of Defense (DoD) is providing critical infrastructural improvements to the physical plant.

In 2004, HHS provided funding to continue the RBH training program through a \$2.2 million cooperative agreement with the implementing NGO, International Medical Corps (IMC). The cooperative agreement between IMC will continue to support the provision of staff development and refresher training for clinical staff, including physicians, nurse midwives and ancillary health care workers and is working toward the development of a Residency program for Obstetrics and Gynecology.

Throughout 2004 it became increasingly clear to various USG representatives that ongoing significant investments in Kabul hospitals were unsustainable without improved hospital management. Discussions with MOPH leadership, including the Minister of Health, led to a request for USG assistance in improving health facility management in general throughout Afghanistan, and in particular in Kabul Maternal-Child Hospitals (to which the USG had already been providing significant assistance). At the request of the MOPH, the USG agreed to facilitate and sponsor an international health facility management summit in Kabul, under the leadership of the MOPH, to raise awareness of and seek assistance in health facility management issues.

Around this time, the Ministry was also beginning to explore unique solutions to the complex challenge of improving management at tertiary/national hospitals. To this end, the Ministry entered into non-profit, public-private partnerships with Cure International to manage Darulaman hospital and Loma Linda University to manage Wazir Akhbar Khan hospital. Through Formal Memoranda of Understanding, the MOPH agreed to transfer significant authority and autonomy to these organizations to manage these hospitals utilizing current best practices, thus overtaking some of the entrenched bureaucratic and political hurdles to hospital management reform. Another novel component of the agreements was that the Ministry would continue to provide baseline funding and staffing to these hospitals, which Loma Linda and Cure are free to augment with other sources of funding, including sliding-scale fee-for-service proceeds—provided that indigent persons still receive care free of charge. USG representatives and MOPH counterparts began to view this approach as holding promise for improving management and operations of Kabul Maternal-Child Hospitals. Discussions led to the notional concept of a non-profit, public-private Kabul

maternal-child hospital consortium, with a common Board of Directors, but with each hospital managed by a private sector partner in a fashion similar to the arrangements with Cure and Loma Linda.

This Cooperative Agreement is intended to complement and build upon the work of the MOPH Hospital Management Task Force and its efforts to implement the Essential Package of Hospital Services (EPHS) and the recommendations of the Joint USG/MOPH health facility management planning team as outlined above. Implementation and adherence to recognized evidence based healthcare and facility management standards will be essential elements of successful proposals.

The primary role of the award recipient of this cooperative agreement will be to implement and support effective leadership and management and improve operations and health care delivery in RBH, while building the Afghan capacity to assume these functions in the future.

It is anticipated that multiple sources of significant revenue, in addition to this cooperative agreement, will be available for leveraging in accomplishment of the objectives. These include:

- Current MOPH operating expenses, supplies, and staff for RBH will continue to be provided.
- DoD is contributing \$1.4M to infrastructure upgrades at RBH.
- The awardee will be given the authority (similar to Cure and Loma Linda) to establish a sliding-scale, fee-for-service revenue enhancement program.
- With professional management in place, it is likely that international donors will be willing to make additional donations or in-kind contributions to improve health care delivery at RBH; the Afghan and U.S. governments will continue to solicit such additional assistance.

The grantee will be expected to optimally leverage these funding streams, in addition to the grant funds, to accomplish grant objectives.

This cooperative agreement is not anticipated to involve training of the clinical staff at RBH, but should include limited training of administrative or executive management staff. Upon award, the award recipient will develop and implement a formal three-year work plan. This plan is expected to include all of the below mentioned activities with timelines for completion and designated responsible agents. Measurable goals, objectives, and

outcomes are expected to be integrated into the workplan:

- Provide a mission statement, including projected scope of service, definition of the catchment area, bed capacity and projected length of stay.
  - Including a plan to draw down specialty services at RBH to focus on Obstetric and Gynecologic care
    - Develop an assessment of all available equipment with the status of functionality; identification of the extent and estimated cost for repair/rehabilitation and a plan for maintenance and regular inventory inspection and control.
    - Develop an annual operational and personnel budget.
      - Including a plan to identify, optimize, consolidate and effectively utilize all available funding sources for RBH.
        - Listing and justification, including cost for procurement, of essential equipment, supplies and pharmaceuticals.
        - Describe a method for elimination of waste and abuse of equipment and supplies and development of a hospital security system.
        - Description of all support services including transportation and ambulance service with staffing details and a three year plan for future technical development of services.
        - Description of a Hospital Management Board, Hospital Buying/Purchasing Committee and a Hospital Community Board to include membership qualifications, terms of reference and the identification of methods to increase community input into the overall oversight of the hospitals responsibilities.
        - Description of the salary scale plus merit for performance, which yields, increased efficiency payment system for the providers
          - Design for job descriptions/performance appraisals for all personnel process
          - Coordinate educational efforts to support the management training with the presently funded IMC and CDC Plans for clinical education and training. Include a discipline specific needs assessment, training plan with objectives using a variety of teaching methodologies; evaluation measures and include i timelines for competency skill assessment and testing.
          - Create a plan for executive and management training which may consist of planned exercises, mentoring by international experts and facilitation by peer networking. All efforts must compliment MOPH efforts and reflect Institute of Health Sciences training standards.

- Building upon the current referral system with Basic Health Centers, refine the referral processes between all appropriate health care facilities to ensure a seamless delivery system. Build in a method to ensure accountability and lay the foundation for a system-wide integrated continuum of care.

- Plan for incorporation of the HHS/CDC-developed Health Management Information system, including patient record-keeping.
  - Plan to improve and modernize information and communication technology capabilities—appropriate to the Afghan environment.
  - Plan for incorporating and implementing evidence-based standards of care and best practices, including quality assurance and quality improvement programs.
  - Plan for development and implementation of case management.
    - Plan for internal monitoring and evaluation to include clinical and management processes, output and outcome indicators.
    - Plan to identify services which would more efficiently be shared with other Kabul maternal-child hospitals, such as laboratory, advanced imaging, etc. \* \* \*
    - Plan to identify services which would be more efficiently privatized, such as laundry, cleaning, security, etc. \* \* \*
    - Plan to cooperate with and facilitate development of the non-profit, public-private Kabul maternal-child hospital Consortium, of which RBH will be a key component.

Finally, the award recipient will monitor and report progress quarterly and conduct a comprehensive evaluation of all required elements and conditions, including outcome measures for effectiveness and efficiency.

**SUPPLEMENTARY INFORMATION:** The OGHA/OS/HHS provides policy and staffing support to the Secretary and other HHS leaders in the area of global health, and provides policy advice, leadership and coordination of international health matters across HHS, including leadership on major crosscutting global health initiatives and the Department's relationships with multilateral organizations.

Through this cooperative agreement, HHS will collaborate in an advisory capacity with the award recipient, especially during the development and implementation of a mutually agreed-upon work plan. HHS will actively participate in periodic progress reviews and a final evaluation of the program. Obligations of OGHA/OS/HHS:

1. Assurance of the services of appropriately experienced HHS or other subject matter experts from other relevant agencies to participate in the planning, development, implementation, and evaluation of all phases of this project.

2. Assistance in establishing and maintaining USG, MOPH, and non-governmental organizations (NGOs) contracts and agreements necessary to carry out the program.

## II. Award Information

The administrative and funding instrument to be used for this program will be the cooperative agreement in which HHS scientific and program involvement with the grantee is anticipated during the performance of the maximum funding level of up to \$1.5 million (including indirect costs) is available for the initial 12-month budget period. Two successive 12-month periods may be funded during the life of this agreement. Continuation of this project from one budget period to the next and level of funding are subject to satisfactory performance, availability of funds, and program priorities.

Although this program is provided for in the financial plans of the OGHA, awards pursuant to this notice are contingent upon the availability of funds for this purpose.

## III. Eligibility Information

### 1. Eligible Applicants

Applications may be submitted by non-profit entities with offices in the United States and partner country or incorporated and headquartered in the United States with offices in the United States. Additionally, organizations or consortiums of organizations, including faith-based and community based organizations, that have collective experience with accepting donated medical technology, upgrading drug formularies, training health care providers, local and international transportation, and other logistics are encouraged to apply for a grant under this announcement.

### 2. Cost Sharing or Matching

Cost sharing, matching funds, and cost participation is not a requirement of this agreement.

### 3. Other—(If Applicable): N/A

## IV. Application and Submission Information

### 1. Address To Request Application Package

This Cooperative Agreement project uses the Application Form OPHS-1, Revised 8/2004, which is enclosed in

your application packet. This generic form is used by many different programs funded through the Public Health Service (PHS). Some parts of it are not required; other sections need to be filled out in a fashion specific to the program. Instructions for filling out OPHS-1, Revised 8/2004 will be included in the application packet. These forms may also be obtained from the following sites by: Downloading from <https://egrants.osophs.dhhs.gov> and clicking on Grant Announcements or <http://www.grants.gov/> or by writing to Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; or contact the Office of Grants Management at (240) 453-8822. Please specify the OGHA program(s) for which you are requesting an application kit.

## 2. Content and Form of Application Submission

### Application Materials

A separate budget page is required for the budget year requested. A line item budget (SF 424A) with coinciding justification to support each of the budget years must be submitted with the proposal. These forms will represent the full project period of Federal assistance requested. Proposals submitted without a budget and justification for each budget year requested in the application may not be favorably considered for funding. Specific instructions for submitting a detailed budget for this application will be included in the application packet. If additional information and/or clarification are required, please contact the OPHS Office of Grants Management identified in Section VII of this announcement.

All applications must be accompanied by a Project Abstract submitted on 3.5 inch floppy disk. The abstract must be typed, single-spaced, and not exceed 2 pages. Reviewers and staff will refer frequently to the information contained in the abstract, and therefore it should contain substantive information about the proposed projects in summary form. A list of suggested keywords and a format sheet for your use in preparing the abstract will be included in the application packet.

All grant applications must be accompanied by a Project Narrative. In addition to the instructions provided in OPHS-1 (Rev 8/2004) for project narrative, the specific guidelines for the project narrative are provided in the program guidelines. Format requirements are the same as for the Project Abstract Section; margins should be 1 inch at the top and 1 inch at the

bottom and both sides; and typeset must be no smaller than 12 cpi and not reduced. Biographical sketches should be either typed on the appropriate form or plain paper and should not exceed two pages, with publications listed being limited only to those that are directly relevant to this project.

### Application Format Requirements

If applying on paper, the entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices and letters of commitment and support. Pages must be numbered consecutively.

Applications submitted electronically that exceed 80 pages when printed will be deemed non-compliant. All non-compliant applications will be returned to the applicant without further consideration.

#### a. Number of Copies

Please submit one (1) original and two (2) unbound copies of the application.

Please do not bind or staple the application. Application must be single sided.

#### b. Font

Please use an easily readable serif typeface, such as Times Roman, Courier, or CG Times. The text and table portions of the application must be submitted in not less than 12 point and 1.0 line spacing. Applications not adhering to 12 point font requirements may be returned.

#### c. Paper Size and Margins

For scanning purposes, please submit the application on 8½" x 11" white paper. Margins must be at least one (1) inch at the top, bottom, left and right of the paper. Please left-align text.

#### d. Numbering

Please number the pages of the application sequentially from page 1 (face page) to the end of the application, including charts, figures, tables, and appendices.

#### e. Names

Please include the name of the applicant on each page.

#### f. Section Headings

Please put all section headings flush left in bold type.

*Application Format:* Applications for funding must consist of the following documents in the following order:

#### i. Application Face Page

Public Health Service (PHS) Application Form OPHS-1, provided with the application package. Prepare this page according to instructions provided in the form itself.

#### DUNS Number

All applicant organizations are required to have a Data Universal

Numbering System (DUNS) number in order to apply for a grant from the Federal Government. The DUNS number is a unique nine-character identification number provided by the commercial company, Dun and Bradstreet. There is no charge to obtain a DUNS number. Information about obtaining a DUNS number can be found at <https://www.dnb.com/product/eupdate/requestOptions.html> or call 1-866-705-5711. Please include the DUNS number next to the OMB Approval Number on the application face page. Applications will not be reviewed without a DUNS number.

Additionally, the applicant organization will be required to register with the Federal Government's Central Contractor Registry (CCR) in order to do electronic business with the Federal Government. Information about registering with the CCR can be found at <http://www.hrsa.gov/grants/ccr.htm>.

Finally, applicants applying electronically through Grants.gov are required to register with the Credential Provider for Grants.gov. Information about this requirement is available at <http://www.grants.gov/CredentialProvider>.

Applicants applying electronically through the OPHS E-Grants System are required to register with the provider. Information about this requirement is available at <https://egrants.osophs.dhhs.gov>.

#### ii. Table of Contents

Provide a Table of Contents for the remainder of the application (including appendices), with page numbers.

#### iii. Application Checklist

Application Form OPHS-1, provided with the application package.

#### iv. Budget

Application Form OPHS-1, provided with the application package.

#### v. Budget Justification

The amount of financial support (direct and indirect costs) that an applicant is requesting from the Federal granting agency for the first year is to be entered on the Face Sheet of Application Form PHS 5161-1, Line 15a. Each application should include funds for electronic mail capability unless access by Internet is already available. The amount of financial support (direct and indirect costs) entered on the SF 424 is the amount an applicant is requesting from the Federal granting agency for the project year. Please note that if indirect costs are requested, the applicant must submit a copy of the latest negotiated rate

agreement. The indirect costs rate refers to the Other Sponsored Program/Activities rate and to neither the research rate, nor the education/training program rate. Those applicants without an established indirect cost rate for sponsored programs will be held at 26% of total direct costs except, in cases where there is no established rate, applicants may only request 10% of salaries and wages. However, if an applicant's established rate for other sponsored programs exceeds 26%, but would be advantageous to the government, the OCHA/HHS may honor that indirect rate cost.

**Personnel Costs:** Personnel costs should be explained by listing each staff member who will be supported from funds, name (if possible), position title, percent full time equivalency, annual salary, and the exact amount requested.

**Indirect Costs:** Indirect costs are those costs incurred for common or joint objectives which cannot be readily identified but are necessary to the operations of the organization, *e.g.*, the cost of operating and maintaining facilities, depreciation, and administrative salaries. For institutions subject to OMB Circular A-21, the term "facilities and administration" is used to denote indirect costs. If the applicant does not have an indirect cost rate, you may obtain one by visiting the Division of Cost Allocation Web site: <http://rates.psc.gov>.

**Fringe Benefits:** List the components that comprise the fringe benefit rate, for example health insurance, taxes, unemployment insurance, life insurance, retirement plan, tuition reimbursement. The fringe benefits should be directly proportional to that portion of personnel costs that are allocated for the project.

**Travel:** List travel costs according to local and long distance travel. For local travel, the mileage rate, number of miles, reason for travel and staff member/consumers completing the travel should be outlined. The budget should also reflect the travel expenses associated with participating in meetings and other proposed trainings or workshops.

**Equipment:** List equipment costs and provide justification for the need of the equipment to carry out the program's goals. Extensive justification and a detailed status of current equipment must be provided when requesting funds for the purchase of computers and furniture items.

**Supplies:** List the items that the project will use. In this category, separate office supplies from medical and educational purchases. Office supplies could include paper, pencils,

and the like; medical supplies are syringes, blood tubes, plastic gloves, etc., and educational supplies may be pamphlets and educational videotapes. Remember, they must be listed separately.

**Subcontracts:** To the extent possible, all subcontract budgets and justifications should be standardized, and contract budgets should be presented by using the same object class categories contained in the Standard Form 424A. Provide a clear explanation as to the purpose of each contract, how the costs were estimated, and the specific contract deliverables.

**Other:** Put all costs that do not fit into any other category into this category and provide an explanation of each cost in this category. In some cases, grantee rent, utilities and insurance fall under this category if they are not included in an approved indirect cost rate.)

#### vi. Staffing Plan and Personnel Requirements

Applicants must present a staffing plan and provide a justification for the plan that includes education and experience qualifications and rationale for the amount of time being requested for each staff position. Position descriptions that include the roles, responsibilities, and qualifications of proposed project staff must be included in Appendix XX. Copies of biographical sketches for any key employed personnel that will be assigned to work on the proposed project must be included in Appendix XX.

#### vii. Project Abstract

Provide a summary of the application. Because the abstract is often distributed to provide information to the public and Congress, please prepare this so that it is clear, accurate, concise, and without reference to other parts of the application. It must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced and limited to two pages in length.

#### vii. Program Narrative

This section provides a comprehensive framework and description of all aspects of the

proposed program. It should be succinct, self-explanatory and well organized so that reviewers can understand the proposed project.

Use the following section headers for the Narrative:

- **Introduction:** This section should briefly describe the purpose of the proposed project.

- **Work Plan:** Describe the activities or steps that will be used to achieve each of the activities proposed in the methodology section. Use a time line that includes each activity and identifies responsible staff.

- **Resolution of Challenges:** Discuss challenges that are likely to be encountered in designing and implementing the activities described in the Work Plan, and approaches that will be used to resolve such challenges.

- **Evaluation and Technical support Capacity:** Describe current experience, skills, and knowledge, including individuals on staff, materials published, and previous work of a similar nature.

- **Organizational Information:** Provide information on the applicant agency's current mission and structure, scope of current activities, and an organizational chart, and describe how these all contribute to the ability of the organization to conduct the program requirements and meet program expectations.

#### iii. Appendices

Please provide the following items to complete the content of the application. Please note that these are supplementary in nature, and are not intended to be a continuation of the project narrative. Be sure each appendix is clearly labeled.

(1) Appendix A: Tables, Charts, etc.—To give further details about the proposal.

(2) Appendix B: Job Descriptions for Key Personnel—Keep each to one page in length as much as is possible. Item 6 in the Program Narrative section of the PHS 5161-1 Form provides some guidance on items to include in a job description.

(3) Appendix C: Biographical Sketches of Key Personnel—Include biographical sketches for persons occupying the key positions described in Appendix B, not to exceed two pages in length. In the event that a biographical sketch is included for an identified individual who is not yet hired, please include a letter of commitment from that person with the biographical sketch.

(4) Appendix D: Letters of Agreement and/or Description(s) of Proposed/Existing Contracts (project specific)—

Provide any documents that describe working relationships between the applicant agency and other agencies and programs cited in the proposal. Documents that confirm actual or pending contractual agreements should clearly describe the roles of the subcontractors and any deliverable Letters of agreements must be dated.

(5) Appendix E: Project Organizational Chart—Provide a one-page figure that depicts the organizational structure of the project, including subcontractors and other significant collaborators.

(6) Appendix F: Other Relevant Documents—Include here any other documents that are relevant to the application, including letters of supports. Letters of support must be dated.

### 3. Submission Dates and Times

#### Notification of Intent To Apply

A letter of intent is not required. However, if a letter of intent is submitted, the letter should identify the applicant organization and its intent to apply, and briefly describe the proposal to be submitted. Receipt of Letters of Intent will not be acknowledged.

This letter should be sent by September 13, 2005, by mail or fax to: Department of Health and Human Services, Office of the Secretary, Office of Global Health Affairs, 5600 Fishers Lane, Suite 18-101, Rockville, MD 20857, Facsimile Number: 301-443-2820.

*Application Submission:* The OPHS provides multiple mechanisms for submission of applications as described in the following sections.

*Electronic Submission:* The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. While applications are accepted in hard copy, the use of the electronic application submissions capabilities provided by the eGrants system is encouraged. Information about this system is available on the Office of Population Affairs Web site at <http://opa.osophs.dhhs.gov>, or may be requested from the OPHS Office of Grants Management at 240-453-8822. Applications sent via any other means of electronic communication, including facsimile or electronic mail, outside of the OPHS eGrants system will not be accepted for review.

The body of the application and required forms can be submitted using the e-Grants system. In addition to electronically submitted materials, applicants are required to provide a hard copy of the application face page

(Standard Form 424 [Revised 07/03]) with the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. The application is not considered complete until both the electronic application and the hard copy of the face page with the original signature are received.

Electronic grant application submissions must be submitted no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically after 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hard copy original signatures to the OPHS Office of Grants Management by 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission, the eGrants system will provide the applicant with a confirmation page indicating the date and time (eastern time) of the electronic application submission. This confirmation page will also provide the receipt status of all indicated signatures and items to be mailed to the OPHS Office of Grants Management. As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application to ensure that all signatures and mail-in items are received.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submission prior to the application deadline.

*Mailed Hard Copy Applications:* Applications submitted in hard copy must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed applications will be considered as meeting the deadline if they are received by the OPHS Office of Grants Management on or before 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supercedes the instructions in the OPHS-1. Applications that do not meet the deadline will be returned to the applicant unread.

*Hand-Delivered Applications:* Hand-delivered applications must be received by the OPHS Office of Grants Management, 1101 Wootten Parkway, Suite 550, Rockville, Maryland, 20852, no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. Hand-delivered applications must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. Applications that exceed the requested amount may also be returned without review or comment. Applicants that are judged to be in compliance will be notified by the OPHS Office of Grants Management. Accepted applications will be reviewed for technical merit in accordance with DHHS policies.

Applications should be submitted to: Director, Office of Grants Management, OPHS, HHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Technical assistance on budget and business aspects of the application may be obtained from the Office of Grants Management, OPHS, HHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852, telephone: (240) 453-8822.

### 4. Intergovernmental Review

This program is not subject to the review requirements of Executive Order 12372, Intergovernmental Review of Federal Programs.

### 5. Funding Restrictions

Allowability, allocability, reasonableness, and necessity of direct and indirect costs that may be charged are outlined in the following documents: OMB-21 (Institutes of Higher Education); OMB Circular A-122 (Nonprofit Organizations) and 45 CFR part 74, appendix E (Hospitals). Copies of these circulars can be found on the Internet at: <http://www.whitehouse.gov/omb>.

### 6. Other Submission Requirements: N/A

## V. Application Review Information

### 1. Criteria

Applications will be screened by OGHA staff for completeness and for responsiveness to the program guidance. Applicants should pay strict attention addressing these criteria, as they are the basis upon which their applications will be judged. Those applications judged to be non-responsive or incomplete will be returned to the applicant without review.

Applications that are complete and responsive to the guidance will be evaluated for scientific and technical merit by an appropriate peer review group specifically convened for this solicitation and in accordance with HHS policies and procedures. As part of the initial merit review, all applications will receive a written critique. All applications recommended for approval will be discussed fully by the ad hoc peer review group and assigned a priority score for funding. Eligible applications will be assessed according to the following criteria:

#### (1) *Technical Approach (40 points):*

- The applicant's presentation of a sound and practical technical approach for executing the requirements with adequate explanation, substantiation and justification for methods for handling the projected needs of the partner institution.

- The successful applicant must demonstrate a clear understanding of the scope and objectives of the cooperative agreement, recognition of potential difficulties that may arise in performing the work required, presentation of adequate solutions, and understanding of the close coordination necessary between the OGHA/HHS, Afghanistan Ministry of Public Health, U.S. Agency for International Development, and other organizations, such as the World Health Organization and United Nations Children's Fund.

- Applicants must submit a strategic plan that outlines the schedule of activities and expected products of the Group's work with benchmarks at

months six, 12. The strategic plan should specifically address the expected progress of the Quality of Care program.

#### (4) *Personnel Qualifications and Experience (20 points):*

- **Project Leadership**—For the technical and administrative leadership of the project requirements, successful applicants must demonstrate documented training, expertise, relevant experiences, leadership/management skills, and availability of a suitable overall project manager and surrounding management structure to successfully plan and manage the project. Successful applicant will provide documented history of leadership in the establishment and management of training programs that involve training of health care professionals in countries other than the United States. Expertise in maternal and child health care and services including documented training, expertise, relevant experience, leadership skills, and maternal and child health specific medical expertise. Documented managerial ability to achieve delivery or performance requirements as demonstrated by the proposed use of management and other personnel resources and to successfully manage the project, including subcontractor and/or consultant efforts, if applicable, as evidence by the management plan and demonstrated by previous relevant experience.

- **Partner Institutions and other Personnel**—Applicants should provide documented evidence of availability, training, qualifications, expertise, relevant experience, education and competence of the scientific, clinical, analytical, technical and administrative staff and any other proposed personnel (including partner institutions, subcontractors and consultants), to perform the requirements of the work activities as evidenced by resumes, endorsements and explanations of previous efforts.

- **Staffing Plan**—Applicants should submit a staffing plan for the conduct of the project, including the appropriateness of the time commitment of all staff and partner institutions, the clarity and appropriateness of assigned roles, lines of authority. Applicants should also provide an organizational chart for each partner institution named in the application showing relationships among the key personnel.

- **Administrative and Organizational Framework**—Adequacy of the administrative and organizational framework, with lines of authority and responsibility clearly demonstrated, and adequacy of the project plan, with proposed time schedule for achieving

objectives and maintaining quality control over the implementation and operation of the project. Adequacy of back-up staffing and the evidence that they will be able to function as a team. The framework should identify the institution that will assume legal and financial responsibility and accountability for the use and disposition of funds awarded on the basis of this RFA.

#### (5) *Experience and Capabilities of the Organization (30 Points):*

- Applicants should submit documented relevant experience of the organization in managing projects of similar complexity and scope of the activities.

- Clarity and appropriateness of lines of communication and authority for coordination and management of the project. Adequacy and feasibility of plans to ensure successful coordination of a multiple-partner collaboration.

- Documented experience recruiting qualified medical personnel for projects of similar complexity and scope of activities.

#### (4) *Facilities and Resources (10 Points):*

Documented availability and adequacy of facilities, equipment and resources necessary to carry out the activities specified under Program Requirements.

### 2. Review and Selection Process

Applications will be reviewed in competition with other submitted applications, by a panel of peer reviewers. Each of the above criteria will be addressed and considered by the reviewers in assigning the overall score. Final award will be made by the Deputy Director, Asia and Pacific Division of the Office Global Health Affairs on the basis of score, program relevance and, availability of funds.

## VI. Award Administration Information

### 1. Award Notices

OGHA/HHS does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter regarding the outcome of their applications. The official document notifying an applicant that an application has been approved and funded is the Notice of Award, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding, if any, to be contributed by the awardee to the project costs.

## 2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to state and local governments. Applicants funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/45cfrv1\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html).

**Reporting:** Each party to this Cooperative Agreement has agreed to undertake the following obligations:

The applicant (recipient) agrees to:

a. Provide a budget for the acquisition and installation of the necessary equipment to complete the HHS Project, using the provided HHS Guidelines on Medical Equipment Donation;

b. Facilitate the acquisition, refurbishment and calibration of the necessary equipment at a reduced cost;

c. Prepare the necessary items for shipping including preparation of shipping documents for entry into partner country;

d. Provide manuals for the donated equipment which can be translated into the primary language, at a sixth grade reading level and contain illustrations. Manuals must include content on the proper storage, cleaning and care and repair of the equipment;

e. Ensure that the training method or module includes essential content regarding the adherence to established infection control principles;

f. Provide technical training and examination of proficiency by the user on agreed upon technologies and supplied equipment;

g. Ensure that training is provided by a certified trainer at a time closely coordinated with the delivery of the equipment or materials; and,

h. Accompany the equipment and supplies for the purpose of overseeing the distribution, installation, and training in partner institution.

HHS agrees to:

a. Identify the funds necessary for the acceptance of the necessary equipment in keeping with the approved budget; and,

b. Identify the funds or transportation necessary for the shipping of goods to partner country.

All projects are required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the

project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills that can be attributed to the project. Project funds may be used to support evaluation activities.

In addition to conducting their own evaluation of their projects, successful applicants must be prepared to participate in an external evaluation, to be supported by OGHA/HHS and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Within 30 days following the end of each of quarter, submit a performance report no more than ten pages in length must be submitted to OGHA/HHS. A sample monthly performance report will be provided at the time of notification of award. At a minimum, monthly performance reports should include:

- Concise summary of the most significant achievements and problems encountered during the reporting period, e.g. number of training courses held and number of trainees.

- A comparison of work progress with objectives established for the quarter using the grantee's implementation schedule, and where such objectives were not met, a statement of why they were not met.

- Specific action(s) that the grantee would like the OGHA/HHS to undertake to alleviate a problem.

- Other pertinent information that will permit monitoring and overview of project operations.

- A quarterly financial report describing the current financial status of the funds used under this award. The awardee and OGHA will agree at the time of award for the format of this portion of the report.

Within 90 days following the end of the project period a final report containing information and data of interest to the Department of Health and Human Services, Congress, and other countries must be submitted to OGHA/HHS. The specifics as to the format and content of the final report and the summary will be sent to successful applicants. At minimum, the report should contain:

- A summary of the major activities supported under the agreement and the major accomplishments resulting from activities to improve mortality in partner country.

- An analysis of the project based on the problem(s) described in the application and needs assessments, performed prior to or during the project

period, including a description of the specific objectives stated in the grant application and the accomplishments and failures resulting from activities during the grant period.

Quarterly performance reports and the final report may be submitted to: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453-8822.

## VII. Agency Contacts

For assistance on administrative and budgetary requirements, please contact: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453-8822.

For assistance with questions regarding program requirements, please contact: Dr. Amar Bhat, Asia-Pacific Division, Office of Global Health Affairs, Office of the Secretary, Department of Health and Human Services, 5600 Fishers Lane, Suite 18-101, Rockville, MD 20857. Phone Number: 301-443-1410.

## VIII. Tips for Writing a Strong Application

**Include DUNS Number.** You must include a DUNS Number to have your application reviewed. Applications will not be reviewed without a DUNS number. To obtain a DUNS number, access <http://www.dunandbradstreet.com> or call 1-866-705-5711. Please include the DUNS number next to the OMB Approval Number on the application face page.

**Keep your audience in mind.** Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume that reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.

**Start preparing the application early.** Allow plenty of time to gather required information from various sources.

**Follow the instructions in this guidance carefully.** Place all information in the order requested in the guidance. If the information is not placed in the requested order, you may receive a lower score.

**Be brief, concise, and clear.** Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If any required information or data is omitted, explain why. Make sure the

information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.

*Be organized and logical.* Many applications fail to receive a high score because the reviewers cannot follow the thought process of the applicant or because parts of the application do not fit together.

*Be careful in the use of appendices.* Do not use the appendices for information that is required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.

*Carefully proofread the application.* Misspellings and grammatical errors will impede reviewers in understanding the application. Be sure pages are numbered (including appendices) and that page limits are followed. Limit the use of abbreviations and acronyms, and define each one at its first use and periodically throughout application.

Dated: August 26, 2005.

**Mary Lou Valdez,**

*Deputy Director for Policy, Office of Global Health Affairs.*

**Cristina V. Beato,**

*Acting Assistant Secretary for Health, Office of Public Health and Science.*

[FR Doc. 05-17590 Filed 9-2-05; 8:45 am]

**BILLING CODE 4150-38-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency for Healthcare Research and Quality**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to reinstate the information collection project: "AHRQ-HRSA Chemical, Biological, Radiological, Nuclear and Explosive (All Hazards) Preparedness Questionnaire for Healthcare Facilities for 2004 (CBRNE)". In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(C)(2)(A), AHRQ invites the public to comment on this proposed information collection.

AHRQ obtained a six-month emergency collection approval for the first wave of this information collection.

This reinstatement of the previous clearance approval covers the second wave of the same survey. The respondents will be queried as to their progress in achieving the preparedness goals reported in the first wave.

**DATES:** Comments on this notice must be received by November 7, 2005.

**ADDRESSES:** Written comments for the proposed information collection should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 540 Gaither Road, Room #5022, Rockville, MD 20850.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Cynthia D. McMichael, AHRQ Reports Clearance Officer, (301) 427-1651.

**SUPPLEMENTARY INFORMATION:**

**Proposed Project**

"AHRQ-HRSA Chemical, Biological, Radiological, Nuclear and Explosive (All Hazards) Preparedness Questionnaire for Healthcare Facilities for 2004 (CBRNE)"

The Preparedness Questionnaire is an inventory of the U.S. hospitals which received support for preparedness activities under the HRSA National Bioterrorism Hospital Preparedness Program. This survey instrument is being designed for use by preparedness planners to measure local or regional hospital levels of preparedness for a chemical, biological, radiological, nuclear and explosive (CBRNE) event. One point of contact is designated in each hospital to provide information on a range of topics that have been deemed essential by a panel of nationally-recognized experts on issues related to hospital preparedness for a CBRNE, i.e., an all hazards event.

These topics include facility planning and administration; training and education; communication and notification; patient capacity; staffing and support; isolation and decontaminations; supplies, pharmaceuticals and laboratory support; and surveillance.

The inventory, which was administered in 2004/2005 and will be again in 2006, will provide national, state, and regional levels of preparedness by type of hospital, as well as estimates of bed capacity and emergency increase (surge) capacity. This information will be used to ascertain the progress of the previously queried hospitals in attaining their preparedness goals.

In addition to determination the capacity of the survey instrument to actually collect information needed for local and regional planning, it should also be useful for national planning, program planning, setting priority areas in addressing current and future needs, as well as ensuring that scarce resources are being used in a way that achieves the most impact in preparedness.

**Data Confidentiality Provisions**

The data will be collected by an independent consulting firm under terms of its contract. The identifiable information about institutions will be kept confidential in accordance with 42 USC 299c-3(c). AHRQ and HRSA will receive only state-level summary data, and not individual hospital responses.

**Method of Collection**

The preparedness questionnaire will be administered electronically to each hospital via electronic mail. The estimated burden is as follows:

**Estimated Annual Respondent Burden**

Number of questionnaire recipients	Estimated burden/respondent	Total hours of burden
1479 .....	60 minutes ....	1479

The estimate burden is based on the completion of a paper version of the questionnaire by a pilot hospital. The more efficient data collection effort enabled by the electronic format has been taken into account in this estimate. The annualized cost to all potential respondents is estimated at \$51,528 Total (\$34.84/hr [average staff time] × 1 hr. × 1479 respondents). Percentage of capital costs, operating costs or maintenance costs are negligible.

A stratified random sample by state will be used in this second wave survey. This second wave (resurvey) is utilizing statistical methods based on baseline data in developing a sampling scheme.

**Request for Comments**

In accordance with the above cited Paperwork Reduction Act legislation, comments on the AHRQ's and HRSA's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of AHRQ and HRSA, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) 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 the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 12, 2005.

**Carolyn M. Clancy,**  
Director.

[FR Doc. 05-17617 Filed 9-2-05; 8:45 am]

BILLING CODE 4160-90-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2004P-0379]

#### Determination That Penthrane (Methoxyflurane) Inhalation Liquid, 99.9 Percent, Was Withdrawn From Sale for Reasons of Safety or Effectiveness

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined that Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent, was withdrawn from sale for reasons of safety or effectiveness. The agency will not accept or approve abbreviated new drug applications (ANDAs) for methoxyflurane inhalation liquid, 99.9 percent.

**FOR FURTHER INFORMATION CONTACT:** Mary Catchings, Center for Drug Evaluation and Research (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new

drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent, was the subject of NDA 13-056, held by Abbott Laboratories (Abbott). Penthrane is a potent inhalation anesthetic indicated to provide anesthesia for surgical procedures in which total duration of administration is anticipated to be 4 hours or less (not to be used at concentrations that provide skeletal muscle relaxation). Penthrane was also indicated to provide analgesia in obstetrics and in minor surgical procedures and for use by self-administration using hand held inhalers. In the **Federal Register** of August 16, 2001 (66 FR 43017), FDA withdrew approval of NDA 13-056 for Penthrane after Abbott notified the agency that Penthrane was no longer being marketed under NDA 13-056 and requested withdrawal of that application. Penthrane was then moved to the "Discontinued Drug Product List" section of the Orange Book.

In a citizen petition dated August 25, 2004 (Docket No. 2004P-0379/CP1), submitted under § 10.30 (21 CFR 10.30), and in accordance with § 314.161, AAC Consulting Group requested that the agency determine whether Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent, was withdrawn from sale for reasons of safety or effectiveness.

We have carefully reviewed our files for records concerning the withdrawal of Penthrane (methoxyflurane)

Inhalation Liquid, 99.9 percent, including the NDA file for this drug product. We have also independently evaluated relevant literature and data for possible postmarketing adverse event reports. FDA has determined under §§ 314.161 and 314.162(a)(2) that Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent, was withdrawn from sale for reasons of safety. FDA's review shows that methoxyflurane, a volatile anesthetic agent, is associated with serious, irreversible, and even fatal nephrotoxicity and hepatotoxicity in humans. FDA has also reviewed the latest approved labeling for Penthrane and has determined that this labeling is inadequate. FDA believes that the risks of toxicity outweigh any potential benefits if methoxyflurane is used according to the latest approved labeling. Since the initial approval of Penthrane in 1962, with a subsequent finding of efficacy in the **Federal Register** of December 11, 1981 (46 FR 60652), alternative safe and effective anesthetics have been approved by FDA and entered the market. FDA has determined that new clinical studies are necessary before methoxyflurane could be considered for reintroduction to the market. The agency has determined, under § 314.161, that Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent was withdrawn from sale for reasons of safety. Therefore, Penthrane (methoxyflurane) Inhalation Liquid, 99.9 percent, will be removed from the list of drug products published in the Orange Book. FDA will not accept or approve ANDAs that refer to this drug product.

Dated: August 29, 2005.

**Jeffrey Shuren,**

Assistant Commissioner for Policy.

[FR Doc. 05-17559 Filed 9-2-05; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket Nos. 2005M-0158, 2005M-0159, 2005M-0129, 2005M-0160, 2005M-0130, 2005M-0151, 2005M-0117, 2005M-0118, 2005M-0241, 2005M-0191, 2005M-0192, 2005M-0193, 2005M-0270]

#### Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing a

list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Division of Dockets Management.

**ADDRESSES:** Submit written requests for copies of summaries of safety and effectiveness to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

**FOR FURTHER INFORMATION CONTACT:** Think Nguyen, Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2186.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**. Instead, the agency now posts this information on the Internet on FDA's home page at <http://www.fda.gov>. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting

reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from April 1, 2005, through June 30, 2005. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM APRIL 1, 2005, THROUGH JUNE 30, 2005.

PMA No./Docket No.	Applicant	TRADE NAME	Approval Date
P030040/2005M-0158	Bayer Healthcare, LLC	ADVIA CENTAUR HBC IGM READY PACK REAGENTS, ADVIA CENTAUR HBC IGM QUALITY CONTROL MATERIAL	August 6, 2004
P020055/2005M-0159	Ventana Medical Systems, Inc.	VENTANA MEDICAL SYSTEMS PATHWAY ANTI-C-KIT (9.7) PRIMARY ANTIBODY	August 11, 2004
P040018/2005M-0129	Bayer Healthcare, LLC	ADVIA CENTAUR HAV IGM READY PACK REAGENTS, ADVIA CENTAUR HAV IGM QUALITY CONTROL MATERIAL	December 22, 2004
P040030/2005M-0160	BioGenex Laboratories, Inc.	INSITE HER-2/NEU KIT	December 22, 2004
P030052/2005M-0130	Vysis, Inc.	UROVYSION BLADDER CANCER KIT	January 24, 2005
P930016(S20)/2005M-0151	VISX, Inc.	STAR S4 IR EXCIMER LASER SYSTEM WITH VARIABLE SPOT SCANNING (VSS)	March 17, 2005
P040020/2005M-0117	Alcon Research, Ltd.	ACRYSOF RESTOR APODIZED DIFFRACTIVE OPTIC POSTERIOR CHAMBER IOL	March 21, 2005
P040024/2005M-0118	Medicis Aesthetics Holdings, Inc.	RESTYLANE INJECTABLE GEL	March 25, 2005
P040026/2005M-0241	Medispec, Ltd.	ORTHOSPEC EXTRACORPOREAL SHOCK WAVE THERAPY DEVICE	April 1, 2005
P040034/2005M-0191	Confluent Surgical, Inc.	DURASEAL DURAL SEALANT SYSTEM	April 7, 2005
P040016/2005M-0192	Boston Scientific Corp.	BOSTON SCIENTIFIC CORPORATION LIBERTE MONORAIL AND OVER-THE-WIRE CORONARY STENT SYSTEMS	April 12, 2005
P030037/2005M-0193	Biotronik, Inc.	RITHRON-XR CORONARY STENT SYSTEM	April 29, 2005
P030049/2005M-0270	Bayer Healthcare, LLC	ADVIA CENTAUR HBS AG READY PACK REAGENTS, ADVIA CENTAUR HBS AG CONFIRMATORY READY PACK REAGENTS, AND ADVIA CENTAUR HBS AG QUALITY CONTROL MATERIAL	May 31, 2005

## II. Electronic Access

Persons with access to the Internet may obtain the documents at <http://www.fda.gov/cdrh/pmapage.html>.

Dated: August 22, 2005.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 05-17602 Filed 9-2-05; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2005D-0324]

#### International Conference on Harmonisation; Draft Guidance on M5 Data Elements and Standards for Drug Dictionaries; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "M5 Data Elements and Standards for Drug Dictionaries." The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance describes the data elements and standards that ICH recommends be made available to interested parties to assist in the development and maintenance of drug dictionaries. The draft guidance is intended to facilitate the exchange and practical use of medicinal product information at the international level, such as with postmarketing safety reporting.

**DATES:** Submit written or electronic comments on the draft guidance by October 21, 2005. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written comments on the draft guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training, and

Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800. Send two self-addressed adhesive labels to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

#### FOR FURTHER INFORMATION CONTACT:

*Regarding the guidance:* Randy Levin, Center for Drug Evaluation and Research (HFD-001), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-7784; or Ann Schwartz, Center for Biologics Evaluation and Research (HFM-475), Food and Drug Administration, 1401 Rockville Pike, rm. 300N, Rockville, MD 20832, 301-827-3070.

*Regarding the ICH:* Michelle Limoli, Office of International Programs (HFG-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4480.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug

Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of ICH's sponsors and IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In May 2005, the ICH Steering Committee agreed that a draft guidance entitled "M5 Data Elements and Standards for Drug Dictionaries" should be made available for public comment. The draft guidance is the product of the M5 Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the M5 expert working group.

The draft guidance describes the data elements that ICH recommends be made available to interested parties to assist in the development and maintenance of drug dictionaries. The draft guidance outlines each data element and provides recommended standards for the data elements. The draft guidance addresses medicinal products (drugs and biologics) and is intended to accomplish the following goals:

- Improve the exchange of medicinal product information,
- Improve consistency in evaluating and comparing medicinal products for postmarketing surveillance activities,
- Provide consistent terminology for the health care community, and
- Reduce administrative burdens for the pharmaceutical industry when complying with different regional regulatory requirements.

The draft guidance refers to approved medicinal products. The draft guidance does not apply to homeopathic medicinal products or investigational medicinal products. The draft guidance does not cover the establishment and maintenance of a drug dictionary.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on M5 data elements and standards for drug dictionaries. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

**II. Comments**

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

**III. Electronic Access**

Persons with access to the Internet may obtain the document at <http://www.fda.gov/ohrms/dockets/default.htm>, <http://www.fda.gov/cder/guidance/index.htm>, or <http://www.fda.gov/cber/reading.htm>.

Dated: August 29, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05-17597 Filed 9-2-05; 8:45 am]

**BILLING CODE 4160-01-S**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning information required by FEMA to amend or revise National Flood Insurance Program Maps to remove certain property from the 1-percent annual chance floodplain.

**SUPPLEMENTARY INFORMATION.** With the passage of the Flood Disaster Protection Act of 1973, an owner of a structure, with a federally backed mortgage, located in the 1-percent annual chance floodplain, was required to purchase federal flood insurance. This was in response to the escalating damage caused by flooding and the unavailability of flood insurance from commercial insurance companies. As part of this effort, FEMA mapped the 1-percent annual chance floodplain in communities. However, due to scale limitations, individual structures that may be above the base flood cannot always be shown as being out of the 1-percent annual chance floodplain. FEMA will issue a Letter of Map Amendment (LOMA) or a Letter of Map Revision—Based on Fill (LOMR-F) to waive the Federal requirement for flood insurance when data is submitted to show that the property or structure is “reasonably safe from flooding” and at or above the elevation of the base flood.

**Collection of Information**

*Title:* Right to Submit Technical or Scientific Data to Correct Mapping Deficiencies.

*Type of Information Collection:* Revision of a Currently Approved Collection.

*OMB Number:* 1660-0015.

*Form Numbers:* FEMA Forms 81-87, 81-87A, 81-87B.

*Abstract:* The certification forms (referred to as MT-1 series forms) are designed to assist requesters in gathering information that FEMA needs to determine whether a certain property is likely to be flooded during the flood event that has a 1-percent annual chance of being equalled or exceeded in any given year (base flood). FEMA Form 81-87, Property Information, describes the location of the property, what is being requested, and what data are required to support the request. FEMA Form 81-87A, Elevation Information, indicates what the Base (1-percent annual chance) Flood Elevation (BFE) for the property is, how the BFE was determined, the lowest ground elevation on the property, and/or the elevation of the lowest adjacent grade to any structures on the property. This information is required in order for FEMA to determine if the property that the requester would like removed from the SFHA FEMA Form 81-87B, Community Acknowledgment, requires that a community official certify that the request complies with minimum floodplain management criteria specified in 44 CFR 60.3, as per NFIP regulations 44 CFR 65.5(a)(4).

*Estimated Total Annual Burden Hours:* 57,300.

**ANNUAL BURDEN HOURS**

Project/activity (survey, form(s), focus group, etc.)	Number of respondents (A)	Frequency of responses (B)	Burden hours per respondent (C)	Annual responses (A × B)	Total annual burden hours (A × B × C)
81-87 .....	18,272	Annual (1) .....	1.63	18,272	29,783
81-87A .....	18,272	Annual (1) .....	1.25	18,272	22,840
81-87B .....	3,389	Annual (1) .....	1.38	3,389	4,677
<b>Total</b> .....	<b>39,933</b>	.....	<b>4.26</b>	<b>39,933</b>	<b>57,300</b>

*Estimated Cost.* Cost to respondents is estimated to be \$1,325,597 annually, while the cost to the Federal Government is estimated to be \$94,300 annually.

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the

accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses. Comments should be received within 60 days of the date of this notice.

**ADDRESSES:** Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology

Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Cecilia Lynch, FEMA, Federal Insurance and Mitigation Administration at (202) 646-7045 for additional information. You may contact the Records Management Section for copies of the proposed collection of information at facsimile number (202) 646-3347 or email address: *FEMA-Information-Collections@dhs.gov*.

Dated: August 26, 2005.

**Deborah A. Moradi,**

*Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.*

[FR Doc. 05-17627 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed information

collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning information required by FEMA to revise National Flood Insurance Program Maps.

**SUPPLEMENTARY INFORMATION:** With the passage of the Flood Disaster Protection Act of 1973, an owner of a structure, with a federally backed mortgage, located in the 1-percent annual chance floodplain, was required to purchase federal flood insurance. This was in response to the escalating damage caused by flooding and the unavailability of flood insurance from commercial insurance companies. As part of this effort, FEMA mapped the 1-percent annual chance floodplain in communities. However, the 1-percent annual chance floodplain may change due to changes within the floodplain, or may be more accurately depicted through the use of more up-to-date methods and data. FEMA will issue a Letter of Map Revision to officially revise the 1-percent annual chance floodplain.

**Collection of Information**

*Title:* Consultation with Local Officials to Assure Compliance—Sec. 110 and 206.

*Type of Information Collection.* Revision of a currently approved collection.

*OMB Number:* 1660-0016.

*Form Numbers.* FEMA forms 81-89, 81-89A, 81-89B, 81-89C, 81-89D, 81-89E

*Abstract.* The certification forms (referred to as MT-2 series forms) are designed to assist requesters in gathering information that FEMA needs to revise a National Flood Insurance Program map.

FEMA Form 81-89, Overview and Concurrence Form, describes the location of the request, what is being requested, and what data are required to support the request. In addition, NFIP regulations 44 CFR 65.5(a)(4) require that a community official certify that the request complies with minimum floodplain management criteria specified in 44 CFR 60.3. This form ensures that this requirement is fulfilled prior to the submittal of the request to FEMA. FEMA Form 81-89A, Riverine Hydrology and Hydraulics Form, allows FEMA to efficiently review assumptions made, parameters used, and the results of hydrologic and hydraulic analyses performed in support of a revision request. It also addresses more common regulatory issues; FEMA Form 81-89B, Riverine Structures Form, allows FEMA to efficiently review assumptions made, parameters used, and the results of revision requests involving new or modified structures in riverine flood hazard areas; FEMA Form 81-89C, Coastal Analysis Form, allows FEMA to efficiently review assumptions made, parameters used, and the results of coastal analyses performed in support of a revision request. It also addresses more common regulatory issues; FEMA Form 81-89D, Coastal Structures Form, allows FEMA to efficiently review assumptions made, parameters used, and the results of revision requests involving new or modified structures in coastal flood hazard areas; FEMA Form 81-89E, Alluvial Fan Flooding Form, allows FEMA to efficiently review assumptions made, parameters used, and the results of alluvial fan flooding analyses performed in support of a revision request.

**ESTIMATED TOTAL ANNUAL BURDEN HOURS**

FEMA forms	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A × B × C)
81-89 .....	1,400	Annual .....	1.0	1,400
81-89A .....	1,400	Annual .....	3.5	4,320
81-89B .....	1,400	Annual .....	7.0	10,080
81-89C .....	1,400	Annual .....	1.0	1,400
81-89D .....	1,400	Annual .....	1.0	1,400
81-89E .....	1,400	Annual .....	1.0	1,400
Total .....	1,400	.....	14.5	20,880,000

*Estimated Cost.* Cost to respondents is estimated to be \$1,044,000 annually, while the cost to the Federal Government is estimated to be \$100,220 annually.

*Comments:* Written comments are solicited to (a) evaluate whether the

proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of

the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

**ADDRESSES:** Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Cecelia Lynch, FEMA Federal Insurance and Mitigation Administration at (202) 646-7045 for additional information. You may contact the Records Management Section for copies of the proposed collection of information at facsimile number (202) 646-3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: August 26, 2005.

**Deborah A. Moradi,**

*Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.*

[FR Doc. 05-17628 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-12-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA-1600-DR]

#### Kansas; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA-1600-DR), dated August 23, 2005, and related determinations.

**EFFECTIVE DATE:** August 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated August 23, 2005, the President declared a major disaster under the authority of

the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Kansas, resulting from severe storms and flooding on June 30, 2005, through July 1, 2005, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas; Hazard Mitigation throughout the State; and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Cherokee, Crawford, and Neosho Counties for Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs 97.036, Public

Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05-17632 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-10-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA-1601-DR]

#### Louisiana; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-1601-DR), dated August 23, 2005, and related determinations.

**EFFECTIVE DATE:** August 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated August 23, 2005, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from Tropical Storm Cindy on July 5-6, 2005, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas; and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted,

Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Sandra Coachman, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

Jefferson, Lafourche, Plaquemines, St. Bernard, and St. Charles Parishes for Public Assistance.

Jefferson, Lafourche, Plaquemines, St. Bernard, and St. Charles Parishes in the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05-17631 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-10-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA-1599-DR]

#### Wyoming; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Wyoming

(FEMA-1599-DR), dated August 22, 2005, and related determinations.

**EFFECTIVE DATE:** August 22, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated August 22, 2005, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Wyoming resulting from a tornado on August 12, 2005, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Wyoming.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas; Hazard Mitigation throughout the State; and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and the Other Needs Assistance under Section 408 of the Stafford Act will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Michael Karl, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Wyoming to have been affected adversely by this declared major disaster:

Campbell County for Individual Assistance.

All counties within the State of Wyoming are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05-17633 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-10-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### Open Meeting, Board of Visitors for the National Fire Academy

**AGENCY:** U.S. Fire Administration (USFA), Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

*Name:* Board of Visitors (BOV) for the National Fire Academy.

*Dates of Meeting:* October 7-8, 2005.

*Place:* Building H, Room 300, National Emergency Training Center, Emmitsburg, Maryland.

*Time:* October 7, 9 a.m. to 5 p.m., and October 8, 9 a.m. to 3 p.m.

*Proposed Agenda:* Review National Fire Academy Program Activities.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public in the Emmitsburg commuting area with seating available on a first-come, first-served basis. Members of the general public who plan to participate in the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1117, on or before September 26, 2005.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the U.S. Fire Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request within 60 days after the meeting.

Dated: August 23, 2005.

**R. David Paulison,**

*U.S. Fire Administrator.*

[FR Doc. 05-17635 Filed 9-2-05; 8:45 am]

**BILLING CODE 9110-17-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Aquatic Nuisance Species Task Force—Joint Meeting of the Western Regional Panel and the Mississippi River Basin Regional Panel**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a joint meeting of the Aquatic Nuisance Species (ANS) Task Force Western Regional Panel and Mississippi River Basin Regional Panel. The meeting is open to the public. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION** section.

**DATES:** The Western Regional Panel and Mississippi River Basin Regional Panel will meet from 8 a.m. to 4:30 p.m. on Wednesday, September 7, 2005, 8 a.m. to 4:30 p.m. on Thursday, September 8, 2005, and 8:30 a.m. to noon on Friday, September 9, 2005.

**ADDRESSES:** The Western Regional Panel and Mississippi River Basin Regional Panel meeting will be held at the Hyatt Regency Wichita, 400 West Waterman, Wichita, KS 67202; (316) 293-1918. Minutes of the meeting will be maintained in the office of Division of Environmental Quality, Chief, Branch of Invasive Species, U.S. Fish and Wildlife Service, Suite 322, 4401 North Fairfax Drive, Arlington, Virginia 22203-1622, and will be made available for public inspection during regular business hours, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Bettina Proctor, Western Regional Panel Coordinator, 303-236-4515, [bettina\\_proctor@fws.gov](mailto:bettina_proctor@fws.gov), or Jerry Rasmussen, Mississippi River Basin Panel Coordinator, 309-793-5811, [jjrivers@aol.com](mailto:jjrivers@aol.com).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C.

App.), this notice announces a joint meeting of the ANS Task Force Western Regional Panel and Mississippi River Basin Regional Panel. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. The Western Regional Panel was established by the ANS Task Force in 1997, and the Mississippi River Basin Panel was established by the ANS Task Force in 2003. Both Regional Panels are comprised of representatives from Federal, State, and local agencies, as well as from private environmental and commercial interests, and each performs the following activities:

- a. Identifies priorities for activities in its respective region,
- b. Develops and submits recommendations to the national ANS Task Force,
- c. Coordinates ANS program activities in its respective region,
- d. Advises public and private interests on control efforts, and
- e. Submits an annual report to the ANS Task Force describing activities within its respective region related to ANS prevention, research, and control.

Topics to be addressed at this meeting include: Updates on the two Panels and discussions of opportunities for the two Panels to work together; invasive aquatic plants; invasive aquatic birds; invasive fish; updates on the ANS Task Force and the National Invasive Species Council; zebra mussels and the effect on diving ducks; white perch; marketing strategies; Canada/Mexico cooperation; pathway management; and Hazard Analysis and Critical Control Point (HACCP) planning.

Dated: August 9, 2005.

**Frank Deluise,**

*Acting Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.*

[FR Doc. 05-17621 Filed 9-2-05; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ID-957-1420-BJ]

#### **Idaho: Filing of Plats of Survey**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Filing of Plats of Surveys.

**SUMMARY:** The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State

Office, Boise, Idaho, effective 9 a.m., on the dates specified.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709-1657.

**SUPPLEMENTARY INFORMATION:** These surveys were executed at the request of the Bureau of Indian Affairs to meet their administrative needs. The lands surveyed are:

The plat representing the dependent resurvey of portions of the west boundary, the subdivisional lines, the subdivision of sections 7 and 18, the adjusted 1873 and 1889-1891 meanders of the right bank of the Clearwater River, and of a portion of Parcel 2 in section 7, additional survey of subdivision lines in sections 7 and 18, the subdivision of section 19, and the survey of the 1999-2001 meanders of portions of the left bank of the Clearwater River in section 6 and portions of the right bank in section 7, a partition line in section 7, the metes-and-bounds surveys in section 18, and the survey of lot 20 in section 19, in T. 33 N., R. 4 E., Boise Meridian, Idaho, was accepted July 1, 2005.

The plat representing the dependent resurvey of portions of the south and west boundaries, the subdivisional lines, the subdivision of sections 1, 11, and 12, lot 43 of section 1, the adjusted record meanders of a portion of the left bank of the Clearwater River in section 1, the additional survey of subdivision lines in sections 1, 11, and 12, the subdivision of sections 14, 15, 16, 17, 19, 20, 21, 22, 29, 30, 32, and 36, the survey of lot Nos. 56, 58, and 61, in section 1, lot No. 8 in section 11, and of lot No. 58 in section 12, in T. 33 N., R. 3 E., Boise Meridian, Idaho was accepted July 1, 2005.

The plat, in 4 sheets, of the dependent resurvey of portions of the First Standard Parallel South (south boundary) and subdivisional lines, and the subdivision of sections 26, 27, 34, and 35, and the metes-and-bounds surveys of the rights-of-way of Interstate Highway 86 through sections 26 and 27, and Gas Plant Road through sections 26, 27, 34, and 35, in T. 6 S., R. 32 E., Boise Meridian, Idaho, was accepted August 11, 2005.

The plat, in 4 sheets, of the dependent resurvey of portions of the east boundary and subdivisional lines, and the subdivision of sections 2, 3, 10, 11, 12, 14, 15, and 16, and certain metes-and-bounds surveys in sections 2, 3, 10, 11, 12, 14, 15, and 16, in T. 7 S., R. 32 E., Boise Meridian, Idaho, was accepted August 11, 2005.

The plat, in 3 sheets, of the dependent resurvey of the First Standard Parallel South (south boundary), a portion of the east boundary (New East Boundary of the Fort Hall Indian Reservation) and a portion of the subdivisional lines, and the subdivision of sections 24, 25, 34, 35, and 36, and certain metes-and-bounds surveys in sections 24, 25, 34, 35, and 36, in T. 6 S., R. 33 E., Boise Meridian, Idaho, was accepted August 12, 2005.

The plat, in 3 sheets, of the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 3, 4, 5, 7, and 8, and certain metes-and-bounds surveys in sections 3, 4, 5, 7, and 8, in T. 7 S., R. 33 E., Boise Meridian, Idaho, was accepted August 12, 2005.

This survey was executed at the request of the National Park Service to meet their administrative needs. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the west boundary, and a portion of the subdivisional lines, and the subdivision of sections 8, 19, 20, 21, and 28, in T. 15 S., R. 24 E., Boise Meridian, Idaho, was accepted July 19, 2005.

Dated: August 30, 2005.

**Stanley G. French,**

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 05-17611 Filed 9-2-05; 8:45 am]

**BILLING CODE 4310-GG-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Wekiva River System Advisory Management Committee Meeting

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a September 20, 2005, meeting of the Wekiva River System Advisory Management Committee.

**DATES:** The meeting will be held Tuesday, September 20, 2005, at 6 p.m.

**ADDRESSES:** The meeting will be held at the Sylvan Lake Park, 845 Lake Markham Rd., Sanford, FL 32771. Sylvan Lake Park is located off Interstate 4 at Exit 51 (SR 46). Take SR 46 West to Lake Markham Rd. Turn left on Lake Markham Rd. and continue one mile to Sylvan Lake Park on the left. Call (407) 322-6567 or visit <http://www.seminolecountyfl.gov/lls/parks/parkInfo.asp?id=20> for additional information on this facility.

**FOR FURTHER INFORMATION CONTACT:** Jamie Fosburgh, Rivers Program

Manager, Northeast Region—Boston, 15 State Street, Boston, MA 02109, telephone (617) 223-5191.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public. The agenda will include: Welcome & Introductions; Approval of Minutes; Status of Membership/FACA Charter; Discussion/Revision of Draft Management Plan Outline; Consideration of Staffing/Contracting Options; Introduction to "Partnership Wild and Scenic Rivers"; and Closing Summary/Next Steps. Any member of the public may file with the Committee a written statement concerning agenda items. The statement should be addressed to the Wekiva River System Advisory Management Committee, National Park Service, 15 State Street, Boston, MA 02109.

The Wekiva River System Advisory Management Committee was established by Public Law 106-299 to assist in the development of the comprehensive management plan for the Wekiva River System and provide advice to the Secretary in carrying out management responsibilities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1274).

Dated: August 17, 2005.

**Jamie Fosburgh,**

*Rivers Program Manager.*

[FR Doc. 05-17482 Filed 9-2-05; 8:45 am]

**BILLING CODE 4312-52-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-549]

### In the Matter of Certain Ink Sticks for Solid Ink Printers; Notice of Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 2, 2005, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Xerox Corporation of Stamford, Connecticut. Supplemental letters were filed on August 16, 2005 and August 22, 2005. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink sticks for solid ink printers by reason of infringement of claim 16 of U.S. Patent No. 6,739,713, claims 5-10 and 13-14 of

U.S. Patent No. 6,840,613, and claims 1-2 of U.S. Patent No. 6,840,612. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <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>.

**FOR FURTHER INFORMATION CONTACT:** Erin D.E. Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2550.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2005).

### Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 29, 2005, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ink sticks for solid ink printers by reason of infringement of one or more of claim 16 of U.S. Patent No. 6,739,713, claims 5-10 and 13-14 of U.S. Patent No. 6,840,613, and claims 1-2 of U.S. Patent No. 6,840,612, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following

are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Xerox Corporation, 800 Long Ridge Road, Stamford, Connecticut 06904.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

HANA Corporation, 8F Doojin B/D 158 Samsung-Dong, Kangnam-Ku, Seoul Korea.

InkSticks.com, Inc., 2120 Carey Avenue, Suite 310, Cheyenne, Wyoming 82001.

(c) Erin D.E. Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

Issued: August 30, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-17612 Filed 9-2-05; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Parole Commission

#### Sunshine Act; Public Announcement

Pursuant to the Government in the Sunshine Act (Pub. L. 94-409) [5 U.S.C. 552b].

**AGENCY HOLDING MEETING:** Department of Justice, United States Parole Commission.

**TIME AND DATE:** 10:30 a.m., Wednesday, September 7, 2005.

**PLACE:** 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

**STATUS:** Open.

**MATTER TO BE CONSIDERED:** The meeting is being held to discuss the budget proposal for the fiscal year 2007.

**AGENCY CONTACT:** Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492-5990.

Dated: August 31, 2005.

**Rockne Chickinell,**

*General Counsel, U.S. Parole Commission.*

[FR Doc. 05-17671 Filed 9-1-05; 10:42 am]

**BILLING CODE 4410-31-M**

## MARINE MAMMAL COMMISSION

### Committee Management; Notice of Public Meeting; Advisory Committee on Acoustic Impacts on Marine Mammals

**AGENCY:** Marine Mammal Commission.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Marine Mammal Commission (Commission) will hold the sixth meeting of its Advisory Committee on Acoustic Impacts on Marine Mammals (Committee) 20 to 22 September, 2005 in Bethesda, Maryland.

**DATES:** The Committee will meet Tuesday, September 20, 2005, from 9 a.m. to approximately 6 p.m.; Wednesday, September 21, to 8:30 a.m. to approximately 6:30 p.m.; and Thursday, September 22, from 8:30 a.m. to approximately 6 p.m. This meeting is open to the public. These times and the agenda topics described below are subject to change. Please refer to the Commission's Web site (<http://www.mmc.gov>) for the most up-to-date meeting information. The Committee has no plans for future meetings.

**ADDRESSES:** The 20-22 September meeting will be held at the Holiday Inn Select Washington-Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814, phone 877-888-3001 or 301-652-2000, fax 301-652-4525, Web

<http://www.holiday-inn.com/bethesdamd>.

**FOR FURTHER INFORMATION CONTACT:** Erin Vos, Sound Project Manager, Marine Mammal Commission, 4340 East-West Hwy., Rm. 905, Bethesda, MD 20814, e-mail: [evos@mmc.gov](mailto:evos@mmc.gov), tel.: 301-504-0087, fax: 301-504-0099; or visit the Commission's Web site at <http://www.mmc.gov>.

**SUPPLEMENTARY INFORMATION:** This meeting is to be held pursuant to the directive in the Omnibus Appropriations Act of 2003 (Pub. L. 108-7) that the Commission convene a conference or series of conferences to "share findings, survey acoustic 'threats' to marine mammals, and develop means of reducing those threats while maintaining the oceans as a global highway of international commerce." The meeting agenda includes discussions and negotiations related to (1) the final draft report of the Advisory Committee on Acoustic Impacts on Marine Mammals, including the Executive Summary, Introduction, and chapters on Synthesis of Current Knowledge, Management and Mitigation, Research, and International Efforts; and (2) the process for endorsement of the final report. The agenda also includes two public comment sessions. Guidelines for making public comments, background documents, and the meeting agenda, including the specific times of public comment periods, will be posted on the Commission's Web site prior to the meeting. Written comments may be submitted in advance or at the meeting.

Dated: August 29, 2005.

**David Cottingham,**

*Executive Director.*

[FR Doc. 05-17601 Filed 9-2-05; 8:45 am]

**BILLING CODE 6820-31-M**

## MEDICARE PAYMENT ADVISORY COMMISSION

### Commission Meeting

August 30, 2005.

**AGENCY:** Medicare Payment Advisory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Commission will hold its next public meeting on Thursday, September 8, 2005, and Friday, September 9, 2005, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 11 a.m. on September 8, and at 9:15 a.m. on September 9.

Topics for discussion include findings on two congressionally mandated studies: home health margins, and payments for oncology drugs and administration services in the Medicare system. The Commission will also discuss issues related to the Medicare wage index, outpatient therapy, valuing services in the physician fee schedule, and physician resource use. The Commission will also host a panel on quality measures in managed care organizations.

Agendas will be e-mailed approximately one week prior to the meeting. The final agenda will be available on the Commission's Web site (<http://www.medpac.gov>).

This will be the last notice placed in the **Federal Register** by the Commission. We will continue to e-mail meeting agendas, which you can sign up to receive at <http://www.medpac.gov>. They will also be posted on our Web site. In addition, we will now e-mail a meeting notice two weeks prior to the meeting date. If you have any comments on this action, please contact Annissa McDonald at [amcdonald@medpac.gov](mailto:amcdonald@medpac.gov) or (202) 220-3700.

**ADDRESSES:** MedPAC's address is: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001. The telephone number is (202) 220-3700.

**Mark E. Miller,**

*Executive Director.*

[FR Doc. 05-17567 Filed 9-2-05; 8:45 am]

**BILLING CODE 6820-BW-M**

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## OVERSEAS PRIVATE INVESTMENT CORPORATION

### September 8, 2005 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 70, Number 158, Page 48446) on August 17, 2005. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing in conjunction with OPIC's September 15, 2005 Board of Directors meeting scheduled for 2 p.m. on September 8, 2005 has been cancelled.

*Contact Person For Information:* Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336-8438, via facsimile at (202) 218-0136, or via e-mail at [cdown@opic.gov](mailto:cdown@opic.gov).

Dated: September 1, 2005.

**Connie M. Downs,**

*OPIC Corporate Secretary.*

[FR Doc. 05-17723 Filed 9-1-05; 2:13 pm]

**BILLING CODE 3210-01-M**

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## OVERSEAS PRIVATE INVESTMENT CORPORATION

### September 15, 2005 Board of Directors Meeting

*Time And Date:* Thursday, September 15, 2005, 10 a.m. (Open Portion) 10:15 a.m. (Closed Portion).

*Place:* Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

*Status:* Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

*Matters To Be Considered:*

1. President's Report.
2. Approval of July 28, 2005 Minutes (Open Portion).

*Further Matters To Be Considered:* (Closed to the Public 10:15 a.m.)

1. Proposed FY2007 Budget.
2. Finance Project—Russia.
3. Finance Project—Asia.
4. Finance Project—Eastern Europe and Turkey.
5. Finance Project—Mexico.
6. Approval of July 28, 2005 Minutes (Closed Portion).
7. Pending Major Projects.
8. Reports.

*Contact Person For Information:*

Information on the meeting may be obtained from Connie M. Downs at (202) 336-8438.

Dated: September 1, 2005.

**Connie M. Downs,**

*Corporate Secretary, Overseas Private Investment Corporation.*

[FR Doc. 05-17724 Filed 9-1-05; 2:13 pm]

**BILLING CODE 3210-01-M**

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## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### Meeting of the President's Council of Advisors on Science and Technology

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and summary agenda for a meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA).

*Dates and Place:* September 20, 2005, Washington, DC. The meeting will be

held in Room 100 of the National Academies Keck Center located at 500 Fifth Street, NW., Washington, DC 20001.

*Type of Meeting:* Open. Further details on the meeting agenda will be posted on the PCAST Web site at: <http://www.ostp.gov/PCAST/pcast.html>.

*Proposed Schedule and Agenda:* The President's Council of Advisors on Science and Technology is scheduled to meet in open session on Tuesday, September 20, 2005, at approximately 9 a.m. The PCAST is tentatively scheduled to hear presentations on research and commercialization activities in the areas of pharmacogenomics (or personalized medicine) and alternative energy. These are both areas in which PCAST may undertake studies regarding the Federal role in research and development and the barriers and possible implications surrounding widespread adoption. A review and update of other PCAST topics (e.g., nanotechnology) is also tentatively scheduled to occur. This session will end at approximately 5 p.m. Additional information on the agenda will be posted at the PCAST Web site at: <http://www.ostp.gov/PCAST/pcast.html>.

*Public Comments:* There will be time allocated for the public to speak on the above agenda items. This public comment time is designed for substantive commentary on PCAST's work topics, not for business marketing purposes. Please submit a request for the opportunity to make a public comment five (5) days in advance of the meeting. The time for public comments will be limited to no more than 5 minutes per person. Written comments are also welcome at any time following the meeting. Please notify Celia Merzbacher, PCAST Executive Director, at (202) 456-7116, or fax your request/comments to (202) 456-6021.

**FOR FURTHER INFORMATION CONTACT:** For information regarding time, place and agenda, please call Celia Merzbacher at (202) 456-7116, prior to 3 p.m. on Friday, September 16, 2005. Information will also be available at the PCAST Web site at: <http://www.ostp.gov/PCAST/pcast.html>. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

**SUPPLEMENTARY INFORMATION:** The President's Council of Advisors on Science and Technology was established by Executive Order 13226, on September 30, 2001. The purpose of PCAST is to advise the President on matters of science and technology policy, and to assist the President's National Science and Technology

Council in securing private sector participation in its activities. The Council members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by Dr. John H. Marburger, III, the Director of the Office of Science and Technology Policy, and by E. Floyd Kvamme, a Partner at Kleiner Perkins Caufield & Byers.

**Stanley S. Sokul,**

*General Counsel, Office of Science and Technology Policy.*

[FR Doc. 05-17595 Filed 9-2-05; 8:45 am]

**BILLING CODE 3170-W4-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52350; File No. 4-429]

### Joint Industry Plan; Order Approving Amendment No. 17 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Regarding Modifying the 80/20 Test for Determining Limitations on Principal Order Access to Linkage

August 26, 2005.

#### I. Introduction

On April 20, 2005, May 20, 2005, May 12, 2005, April 13, 2005, April 27, 2005 and May 11, 2005, the American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the International Securities Exchange ("ISE"), the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, "Participants"), respectively, filed with the Securities and Exchange Commission ("Commission") Joint Amendment No. 17 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").<sup>1</sup> In Joint Amendment No. 17, the Participants propose to modify the 80/20 Test to determine limitations on Principal Order<sup>2</sup> access to Linkage.<sup>3</sup>

<sup>1</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, PCX, and BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>2</sup> A "Principal Order" is an order for the principal account of an eligible market maker that does not relate to a customer order the market maker is holding. See Section 2(16)(b) of the Linkage Plan.

<sup>3</sup> Specified in Section 8(b)(iii) of the Linkage Plan.

The proposed amendment to the Linkage Plan was published in the **Federal Register** on July 27, 2005.<sup>4</sup> No comments were received on the proposed amendment. This order approves the proposed amendment to the Linkage Plan.

#### II. Description and Purpose of the Proposed Amendment

The purpose of the Joint Amendment is to modify the 80/20 Test contained in Section 8(b)(iii) of the Linkage Plan, which provides that market makers should send Principal Orders through the Linkage on a limited basis and not as a primary aspect of their business. The 80/20 Test implements this general principle by prohibiting a market maker from sending Principal Orders in an eligible option class if, in the last calendar quarter, the market maker's Principal Order contract volume is disproportionate to the market maker's contract volume executed against customer orders in its own market.

The Participants have expressed concern that the application of the 80/20 Test has resulted in anomalies for market makers with limited volume in an eligible option class. Specifically, if a market maker has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the market maker failing to meet the 80/20 Test. This would bar the market maker from using the Linkage to send Principal Orders for the following calendar quarter. The Participants contend that it was not their intent to bar market makers with limited volume from sending Principal Orders through the Linkage in these circumstances since such trading clearly was not "a primary aspect of their business." Thus, in Joint Amendment No. 17, the Participants propose to create a *de minimis* exemption from the 80/20 Test for market makers that have total contract volume of less than 1,000 contracts in an options class for a calendar quarter.

#### III. Discussion

After careful consideration, the Commission finds that the proposed amendment to the Linkage Plan seeking to create a *de minimis* exception to the 80/20 Test is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with Section 11A of

the Act<sup>10</sup> and Rule 11Aa3-2 thereunder,<sup>11</sup> in that it will increase the availability of Linkage to members of the Participants by limiting the applicability of the 80/20 Test in situations where market makers have minimal trading volume in a particular options class.

The Commission recognizes that the Participants do not believe that it is necessary to bar market makers with limited volume from sending Principal Orders through the Linkage, as such trading does not raise concerns that a member is sending such orders as "a primary aspect of their business." The Commission believes that the *de minimis* exemption from the 80/20 Test proposed by the Participants for market makers that have total contract volume of less than 1,000 contracts in an options class for a calendar quarter should ensure that market makers with relatively low volume in a particular options class can send a reasonable number of Principal Orders without being barred by application of the 80/20 Test from using the Linkage in the following calendar quarter.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act<sup>12</sup> and Rule 11Aa3-2 thereunder,<sup>13</sup> that the proposed Joint Amendment No. 17 is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4835 Filed 9-2-05; 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 September 5, 2005:

A Closed Meeting will be held on Wednesday, September 7, 2005 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

<sup>10</sup> 15 U.S.C. 78k-1.

<sup>11</sup> 17 CFR 240.11Aa3-2.

<sup>12</sup> 15 U.S.C. 78k-1.

<sup>13</sup> 17 CFR 240.11Aa3-2.

<sup>14</sup> 17 CFR 200.30-3(a)(29).

<sup>4</sup> See Securities Exchange Act Release No. 52074 (July 20, 2005), 70 FR 43469.

staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a) (3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Nazareth, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the Closed Meeting scheduled for Wednesday, September 7, 2005, will be:

Formal orders of investigations; Institution and settlement of injunctive actions; and Institution and settlement of administrative proceedings of an enforcement nature.

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 31, 2005.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 05-17660 Filed 8-31-05; 4:58 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-28021]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 30, 2005

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for

public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 26, 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 26, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### FirstEnergy Corp., et al. (70-10307)

FirstEnergy Corp., ("FirstEnergy"), a registered holding company; its public utility subsidiaries: Ohio Edison Company, an Ohio corporation ("Ohio Edison"); The Cleveland Electric Illuminating Company, an Ohio corporation ("Cleveland Electric"); The Toledo Edison Company, an Ohio corporation ("Toledo Edison"); and Pennsylvania Power Company, a Pennsylvania corporation and wholly owned subsidiary of Ohio Edison, ("Penn Power"), collectively, "Utility Subsidiaries;" all of 76 South Main Street, Akron, Ohio 44308, have filed an application-declaration, as amended ("Application") under sections 9(a), 10 and 12(b) of the Act and rule 45 under the Act. FirstEnergy and the Utility Subsidiaries are referred to as "Applicants." FirstEnergy directly owns all of the outstanding common stock of Ohio Edison, Cleveland Electric, Toledo Edison, and indirectly through Ohio Edison owns all of the outstanding common stock of Penn Power.<sup>1</sup>

Ohio Edison was organized under the laws of the State of Ohio in 1930 and owns property and does business as an electric public utility in that state. Ohio Edison also has ownership interests in certain generating facilities located in the Commonwealth of Pennsylvania.

Ohio Edison engages in the generation, distribution and sale of electric energy to communities in a 7,500 square mile area of central and northeastern Ohio having a population of approximately 2.8 million.

Ohio Edison owns all of Penn Power's outstanding common stock. Penn Power was organized under the laws of the Commonwealth of Pennsylvania in 1930 and owns property and does business as an electric public utility in that state. Penn Power is also authorized to do business and owns property in the State of Ohio. Penn Power furnishes electric service to communities in a 1,500 square mile area of western Pennsylvania having a population of approximately 300,000.

Cleveland Electric was organized under the laws of the State of Ohio in 1892 and does business as an electric public utility in that state. Cleveland Electric engages in the generation, distribution and sale of electric energy in an area of approximately 1,700 square miles in northeastern Ohio having a population of approximately 1.9 million. It also has ownership interests in certain generating facilities located in Pennsylvania.

Toledo Edison was organized under the laws of the State of Ohio in 1901 and does business as an electric public utility in that state. Toledo Edison engages in the generation, distribution and sale of electric energy in an area of approximately 2,500 square miles in northwestern Ohio having a population of approximately 800,000. It also has interests in certain generating facilities located in Pennsylvania.

#### Requested Authorization

Applicants request authorization for certain transactions that are related to the sale of their respective interests in certain fossil-fuel and hydroelectric generating facilities owned by the Utility Subsidiaries to FirstEnergy Generation Corp. ("FE GenCo"), which is a direct wholly-owned subsidiary of FirstEnergy Solutions Corp. ("FE Solutions") and an indirect subsidiary of FirstEnergy. FE GenCo is an "exempt wholesale generator" ("EWG") under Section 32 of the Act. These asset transfers are in furtherance of FirstEnergy's Ohio and Pennsylvania corporate separation plans, which were described in FirstEnergy's Application/

<sup>13</sup> 17 CFR 240.11Aa3-2.

<sup>14</sup> 17 CFR 200.30-3(a)(29).

<sup>1</sup> FirstEnergy's other public utility subsidiaries are Jersey Central Power & Light Company, Pennsylvania Electric Company, Metropolitan Edison Company, York Haven Power Company, The Waverly Electric Power & Light Company and American Transmission Systems, Incorporated.

These companies are not applicants in this proceeding.

<sup>2</sup> The Utility Subsidiaries do not propose to transfer their remaining percentage ownership interests in certain fossil-fuel units that are not now being leased by FE GenCo.

Declaration for authorization to merge with GPU, Inc. ("GPU"). See HCAR No. 27459 (October 29, 2001). Specifically, the Utility Subsidiaries request authority to acquire the secured

promissory notes from FE GenCo, as described below.  
The Utility Subsidiaries own, individually or together as tenants in common, interests in the following

fossil-fuel and hydroelectric generating plants:<sup>2</sup>

Plant	Location	MW	Ownership (percent)
Ashtabula 5 .....	Ashtabula, OH .....	244	Cleveland Electric 100.
Bay Shore 1-4 .....	Toledo, OH .....	631	Toledo Edison 100.
Bay Shore Peaking .....	.....	17	
R.E. Burger 3-5 .....	Shadyside, OH .....	406	Ohio Edison 100.
R.E. Burger Peaking .....	Shadyside, OH .....	7	Ohio Edison 85.6. Penn Power 14.4.
Eastlake 1-5 .....	Eastlake, OH .....	1,233	Cleveland Electric 100.
Eastlake Peaking .....	.....	29	
Lakeshore 18 .....	Cleveland, OH .....	245	Cleveland Electric 100.
Lakeshore Peaking .....	.....	4	
Bruce Mansfield 1 .....	Shippingport, PA .....	780	Ohio Edison 60. Penn Power 33.5.
Bruce Mansfield 2 .....	Shippingport, PA .....	780	Ohio Edison 43.06. Penn Power 9.36. Cleveland Electric 1.68.
Bruce Mansfield 3 .....	Shippingport, PA .....	800	Ohio Edison 49.34. Penn Power 6.28.
W.H. Sammis 1-6 .....	Stratton, OH .....	1,620	Ohio Edison 100.
W.H. Sammis 7 .....	Stratton, OH .....	600	Ohio Edison 48. Penn Power 20.8. Cleveland Electric 31.2.
W.H. Sammis Peaking .....	Stratton, OH .....	13	Ohio Edison 85.6. Penn Power 14.4.
Edgewater Peaking .....	Lorain, OH .....	48	Ohio Edison 86. Penn Power 14.0.
Richland Peaking 1-3 .....	Defiance, OH .....	42	Toledo Edison 100.
Seneca .....	Warren, PA .....	435	Cleveland Electric 100.
West Lorain Peaking Unit 1 .....	Lorain, OH .....	120	Ohio Edison 100.
Mad River Peaking .....	Springfield, OH .....	60	Ohio Edison 85.6. Penn Power 14.4.
Stryker Peaking .....	Springfield, OH .....	18	Toledo Edison 100.

Currently, the Utility Subsidiaries lease all of the fossil and hydroelectric generating plants listed in the table above to FE GenCo, which, as indicated, has previously been certified by the Federal Energy Regulatory Commission ("FERC") as an EWG.<sup>3</sup> FE GenCo leases and operates these plants pursuant to the terms of a Master Facility Lease ("Master Lease"), dated as of January 1, 2001 (incorporated by reference as Exhibit B-1 to the Application). Applicants state that the Master Lease, which became effective on January 1, 2001, and has a term of twenty years, was intended as the first step in the eventual transfer of ownership of the leased plants to FE GenCo. Pursuant to Section 12 of the Master Lease, FE GenCo has an option to purchase the leased generating plants for the purchase price per unit listed in Exhibits A through D to the Master Lease. Section 12 of the Master Lease further provides that, upon exercise of the purchase option, FE GenCo may pay

the purchase price either in cash or by executing a promissory note, secured by a lien on the transferred assets.

Each of the Utility Subsidiaries and FE GenCo has entered into a Fossil Purchase and Sale Agreement ("Fossil PSA"), filed with this Application as Exhibits B-2 through B-5. Under the Fossil PSAs, FE GenCo has agreed to purchase each Utility Subsidiary's fossil units (and, in the case of Cleveland Electric, one hydroelectric generating facility), and to assume certain liabilities relating to the purchased units, for an amount equal to the aggregate purchase price for all units owned by the selling Utility Subsidiary, as set forth in Exhibits A through D of the Master Lease, as follows: Ohio Edison—\$980 million; Penn Power—\$125 million; Cleveland Electric—\$408 million; and Toledo Edison—\$88 million. As consideration for the purchased units, FE GenCo would deliver to the selling Utility Subsidiary its secured promissory note ("FE GenCo

Note"), filed with the Application as Exhibits B-10 through B-13. Each FE GenCo Note would be secured by a lien on the units purchased, bear interest at a rate per annum based on the average weighted cost of long-term debt of the Utility Subsidiary to which the FE GenCo Note is issued, and mature twenty years after the date of issuance. FE GenCo may prepay the FE GenCo Note at any time, in whole or in part, without penalty.

The calculation of the average weighted cost of long-term debt of each of the Utility Subsidiaries as of March 31, 2005 is shown in Exhibit I to the Application. The actual interest rate on the FE GenCo Notes would be calculated in the same manner as of the end of the quarter next preceding the closing date.

Under each Fossil PSA, FE GenCo has also agreed that, upon request of the selling Utility Subsidiary, it would assume the selling Utility Subsidiary's liabilities and obligations with respect

<sup>2</sup> The Utility Subsidiaries do not propose to transfer their remaining percentage ownership

interests in certain fossil-fuel units that are not now being leased by FE GenCo.

<sup>3</sup> FE GenCo was approved by the FERC as an EWG on April 6, 2001. *FirstEnergy Generation Corp.*, 95 FERC ¶ 62,018 (2001).

to certain outstanding pollution control revenue bonds ("PCRBs") that were issued to finance pollution control equipment related to the purchased plants.<sup>4</sup> If PCRB obligations are assumed by FE GenCo at or prior to closing, then the principal amount of the assumed obligations would reduce the principal amount of the applicable FE GenCo Note delivered by FE GenCo at closing. If FE GenCo assumes PCRB obligations after closing, the principal amount assumed would represent a payment of principal on the applicable FE GenCo Note delivered at closing.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

Secretary.

[FR Doc. E5-4839 Filed 9-2-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52349; File No. SR-Amex-2005-048]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change Establishing a De Minimis Exception to the 80/20 Test

August 26, 2005.

#### I. Introduction

On April 28, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change seeking to amend Amex Rule 944 to provide a *de minimis* exception to the limitation on principal order access imposed by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan")<sup>3</sup> and related rules.

<sup>4</sup> Currently, the Utility Subsidiaries have outstanding obligations in respect of PCRBs in approximately the following principal amounts: Ohio Edison—\$471 million; Penn Power—\$63 million; Cleveland Electric—\$362 million; and Toledo Edison—\$69 million.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, Chicago Board Options Exchange, Inc., and International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Philadelphia Stock Exchange, Inc., Pacific Exchange, and Boston Stock Exchange, Inc. joined

The proposed rule change was noticed for comment in the **Federal Register** on July 27, 2005.<sup>4</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

#### II. Description

The purpose of this proposed rule change is to implement proposed Joint Amendment No. 17 to the Linkage Plan. Joint Amendment No. 17, together with this proposed rule change, would establish a *de minimis* exception to the "80/20 Test" set forth in Section 8(b)(iii) of the Linkage Plan and Amex Rule 944.

Section 8(b)(iii) of the Linkage Plan provides that Eligible Market Makers should send Principal Orders<sup>5</sup> through the Linkage on a limited basis and not as a primary aspect of their business. The 80/20 Test implements this policy in the Linkage Plan and Amex Rule 944 by prohibiting a specialist or registered options trader ("ROT") from sending Principal Orders in an eligible option class if, in the last calendar quarter, the specialist or ROT's Principal Order contract volume is disproportionate to the specialist or ROT's contract volume executed against customer orders in its own market.

The Exchange believes that applying the 80/20 Test has resulted in anomalies for ROTs with limited volume in an eligible option class. In particular, if a ROT has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the ROT failing to meet the 80/20 Test. This would then prohibit the ROT from using the Linkage to send Principal Orders in that options class for the following calendar quarter. The Exchange believes that it is not the intention of the Participants to the Linkage Plan to prohibit ROTs with limited volume from sending Principal Orders through the Linkage in these circumstances since such trading clearly is not "a primary aspect of their business."

Accordingly, the proposed rule change seeks to establish a *de minimis* exception from the 80/20 Test in Amex Rule 944 for specialists and ROTs that have total contract volume of less than 1,000 contracts in an option class for a calendar quarter.

the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>4</sup> See Securities Exchange Act Release No. 52067 (July 20, 2005), 70 FR 43470.

<sup>5</sup> A "Principal Order" is an order for the principal account of an eligible market maker that does not relate to a customer order the market maker is holding. See Section 2(16)(b) of the Linkage Plan.

#### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>7</sup> which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission believes that the proposed rule change will increase the availability of Linkage to members of the Participants by limiting the applicability of the 80/20 Test in situations where market makers have minimal trading volume in a particular options class.

The Commission recognizes that the Exchange does not believe that it is necessary to bar market makers with limited volume from sending Principal Orders through the Linkage, as such trading does not raise concerns that a member is sending such orders as "a primary aspect of their business." The Commission believes that the *de minimis* exemption from the 80/20 Test proposed by the Exchange for market makers that have a total contract volume of less than 1,000 contracts in an options class for a calendar quarter should ensure that specialists and ROTs with relatively low volume in a particular options class can send a reasonable number of Principal Orders without being barred from using the Linkage by application of the 80/20 Test in the following calendar quarter.

#### IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-Amex-2005-048) is approved.

<sup>6</sup> 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4834 Filed 9-2-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52346; File No. SR-BSE-2005-16]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Establishing a De Minimis Exception to the 80/20 Test Relating to Linkage Trades on the Boston Options Exchange

August 26, 2005.

#### I. Introduction

On May 19, 2005, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change seeking to amend its rules governing its operation of intermarket linkage on the Boston Options Exchange ("BOX"). Specifically, the Exchange is proposing to amend Chapter XII, Section 5(b) of the BOX Rules to establish a *de minimis* exception to the limitation on Principal Order<sup>3</sup> access imposed by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan")<sup>4</sup> and related rules.

The proposed rule change was noticed for comment in the **Federal Register** on July 27, 2005.<sup>5</sup> The Commission received no comments on

the proposed rule change. This order approves the proposed rule change.

#### II. Description

The purpose of this proposed rule change is to implement proposed Joint Amendment No. 17 to the Linkage Plan. Section 8(b)(iii) of the Linkage Plan provides that Eligible Market Makers should send Principal Orders through the Linkage on a limited basis and not as a primary aspect of their business. Joint Amendment No. 17, together with this proposed rule change, would change Section 8(b)(iii) of the Linkage Plan and Chapter XII, Section 5(b) of the BOX Rules to establish an exemption from the provision in the rule that states that a Market Maker that effected 20 percent or more of its volume in a particular option by sending Principal Orders through the Linkage in a calendar quarter is prohibited from sending Principal Orders via the Linkage in such option during the following calendar quarter (the "80/20 Test").

The Exchange believes that applying the 80/20 Test has resulted in anomalies for Market Makers with limited volume in an eligible option class. Specifically, if a Market Maker has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the Market Maker failing to meet the 80/20 Test. This would bar the Market Maker from using the Linkage to send Principal Orders for the following calendar quarter. The BOX contends that it was not its intention to bar Market Makers with limited volume from sending Principal Orders through the Linkage in these circumstances, since such trading does not constitute a primary aspect of their business. Thus, the Exchange's proposed rule would create a *de minimis* exemption from the 80/20 Test for Market Makers that have a total contract volume of less than 1,000 contracts in an options class for a calendar quarter.

#### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>7</sup> which requires, among other

things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission believes that the proposed rule change will increase the availability of Linkage to members of the Participants by limiting the applicability of the 80/20 Test in situations where market makers have minimal trading volume in a particular options class.

The Commission recognizes that the Exchange does not believe that it is necessary to bar market makers with limited volume from sending Principal Orders through the Linkage, as such trading does not raise concerns that a member is sending such orders as "a primary aspect of their business." The Commission believes that the *de minimis* exemption from the 80/20 Test proposed by the Exchange for market makers that have a total contract volume of less than 1,000 contracts in an options class for a calendar quarter should ensure that market makers with relatively low volume in a particular options class can send a reasonable number of Principal Orders without being barred from using the Linkage by application of the 80/20 Test in the following calendar quarter.

#### IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-BSE-2005-16) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4833 Filed 9-2-05; 8:45 am]

BILLING CODE 8010-01-P

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> A "Principal Order" is an order for the principal account of an eligible market maker that does not relate to a customer order the market maker is holding. See Section 2(16)(b) of the Linkage Plan.

<sup>4</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by the American Stock Exchange, LLC, Chicago Board Options Exchange, Inc., and the International Stock Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, the Philadelphia Stock Exchange, Inc., the Pacific Exchange, Inc. and the BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>5</sup> See Securities Exchange Act Release No. 52071 (July 20, 2005), 70 FR 43472 (July 27, 2005).

<sup>6</sup> 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52348; File No. SR-CBOE-2005-57]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving a Proposed Rule Change Relating to the 80/20 Test of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage

August 26, 2005.

#### I. Introduction

On July 19, 2005, the Chicago Board Options Exchange, Incorporation ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change seeking to modify the 80/20 Test in determining limitations on Principal Order<sup>3</sup> access under the rules imposed by Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan")<sup>4</sup> and related rules.

The proposed rule change was noticed for comment in the **Federal Register** on July 27, 2005.<sup>5</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

The purpose of the proposed rule change is to modify the 80/20 Test contained in Exchange Rule 6.85. The Rule provides that Market-Makers should send Principal Orders through the Linkage on a limited basis and not as a primary aspect of their business. The Test implements this general principle by prohibiting a Market-Maker from sending Principal Orders in an eligible option class if, in the last calendar quarter, the Market-Maker's

Principal Order contract volume is disproportionate to the Market-Maker's contract volume executed against customer orders in its own market.

The Exchange believes that applying the Test has resulted in anomalies for Market-Makers with limited volume in an eligible option class. Specifically, if a Market-Maker has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the Market-Maker failing to meet the Test. This would bar the Market-Maker from using the Linkage to send Principal Orders in that options class for the following calendar quarter. The Exchange believes that it was not the intent of the Participants to the Linkage Plan to bar Market-Makers with limited volume from sending Principal Orders through the Linkage in these circumstances since such trading clearly was not "a primary aspect of their business." Thus, the proposed rule change proposes to create a *de minimis* exemption from the 80/20 Test for Market-Makers that have total contract volume of less than 1,000 contracts in an options class for a calendar quarter.

#### II. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>7</sup> which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission believes that the proposed rule change will increase the availability of Linkage to members of the Participants by limiting the applicability of the 80/20 Test in situations where market makers have minimal trading volume in a particular options class.

The Commission recognizes that the Exchange does not believe that it is necessary to bar market makers with limited volume from sending Principal Orders through the Linkage, as such trading does not raise concerns that a member is sending such orders as "a primary aspect of their business." The

Commission believes that the *de minimis* exemption from the 80/20 Test proposed by the Exchange for market makers that have a total contract volume of less than 1,000 contracts in an options class for a calendar quarter should ensure that specialists and ROTs with relatively low volume in a particular options class can send a reasonable number of Principal Orders without being barred from using the Linkage by application of the 80/20 Test in the following calendar quarter.

#### III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-CBOE-2005-57) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4831 Filed 9-2-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52347; File No. SR-ISE-2005-23]

### Self-Regulatory Organizations; International Stock Exchange, Inc.; Order Approving Proposed Rule Change Establishing a De Minimis Exception to the 80/20 Test

August 26, 2005.

#### I. Introduction

On May 13, 2005, the International Stock Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change seeking to amend ISE Rule 1904 to establish a *de minimis* exception to the 80/20 Test limiting market makers' use of Principal Orders<sup>3</sup> under the rules

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> A Principal Order is an order for the account of an Eligible Market-Maker that does not relate to a customer order the Market-Maker is holding. See Exchange Rule 6.80(12)(ii).

<sup>4</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, Chicago Board Options Exchange, Inc., and International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Philadelphia Stock Exchange, Inc., Pacific Exchange, and Boston Stock Exchange, Inc. joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>5</sup> See Securities Exchange Act Release No. 52068 (July 20, 2005), 70 FR 43473.

<sup>6</sup> 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange defines a Principal Order as an order for the principal account of a market maker (or equivalent entity on another Participant Exchange) and which is not a Principal Acting as Agent Order. See Chapter 19, Rule 1900(10)(ii) of the ISE Rules.

imposed by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan")<sup>4</sup> and related rules.

The proposed rule change was noticed for comment in the **Federal Register** on July 26, 2005.<sup>5</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

## II. Description

The purpose of this proposed rule change is to implement proposed Joint Amendment No. 17 to the Linkage Plan. Joint Amendment No. 17, together with this proposed rule change, would establish a *de minimis* exception to the "80/20 Test" set forth in Section 8(b)(iii) of the Linkage Plan and ISE Rule 1904.

Section 8(b)(iii) of the Linkage Plan permits market makers to access away markets on a limited basis for their own principal trading. The Linkage Plan enforces this limitation via the 80/20 Test, which generally requires at least 80 percent of a market maker's trading volume in an option class to be on its own exchange for the market maker to be able to use Linkage to send Principal Orders for its own account in that class. If a market maker "fails" the 80/20 Test in an option class during a calendar quarter, it cannot send Principal Orders through Linkage in that class during the next calendar quarter.

The options exchanges have agreed to adopt a *de minimis* exception to the 80/20 Test. As proposed by the Exchange, the 80/20 Test would not apply to any market maker that has total volume of less than 1,000 contracts in an option during a calendar quarter. At this low volume, even a small number of Principal Orders could result in the market maker being disqualified from Linkage in that class for a calendar quarter. The Exchange believes that this proposed exception would address such concerns.

## III. Discussion

After careful review, the Commission finds that the proposed rule change is

<sup>4</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by the American Stock Exchange, LLC, Chicago Board Options Exchange, Inc., and the ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, the Philadelphia Stock Exchange, Inc., the Pacific Exchange, Inc. and the Boston Stock Exchange, Inc. joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>5</sup> See Securities Exchange Act Release No. 52069 (July 20, 2005), 70 FR 43203 (July 26, 2005).

consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>7</sup> which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission believes that the proposed rule change will increase the availability of Linkage to members of the Participants by limiting the applicability of the 80/20 Test in situations where market makers have minimal trading volume in a particular options class.

The Commission recognizes that the Exchange does not believe that it is necessary to bar market makers with limited volume from sending Principal Orders through the Linkage, as such trading does not raise concerns that a member is sending such orders as "a primary aspect of their business." The Commission believes that the *de minimis* exemption from the 80/20 Test proposed by the Exchange for market makers that have a total contract volume of less than 1,000 contracts in an options class for a calendar quarter should ensure that members with relatively low volume in a particular options class can send a reasonable number of Principal Orders without being barred from using the Linkage by application of the 80/20 Test in the following calendar quarter.

## IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-ISE-2005-23) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4830 Filed 9-2-05; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>6</sup> 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5)

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Odyssey Venture Partners II, L.P. ("Applicant"), 610 Newport Center Drive, Suite 1400, Newport Beach, CA 92660, an SBIC Applicant under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financialings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2004)). Odyssey Venture Partners II, L.P. proposes to provide equity financing to Oryxe Energy International, Inc., 6 Thomas Avenue, Irvine, CA 92618. The financing is contemplated for working capital and research & development.

A conflict of interest exemption is required because the Oryxe investment is considered financing of an Associate under 13 CFR 107.730(a). Oryxe is an Associate of the Applicant for two reasons: (1) Affiliates of Applicant, Odyssey Strategic Partners (OSP) and Odyssey Strategic Equity (OSE), had a greater than 10 percent fully diluted investment in Oryxe prior to Applicant's initial investment; (2) Walter Schindler, one of Applicant's principals, serves as chairman and CEO of Oryxe.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

**Jaime Guzmán-Fournier,**

*Associate Administrator for Investment*

[FR Doc. 05-17581 Filed 9-2-05; 8:45 am]

**BILLING CODE 8625-01-M**

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10167 and # 10168]

### FLORIDA Disaster # FL-00007

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Florida dated 08/25/2005.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 07/29/2005 through 08/14/2005.

**DATES:** *Effective Date:* 08/25/2005.

*Physical Loan Application Deadline Date: 10/24/2005.*

*EIDL Loan Application Deadline Date: 05/25/2006.*

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster.

Primary Counties:

Volusia

Contiguous Counties: Florida  
Brevard, Flagler, Lake, Marion,  
Orange, Putnam, Seminole.

The interest rates are:

	Percent
Homeowners With Credit Available Elsewhere .....	5.750
Homeowners Without Credit Available Elsewhere .....	2.875
Businesses With Credit Available Elsewhere .....	6.387
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere .....	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000

The number assigned to this disaster for physical damage is 10167 6 and for economic injury is 10168 0.

The States which received an EIDL declaration # are FLORIDA.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: August 25, 2005.

**Hector V. Barreto,**  
Administrator.

[FR Doc. 05-17584 Filed 9-2-05; 8:45 am]

**BILLING CODE 8025-01-M**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #10134]**

**Maine Disaster Number ME-00003**

**AGENCY:** Small Business Administration

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for public assistance only for the State of Maine (FEMA-1591-DR), dated 06/29/2005.

*Incident:* Severe Storms, Flooding, Snow Melt, and Ice Jams.

*Incident Period:* 03/29/2005 through 05/03/2005.

**EFFECTIVE DATE:** 08/10/2005.

*Physical Loan Application Deadline Date:* 08/29/2005.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Maine, dated 06/29/2005, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Aroostook

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008.)

**Becky C. Brantley,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 05-17586 Filed 9-2-05; 8:45 am]

**BILLING CODE 8025-01-M**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #10165 and #10166]**

**Wyoming Disaster #WY-00002**

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Wyoming (FEMA-1599-DR), dated 08/22/2005.

*Incident:* Tornado.

*Incident Period:* 08/12/2005.

**EFFECTIVE DATE:** 08/22/2005.

*Physical Loan Application Deadline Date:* 10/21/2005.

*EIDL Loan Application Deadline Date:* 05/22/2006.

**ADDRESSES:** Submit completed loan applications to: Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 08/22/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Contiguous Counties:

Campbell

Wyoming

Converse, Crook, Johnson, Sheridan, Weston

Montana

Powder River

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere .....	5.375
Homeowners Without Credit Available Elsewhere .....	2.687
Businesses With Credit Available Elsewhere .....	6.557
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Other (Including Non-Profit Organizations—With Credit Available Elsewhere .....	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000

The number assigned to this disaster for physical damage is 10165C and for economic injury is 101660.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Becky C. Brantley,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 05-17583 Filed 9-2-05; 8:45 am]

**BILLING CODE 8025-01-M**

**SMALL BUSINESS ADMINISTRATION**

**Advisory Committee on Veterans Business Affairs; Public Meeting**

The U.S. Small Business Administration (SBA), pursuant to the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106-50), will be hosting its first advisory committee meeting for Fiscal Year 2005, on Thursday, September 15, 2005, starting at 9 am until 5 pm. The meeting will be held at the U.S. Small Business Administration, 409 3rd Street SW., 5th Floor Conference Room, Washington, DC 20416 (next to the

Lafayette Federal Credit Union). If you have any questions regarding this meeting, please contact Cheryl Clark, Program Liaison, Office of Veterans Business Development at (202) 205-6773.

**Matthew K. Becker,**

*Committee Management Officer.*

[FR Doc. 05-17582 Filed 9-2-05; 8:45 am]

**BILLING CODE 8025-01-M**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.

**ACTION:** Notice to terminate waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing.

**SUMMARY:** The U.S. Small Business Administration (SBA) is terminating the waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing based on our recent discovery of a small business manufacturer for this class of products. Terminating this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts.

**DATES:** This waiver is effective September 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail at [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on July 15, 2004 to waive the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing. In response, on July 30, 2004, SBA published in the **Federal Register** a notice of intent to the waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, comments were received from interested parties. SBA had determined from these sources that there were no small business manufacturers of this class of products, and therefore granted the waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing, NAICS 339920.

Recently, SBA discovered the existence of a small business manufacturer of this class of products. Accordingly, based on the available information, SBA has determined that there is a small business manufacturer of this class of products, and is therefore terminating the class waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing, NAICS 339920.

**Authority:** 15 U.S.C. 637(a)(17).

Dated: August 25, 2005.

**Nancyellen Gentile,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 05-17585 Filed 9-2-05; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

[Public Notice: 5179]

### 60-Day Notice of Proposed Information Collection: Form DS-64, Statement Regarding a Lost or Stolen Passport, OMB No. 1405-0014

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Statement Regarding a Lost or Stolen Passport.
- *OMB Control Number:* 1405-0014.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS-64.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 105,000.
- *Estimated Number of Responses:* 105,000.
- *Average Hours per Response:* 1/12 hour. (five minutes).
- *Total Estimated Burden:* 8,800.
- *Frequency:* On occasion.
- *Obligation To Respond:* Voluntary.

**DATES:** The Department will accept comments from the public up to 60 days from September 6, 2005.

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

- E-mail: [Cowlishawsc@state.gov](mailto:Cowlishawsc@state.gov).
- You must include the DS form number (if applicable), information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD-ROM submissions): Susan Cowlishaw, 2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Susan Cowlishaw, 2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037, who may be reached on (202) 261-8957, or at [Cowlishawsc@state.gov](mailto:Cowlishawsc@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for

the proper performance of our functions.

- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

#### Abstract of Proposed Collection

The form is used prior to passport issuance and solicits information relating to the loss of a valid U.S. passport. The information is used by the United States Department of State to ensure that no person shall bear more than one valid or potentially valid U.S. passport at any one time, except as authorized by the Department, and is also used to combat passport fraud and misuse.

#### Methodology

This form is used in conjunction with the Form DS-11 Application for a U.S. passport or submitted separately to report loss or theft of a U.S. passport. Passport Services collects the information when a U.S. citizen or non-citizen national applies for a new U.S. passport and has been issued a previous, still valid U.S. passport that has been lost or stolen, or when a passport holder independently reports it lost or stolen. Passport applicants can either download the form from the internet or pick one up at any Passport Agency or Acceptance Facility.

Dated: August 18, 2005.

**Ann Barrett,**

*Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.*

[FR Doc. 05-17636 Filed 9-2-05; 8:45 am]

**BILLING CODE 4710-06-P**

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## DEPARTMENT OF STATE

[Public Notice: 5180]

### 60-Day Notice of Proposed Information Collection: Form DS-71, Affidavit of Identifying Witness; OMB No. 1405-0088

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal**

**Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Affidavit of Identifying Witness.
- *OMB Control Number:* 1405-0088.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Department of State, Passport Services, Office of Field Operations, Field Coordination Division. CA/PPT/FO/FC.
- *Form Number:* DS-71.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 140,000.
- *Estimated Number of Responses:* 140,000.
- *Average Hours per Response:* 1/12 (5 min.).
- *Total Estimated Burden:* 11,700.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

**DATES:** The Department will accept comments from the public up to 60 days from September 6, 2005.

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

- E-mail: [Cowlishawsc@state.gov](mailto:Cowlishawsc@state.gov). You must include the DS form number (if applicable), information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD-ROM submissions): Susan Cowlishaw, U.S. Department of State, CA/PPT/FO/FC, 2100 Pennsylvania Avenue, NW., 3rd Floor/Room 3040/SA-29, Washington, DC 20037.

#### FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Susan Cowlishaw, U.S. Department of State, CA/PPT/FO/FC, 2100 Pennsylvania Avenue, NW., 3rd Floor/Room 3040/SA-29, Washington, DC 20037, who may be reached on (202) 261-8957 or [Cowlishawsc@state.gov](mailto:Cowlishawsc@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

#### Abstract of Proposed Collection

The Affidavit of Identifying Witness (Form DS-71) is used by the Department of State in making a determination of the applicant's eligibility to be documented as a citizen or a non-citizen national of the United States. The form is used by Acceptance Agents and Consular Officers to collect information for the purpose of establishing the identity of a passport applicant who has not submitted adequate evidence with his/her passport application. The primary purpose for soliciting the information is to establish identity and entitlement to issuance of a U.S. passport, and to properly administer and enforce the laws pertaining to issuance thereof. Lack of identity information may result in the refusal to issue a U.S. passport. Inaccurate identity evidence could possibly result in issuance of a passport to a non-U.S. citizen or to anyone using an assumed identity.

#### Methodology

The Affidavit of Identifying Witness (Form DS-71) is used in conjunction with the Application for a U.S. Passport (Form DS-11). Along with the DS-71, the customer's insufficient or unacceptable identity documents are recorded. The identifying witness completes the form for a person applying for a passport who is unable to properly identify himself or herself at the acceptance facility/passport agency in the presence of the Acceptance Agent/Consular Officer.

Dated: August 18, 2005.

**Ann Barrett,**

*Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.*

[FR Doc. 05-17637 Filed 9-2-05; 8:45 am]

**BILLING CODE 4710-06-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent to Request Renewal From the Office of Management and Budget (OMB) of Five Current Public Collections of Information

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*) the FAA invites public comment on five currently approved public information collections which will be submitted to OMB for renewal.

**DATES:** Comments must be received on or before November 7, 2005.

**ADDRESSES:** Comments may be mailed or delivered to the FAA at the following address: Ms. Judy Street, Room 613, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA-20, 800 Independence Ave., SW., Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Street at the above address or on (202) 267-9895.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Therefore, the FAA solicits comments on the following current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection in preparation for submission to renew the clearances of the following information collections.

1. 2102-0543, Pilots Convicted of Alcohol or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedures. The requested information is needed to mitigate potential hazards presented by airmen using alcohol or drugs in flight, to identify persons possibly unsuitable for pilot certification. This collection affects those pilots who have been or will be convicted of a drug or alcohol-related traffic violation. The current estimated annual reporting burden is 364 hours.

2. 2120-0605, ACSEP Evaluation Customer Feedback Report. The information will be collected from holders of FAA production approvals and selected suppliers to obtain their input on how well the agency is performing the administration and conduct of the Aircraft Certification Systems Evaluation Program (ACSEP). The Agency will use the information as a customer service standard and to continually improve ACSEP. The current estimated annual reporting burden is 100 hours.

3. 2120-0651, Additional Flight Data Recorder Requirements for Certain Boeing 737 Airplanes. This rule requires the recording of additional operating parameters for certain Boeing 737

airplanes. These additional parameters allow the NTSB and FAA to investigate and establish causes for accidents so that the aviation industry can make appropriate modifications to prevent future incidents. The current estimated annual reporting burden is 1 hour.

4. 2120-0653, Commercial Air Tour Limitations in the Grand Canyon National Park (GCNP) Special Flight Rules Area: NPRM. The National Parks Overflights Act mandates that the recommendations provide for "substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight." The FAA will use the information to monitor compliance with the regulations. These respondents are GCNP air tour operators. The current estimated annual reporting burden is 86 hours.

5. 2120-0683, National Parks Air Tour Management, 14 CFR part 136. The information collected will be used by the FAA to develop an air tour management plan (ATMP) for each park in the National Park System. When an operator submits the information required (routes, aircraft type, frequency, etc.), the FAA and National Park Service (NPS) will use the information to determine an appropriate level of overflights for that particular park as required by the National Parks Air Tour Management Act. This submission will also ensure interim operating authority for the air tour operator while the ATMP is being developed. The current estimated annual reporting burden is 1,218 hours.

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

**Judith D. Street,**

*FAA Information Systems and Technology Services Staff, ABA-20.*

[FR Doc. 05-17572 Filed 9-2-05; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 29, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed

and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before October 6, 2005 to be assured of consideration.

### Financial Crimes Enforcement Network (FinCEN)

*OMB Number:* 1506-0015.

*Type of Review:* Revision.

*Title:* Suspicious Activity Report by Money Services Business.

*Form:* FinCEN form 109.

*Description:* Regulations under 31 CFR 103.20 require Money Services Business's to report suspicious transactions to the Department of Treasury.

*Respondents:* Business or other for-profit and Not-for-profit institution.

*Estimated Total Reporting Burden:* 720,000 hours.

*Clearance Officer:* Russell Stephenson (202) 354-6012. Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182.

*OMB Reviewer:* Alexander T. Hunt (202) 395-7316. Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. 05-17564 Filed 9-2-05; 8:45 am]

**BILLING CODE 4810-02-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 29, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before October 6, 2005 after to be assured of consideration.

### Internal Revenue Service (IRS)

*OMB Number:* 1545-0120.

*Type of Review:* Extension.

*Title:* Certain Government Payments.

*Form:* IRS form 1099-G.

*Description:* Form 1099-G is used by governments (primarily state and local) to report to the IRS (and notify recipients of) certain payments (e.g., unemployment compensation and income tax refunds). IRS uses the information to insure that the income is being properly reported by the recipients on their returns.

*Respondents:* Federal Government and State, local or tribal government

*Estimated Total Burden Hours:* 12,200,000 hours.

*OMB Number:* 1545-0184.

*Type of Review:* Extension.

*Title:* Sales of Business Property.

*Form:* IRS form 4797.

*Description:* Form 4797 is used by taxpayers to report sales, exchanges, or involuntary conversion of assets, other than capital assets, and involuntary conversion of capital assets held more than one year. It is also used to compute ordinary income from recapture and the recapture of prior year section 1231 losses.

*Respondents:* Individuals or Households and Business or other-for-profit.

*Estimated Total Burden Hours:* 70,711,075 hours.

*OMB Number:* 1545-0941.

*Type of Review:* Extension.

*Title:* Report of a Sale or Exchange of Certain Partnership Interests.

*Form:* IRS form 8308.

*Description:* Form 8308 is an information return that gives the IRS the names of the parties involved in a section 751(a) exchange of a partnership interest. It is also used by the partnership as a statement to the transferor or transferee. It alerts the transferor that a portion of the gain on the sale of a partnership interest may be ordinary income.

*Respondents:* Individuals or households, Business or other-for-profit, Farms and State, local or tribal government.

*Estimated Total Burden Hours:* 1,460,000 hours.

*OMB Number:* 1545-1791.

*Type of Review:* Extension.

*Title:* Tax Check Waiver.

*Form:* IRS form 12339-A.

*Description:* The tax check waiver is necessary for the purpose of ensuring that all panel members are tax compliant. Information provided will be used to qualify or disqualify individuals to serve as panel members. The information will be used as appropriate by the Taxpayer Advocate service staff, and other appropriate IRS personnel.

*Respondents:* Individuals or households and Business or other-for-profit.

*Estimated Total Burden Hours:* 42 hours.

*Clearance Officer:* Glenn P. Kirkland, (202) 622-3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. 05-17565 Filed 9-2-05; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 30, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before October 6, 2005 to be assured of consideration.

### Alcohol and Tobacco Tax and Trade Bureau (TTB)

*OMB Number:* 1513-0092.

*Type of Review:* Extension.

*Title:* Marks on Wine Containers.

*Description:* TTB requires that wine or wine premises be identified by statements of information on labels or contained in marks. TTB uses this information to validate the receipts of excise tax revenue by the Federal government. Consumers are provided with adequate identifying information.

*Respondents:* Business or other for-profit.

*Estimated Total Burden Hours:* 1 hour.

*Clearance Officer:* Frank Foote, (202) 927-9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

*OMB Reviewer:* Alexander T. Hunt, (202) 395-7316, Office of Management

and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. 05-17566 Filed 9-2-05; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

**AGENCY:** Internal Revenue Service (IRS) Treasury.

**ACTION:** Amended notice.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee 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 has been changed to Thursday, September 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Audrey Y. Jenkins at 1-888-912-1227 (toll-free), or 718-488-2085 (non toll-free).

**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 Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee that was published in the **Federal Register** August 22, 2005, has been rescheduled for Thursday, September 22, 2005 from 11 a.m. to 12 p.m. e.t. via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1-888-912-1227 or (718) 488-2085, send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: <http://www.improveirs.org>. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: August 30, 2005.

**Martha Curry,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 05-17561 Filed 9-2-05; 8:45 am]

**BILLING CODE 4830-01-P**

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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](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.

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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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**CFR CHECKLIST**

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (\*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1	(869-056-00001-4)	5.00	Jan. 1, 2005
2	(869-056-00002-2)	5.00	Jan. 1, 2005
3 (2003 Compilation and Parts 100 and 101)	(869-056-00003-1)	35.00	1 Jan. 1, 2005
4	(869-056-00004-9)	10.00	4 Jan. 1, 2005
<b>5 Parts:</b>			
1-699	(869-056-00005-7)	60.00	Jan. 1, 2005
700-1199	(869-056-00006-5)	50.00	Jan. 1, 2005
1200-End	(869-056-00007-3)	61.00	Jan. 1, 2005
6	(869-056-00008-1)	10.50	Jan. 1, 2005
<b>7 Parts:</b>			
1-26	(869-056-00009-0)	44.00	Jan. 1, 2005
27-52	(869-056-00010-3)	49.00	Jan. 1, 2005
53-209	(869-056-00011-1)	37.00	Jan. 1, 2005
210-299	(869-056-00012-0)	62.00	Jan. 1, 2005
300-399	(869-056-00013-8)	46.00	Jan. 1, 2005
400-699	(869-056-00014-6)	42.00	Jan. 1, 2005
700-899	(869-056-00015-4)	43.00	Jan. 1, 2005
900-999	(869-056-00016-2)	60.00	Jan. 1, 2005
1000-1199	(869-056-00017-1)	22.00	Jan. 1, 2005
1200-1599	(869-056-00018-9)	61.00	Jan. 1, 2005
1600-1899	(869-056-00019-7)	64.00	Jan. 1, 2005
1900-1939	(869-056-00020-1)	31.00	Jan. 1, 2005
1940-1949	(869-056-00021-9)	50.00	Jan. 1, 2005
1950-1999	(869-056-00022-7)	46.00	Jan. 1, 2005
2000-End	(869-056-00023-5)	50.00	Jan. 1, 2005
8	(869-056-00024-3)	63.00	Jan. 1, 2005
<b>9 Parts:</b>			
1-199	(869-056-00025-1)	61.00	Jan. 1, 2005
200-End	(869-056-00026-0)	58.00	Jan. 1, 2005
<b>10 Parts:</b>			
1-50	(869-056-00027-8)	61.00	Jan. 1, 2005
51-199	(869-056-00028-6)	58.00	Jan. 1, 2005
200-499	(869-056-00029-4)	46.00	Jan. 1, 2005
500-End	(869-056-00030-8)	62.00	Jan. 1, 2005
11	(869-056-00031-6)	41.00	Jan. 1, 2005
<b>12 Parts:</b>			
1-199	(869-056-00032-4)	34.00	Jan. 1, 2005
200-219	(869-056-00033-2)	37.00	Jan. 1, 2005
220-299	(869-056-00034-1)	61.00	Jan. 1, 2005
300-499	(869-056-00035-9)	47.00	Jan. 1, 2005
500-599	(869-056-00036-7)	39.00	Jan. 1, 2005
600-899	(869-056-00037-5)	56.00	Jan. 1, 2005

Title	Stock Number	Price	Revision Date
900-End	(869-056-00038-3)	50.00	Jan. 1, 2005
13	(869-056-00039-1)	55.00	Jan. 1, 2005
<b>14 Parts:</b>			
1-59	(869-056-00040-5)	63.00	Jan. 1, 2005
60-139	(869-056-00041-3)	61.00	Jan. 1, 2005
140-199	(869-056-00042-1)	30.00	Jan. 1, 2005
200-1199	(869-056-00043-0)	50.00	Jan. 1, 2005
1200-End	(869-056-00044-8)	45.00	Jan. 1, 2005
<b>15 Parts:</b>			
0-299	(869-056-00045-6)	40.00	Jan. 1, 2005
300-799	(869-056-00046-4)	60.00	Jan. 1, 2005
800-End	(869-056-00047-2)	42.00	Jan. 1, 2005
<b>16 Parts:</b>			
0-999	(869-056-00048-1)	50.00	Jan. 1, 2005
1000-End	(869-056-00049-9)	60.00	Jan. 1, 2005
<b>17 Parts:</b>			
1-199	(869-056-00051-1)	50.00	Apr. 1, 2005
200-239	(869-056-00052-9)	58.00	Apr. 1, 2005
240-End	(869-056-00053-7)	62.00	Apr. 1, 2005
<b>18 Parts:</b>			
1-399	(869-056-00054-5)	62.00	Apr. 1, 2005
400-End	(869-056-00055-3)	26.00	9 Apr. 1, 2005
<b>19 Parts:</b>			
1-140	(869-056-00056-1)	61.00	Apr. 1, 2005
141-199	(869-056-00057-0)	58.00	Apr. 1, 2005
200-End	(869-056-00058-8)	31.00	Apr. 1, 2005
<b>20 Parts:</b>			
1-399	(869-056-00059-6)	50.00	Apr. 1, 2005
400-499	(869-056-00060-0)	64.00	Apr. 1, 2005
500-End	(869-056-00061-8)	63.00	Apr. 1, 2005
<b>21 Parts:</b>			
1-99	(869-056-00062-6)	42.00	Apr. 1, 2005
100-169	(869-056-00063-4)	49.00	Apr. 1, 2005
170-199	(869-056-00064-2)	50.00	Apr. 1, 2005
200-299	(869-056-00065-1)	17.00	Apr. 1, 2005
300-499	(869-056-00066-9)	31.00	Apr. 1, 2005
500-599	(869-056-00067-7)	47.00	Apr. 1, 2005
600-799	(869-056-00068-5)	15.00	Apr. 1, 2005
800-1299	(869-056-00069-3)	58.00	Apr. 1, 2005
1300-End	(869-056-00070-7)	24.00	Apr. 1, 2005
<b>22 Parts:</b>			
1-299	(869-056-00071-5)	63.00	Apr. 1, 2005
300-End	(869-056-00072-3)	45.00	Apr. 1, 2005
23	(869-056-00073-1)	45.00	Apr. 1, 2005
<b>24 Parts:</b>			
0-199	(869-056-00074-0)	60.00	Apr. 1, 2005
200-499	(869-056-00074-0)	50.00	Apr. 1, 2005
500-699	(869-056-00076-6)	30.00	Apr. 1, 2005
700-699	(869-056-00077-4)	61.00	Apr. 1, 2005
1700-End	(869-056-00078-2)	30.00	Apr. 1, 2005
25	(869-056-00079-1)	63.00	Apr. 1, 2005
<b>26 Parts:</b>			
§§ 1.0-1.160	(869-056-00080-4)	49.00	Apr. 1, 2005
§§ 1.61-1.169	(869-056-00081-2)	63.00	Apr. 1, 2005
§§ 1.170-1.300	(869-056-00082-1)	60.00	Apr. 1, 2005
§§ 1.301-1.400	(869-056-00083-9)	46.00	Apr. 1, 2005
§§ 1.401-1.440	(869-056-00084-7)	62.00	Apr. 1, 2005
§§ 1.441-1.500	(869-056-00085-5)	57.00	Apr. 1, 2005
§§ 1.501-1.640	(869-056-00086-3)	49.00	Apr. 1, 2005
§§ 1.641-1.850	(869-056-00087-1)	60.00	Apr. 1, 2005
§§ 1.851-1.907	(869-056-00088-0)	61.00	Apr. 1, 2005
§§ 1.908-1.1000	(869-056-00089-8)	60.00	Apr. 1, 2005
§§ 1.1001-1.1400	(869-056-00090-1)	61.00	Apr. 1, 2005
§§ 1.1401-1.1550	(869-056-00091-0)	55.00	Apr. 1, 2005
§§ 1.1551-End	(869-056-00092-8)	55.00	Apr. 1, 2005
2-29	(869-056-00093-6)	60.00	Apr. 1, 2005
30-39	(869-056-00094-4)	41.00	Apr. 1, 2005
40-49	(869-056-00095-2)	28.00	Apr. 1, 2005
50-299	(869-056-00096-1)	41.00	Apr. 1, 2005

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
300-499	(869-056-00097-9)	61.00	Apr. 1, 2005	*63 (63.8980-End)	(869-056-00151-7)	35.00	<sup>7</sup> July 1, 2005
500-599	(869-056-00098-7)	12.00	<sup>5</sup> Apr. 1, 2005	64-71	(869-052-00150-3)	29.00	July 1, 2004
600-End	(869-056-00099-5)	17.00	Apr. 1, 2005	72-80	(869-052-00151-1)	62.00	July 1, 2004
<b>27 Parts:</b>				81-85	(869-052-00152-0)	60.00	July 1, 2004
1-199	(869-056-00100-2)	64.00	Apr. 1, 2005	86 (86.1-86.599-99)	(869-052-00153-8)	58.00	July 1, 2004
200-End	(869-056-00101-1)	21.00	Apr. 1, 2005	86 (86.600-1-End)	(869-052-00154-6)	50.00	July 1, 2004
<b>28 Parts:</b>				87-99	(869-052-00155-4)	60.00	July 1, 2004
0-42	(869-052-00101-5)	61.00	July 1, 2004	100-135	(869-052-00156-2)	45.00	July 1, 2004
43-End	(869-052-00102-3)	60.00	July 1, 2004	136-149	(869-052-00157-1)	61.00	July 1, 2004
<b>29 Parts:</b>				150-189	(869-052-00158-9)	50.00	July 1, 2004
*0-99	(869-056-00104-5)	50.00	July 1, 2005	190-259	(869-052-00159-7)	39.00	July 1, 2004
100-499	(869-056-00105-3)	23.00	July 1, 2005	260-265	(869-052-00160-1)	50.00	July 1, 2004
500-899	(869-056-00106-1)	61.00	July 1, 2005	266-299	(869-052-00161-9)	50.00	July 1, 2004
*900-1899	(869-056-00107-0)	36.00	<sup>7</sup> July 1, 2005	300-399	(869-052-00162-7)	42.00	July 1, 2004
*1900-1910 (§§ 1900 to 1910.999)	(869-056-00108-8)	61.00	July 1, 2005	*400-424	(869-056-00165-7)	56.00	<sup>8</sup> July 1, 2005
1910 (§§ 1910.1000 to end)	(869-052-00108-2)	46.00	<sup>8</sup> July 1, 2004	425-699	(869-052-00164-3)	61.00	July 1, 2004
1911-1925	(869-052-00109-1)	30.00	July 1, 2004	700-789	(869-052-00165-1)	61.00	July 1, 2004
*1926	(869-056-00111-8)	50.00	July 1, 2005	790-End	(869-052-00166-0)	61.00	July 1, 2004
1927-End	(869-052-00111-2)	62.00	July 1, 2004	<b>41 Chapters:</b>			
<b>30 Parts:</b>				1, 1-1 to 1-10		13.00	<sup>3</sup> July 1, 1984
1-199	(869-052-00112-1)	57.00	July 1, 2004	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	<sup>3</sup> July 1, 1984
200-699	(869-052-00113-9)	50.00	July 1, 2004	3-6		14.00	<sup>3</sup> July 1, 1984
*700-End	(869-056-00115-1)	58.00	July 1, 2005	7		6.00	<sup>3</sup> July 1, 1984
<b>31 Parts:</b>				8		4.50	<sup>3</sup> July 1, 1984
0-199	(869-052-00115-5)	41.00	July 1, 2004	9		13.00	<sup>3</sup> July 1, 1984
200-End	(869-052-00116-3)	65.00	July 1, 2004	10-17		9.50	<sup>3</sup> July 1, 1984
<b>32 Parts:</b>				18, Vol. I, Parts 1-5		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. I		15.00	<sup>2</sup> July 1, 1984	18, Vol. II, Parts 6-19		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. II		19.00	<sup>2</sup> July 1, 1984	18, Vol. III, Parts 20-52		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. III		18.00	<sup>2</sup> July 1, 1984	19-100		13.00	<sup>3</sup> July 1, 1984
*1-190	(869-056-00119-3)	61.00	July 1, 2005	1-100	(869-052-00167-8)	24.00	July 1, 2004
191-399	(869-052-00118-0)	63.00	July 1, 2004	*101	(869-056-00170-3)	21.00	July 1, 2005
400-629	(869-056-00121-5)	50.00	July 1, 2005	102-200	(869-052-00169-4)	56.00	July 1, 2004
*630-699	(869-056-00122-3)	37.00	July 1, 2005	201-End	(869-052-00170-8)	24.00	July 1, 2004
700-799	(869-052-00121-0)	46.00	July 1, 2004	<b>42 Parts:</b>			
*800-End	(869-056-00124-0)	47.00	July 1, 2005	1-399	(869-052-00171-6)	61.00	Oct. 1, 2004
<b>33 Parts:</b>				400-429	(869-052-00172-4)	63.00	Oct. 1, 2004
1-124	(869-052-00123-6)	57.00	July 1, 2004	430-End	(869-052-00173-2)	64.00	Oct. 1, 2004
125-199	(869-052-00124-4)	61.00	July 1, 2004	<b>43 Parts:</b>			
200-End	(869-052-00125-2)	57.00	July 1, 2004	1-999	(869-052-00174-1)	56.00	Oct. 1, 2004
<b>34 Parts:</b>				1000-end	(869-052-00175-9)	62.00	Oct. 1, 2004
1-299	(869-052-00126-1)	50.00	July 1, 2004	<b>44</b>	(869-052-00176-7)	50.00	Oct. 1, 2004
*300-399	(869-056-00129-1)	40.00	<sup>7</sup> July 1, 2005	<b>45 Parts:</b>			
400-End	(869-052-00128-7)	61.00	July 1, 2004	1-199	(869-052-00177-5)	60.00	Oct. 1, 2004
<b>35</b>	(869-052-00129-5)	10.00	<sup>6</sup> July 1, 2004	200-499	(869-052-00178-3)	34.00	Oct. 1, 2004
<b>36 Parts:</b>				500-1199	(869-052-00179-1)	56.00	Oct. 1, 2004
1-199	(869-052-00130-9)	37.00	July 1, 2004	1200-End	(869-052-00180-5)	61.00	Oct. 1, 2004
200-299	(869-052-00132-1)	37.00	July 1, 2005	<b>46 Parts:</b>			
300-End	(869-052-00132-5)	61.00	July 1, 2004	1-40	(869-052-00181-3)	46.00	Oct. 1, 2004
<b>37</b>	(869-052-00133-3)	58.00	July 1, 2004	41-69	(869-052-00182-1)	39.00	Oct. 1, 2004
<b>38 Parts:</b>				70-89	(869-052-00183-0)	14.00	Oct. 1, 2004
0-17	(869-052-00134-1)	60.00	July 1, 2004	90-139	(869-052-00184-8)	44.00	Oct. 1, 2004
18-End	(869-052-00135-0)	62.00	July 1, 2004	140-155	(869-052-00185-6)	25.00	Oct. 1, 2004
<b>39</b>	(869-052-00136-8)	42.00	July 1, 2004	156-165	(869-052-00186-4)	34.00	Oct. 1, 2004
<b>40 Parts:</b>				166-199	(869-052-00187-2)	46.00	Oct. 1, 2004
1-49	(869-052-00137-6)	60.00	July 1, 2004	200-499	(869-052-00188-1)	40.00	Oct. 1, 2004
50-51	(869-052-00138-4)	45.00	July 1, 2004	500-End	(869-052-00189-9)	25.00	Oct. 1, 2004
52 (52.01-52.1018)	(869-052-00139-2)	60.00	July 1, 2004	<b>47 Parts:</b>			
52 (52.1019-End)	(869-052-00140-6)	61.00	July 1, 2004	0-19	(869-052-00190-2)	61.00	Oct. 1, 2004
53-59	(869-052-00141-4)	31.00	July 1, 2004	20-39	(869-052-00191-1)	46.00	Oct. 1, 2004
60 (60.1-End)	(869-052-00142-2)	58.00	July 1, 2004	40-69	(869-052-00192-9)	40.00	Oct. 1, 2004
60 (Apps)	(869-052-00143-1)	57.00	July 1, 2004	70-79	(869-052-00193-8)	63.00	Oct. 1, 2004
61-62	(869-056-00145-2)	45.00	July 1, 2005	80-End	(869-052-00194-5)	61.00	Oct. 1, 2004
63 (63.1-63.599)	(869-052-00145-7)	58.00	July 1, 2004	<b>48 Chapters:</b>			
63 (63.600-63.1199)	(869-052-00146-5)	50.00	July 1, 2004	1 (Parts 1-51)	(869-052-00195-3)	63.00	Oct. 1, 2004
63 (63.1200-63.1439)	(869-052-00147-3)	50.00	July 1, 2004	1 (Parts 52-99)	(869-052-00196-1)	49.00	Oct. 1, 2004
63 (63.1440-63.8830)	(869-052-00148-1)	64.00	July 1, 2004	2 (Parts 201-299)	(869-052-00197-0)	50.00	Oct. 1, 2004
				3-6	(869-052-00198-8)	34.00	Oct. 1, 2004
				7-14	(869-052-00199-6)	56.00	Oct. 1, 2004
				15-28	(869-052-00200-3)	47.00	Oct. 1, 2004
				29-End	(869-052-00201-1)	47.00	Oct. 1, 2004

Title	Stock Number	Price	Revision Date
<b>49 Parts:</b>			
1-99 .....	(869-052-00202-0) .....	60.00	Oct. 1, 2004
100-185 .....	(869-052-00203-8) .....	63.00	Oct. 1, 2004
186-199 .....	(869-052-00204-6) .....	23.00	Oct. 1, 2004
200-399 .....	(869-052-00205-4) .....	64.00	Oct. 1, 2004
400-599 .....	(869-052-00206-2) .....	64.00	Oct. 1, 2004
600-999 .....	(869-052-00207-1) .....	19.00	Oct. 1, 2004
1000-1199 .....	(869-052-00208-9) .....	28.00	Oct. 1, 2004
1200-End .....	(869-052-00209-7) .....	34.00	Oct. 1, 2004
<b>50 Parts:</b>			
1-16 .....	(869-052-00210-1) .....	11.00	Oct. 1, 2004
17.1-17.95 .....	(869-052-00211-9) .....	64.00	Oct. 1, 2004
17.96-17.99(h) .....	(869-052-00212-7) .....	61.00	Oct. 1, 2004
17.99(i)-end and 17.100-end .....	(869-052-00213-5) .....	47.00	Oct. 1, 2004
18-199 .....	(869-052-00214-3) .....	50.00	Oct. 1, 2004
200-599 .....	(869-052-00215-1) .....	45.00	Oct. 1, 2004
600-End .....	(869-052-00216-0) .....	62.00	Oct. 1, 2004
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Complete set (one-time mailing) .....		298.00	2003

<sup>1</sup> Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup> The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

<sup>3</sup> The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

<sup>4</sup> No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

<sup>5</sup> No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

<sup>6</sup> No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

<sup>7</sup> No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

<sup>8</sup> No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

<sup>9</sup> No amendments to this volume were promulgated during the period April 1, 2004, through April 1, 2005. The CFR volume issued as of April 1, 2004 should be retained.