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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 966

**[Docket No. FV05–966–1 FR]**

## Tomatoes Grown in Florida; Revisions in Requirements for Certificates of Privilege

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the Certificate of Privilege (COP) requirements currently prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (Committee). This rule requires those interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This rule also clarifies the definitions for processing and pickling as used in the rules and regulations under the order. These changes will assist the Committee in assuring that COP tomatoes are disposed of into COP outlets.

**EFFECTIVE DATE:** This final rule becomes effective September 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375; Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938.

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

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This final rule revises the COP requirements currently prescribed under the order. This rule requires all parties interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This change will assist the Committee in preventing tomatoes shipped under a COP from entering unauthorized outlets. This rule also clarifies the definitions for processing and pickling as used in the rules and regulations under the order. The Committee unanimously recommended these changes at a meeting held on September 9, 2004.

Section 966.54 of the order provides authority for the modification, suspension, and termination of regulations to facilitate the handling of tomatoes for special purposes such as export, charity, processing, or other purposes as specified by the Committee and approved by USDA. Section 966.56 of the order provides authority for the application of adequate safeguards to prevent tomatoes handled pursuant to § 966.54 from entering channels of trade for other than the specified purpose or purposes. Sections 966.120–123 of the order's rules and regulations specify the provisions required under a COP to allow tomatoes for pickling, processing, charity, relief, export, or experimental purposes to be shipped free from certain order requirements. The COP procedures include safeguards to ensure that the tomatoes are shipped for these purposes. The safeguards are also highlighted in § 966.323(c). Section 966.323(g) specifies the definition of processing.

This final rule adds § 966.124 to the order's rules and regulations. This section requires that handlers only ship tomatoes under a COP to receivers approved by the Committee and outlines the receiver application procedures. Section 966.323(c) is also modified to reflect the new COP requirements.

The COP provisions allow tomatoes for pickling, processing, charity, relief, export, or experimental purposes to be shipped free from certain order requirements. Consequently, it is important that adequate safeguards exist to assure that such tomatoes are disposed of properly. For example, the Committee noted that tomatoes shipped during the 2003–04 season under a COP for processing were being shipped into the domestic fresh market and not for the intended COP purpose.

The volume of tomatoes shipped for processing under COPs is significant enough to negatively impact the market for fresh tomatoes if these tomatoes are utilized in markets other than those specified in the COP. Last season, nearly 500,000 25-pound equivalent units of

Florida tomatoes were shipped under COPs. Consequently, the Committee agreed that additional steps need to be taken to ensure that tomatoes shipped under a COP are only utilized for the purposes specified.

Last season, when the issue with COP tomatoes surfaced, the Committee staff looked for ways to address the problem. Using the current safeguard procedures, those handlers who had shipped to receivers that had used tomatoes shipped under a COP for purposes different than specified had their COPs canceled. Some handlers noted that they had shipped the tomatoes to their receiver in good faith, and that the receiver was responsible for the problem. Further, because the handlers had used COPs to ship to more than one receiver, those handlers affected were no longer able to take advantage of the exemptions provided under the COP provisions.

Considering this, the Committee believes one way to help ensure that tomatoes shipped under a COP are not being misused is to provide for safeguards on receivers. To address the situation, the Committee recommended that all receivers interested in receiving tomatoes shipped under a COP be required to apply to the Committee to become an approved receiver. In addition, handlers are only able to ship under a COP to those approved receivers.

Should a receiver utilize the tomatoes for purposes other than specified under the COP, their status as an approved receiver with the Committee will be rescinded. As a result, such a receiver will no longer be eligible to receive tomatoes from any handler under a COP, but will only be able to receive tomatoes meeting the existing grade and size requirements under the order.

Under the provisions added by this rule, anyone interested in receiving tomatoes under a COP will have to file an application with the Committee for review and approval. This includes persons acquiring tomatoes for processing or pickling, as well as tomatoes acquired for relief or charity, for export, for experimental purposes, or for other purposes specified by the Committee. This application includes the name, address, telephone number, and e-mail address of applicant (receiver), the purpose for which the COP tomatoes will be used, physical address where the stated privilege purpose will be accomplished, an indication of whether or not the receiver packs, repacks, or sells fresh tomatoes, a statement that the tomatoes obtained will only be used for the purposes stated in the COP, a statement agreeing to undergo random inspections by the Committee, and an agreement to submit reports as required. The Committee believes that this additional information will be valuable in helping to verify legitimate receivers.

The Committee staff will use the information in the application to investigate and approve receivers wanting to receive tomatoes under COPs. The approved receivers and the tomatoes shipped under the COP provisions will be monitored throughout the year. If during the season an approved receiver is found to be handling tomatoes in ways other than specified under the COP, that receiver's approval will be rescinded. The Committee believes this change will help better assure that COP tomatoes are shipped into the intended COP outlets. Moreover, handlers who may have shipped to non-compliant receivers will still be able to ship to other approved COP receivers.

This rule also amends the definition for processing contained in § 966.323 and adds a definition for pickling. Over the past few years, there have been an increasing number of questions surrounding what constitutes a fresh product and what constitutes processing. To help reduce any confusion and to ensure uniformity, the Committee believes it is important to make the definitions for processing and pickling in the order's rules and regulations as clear as possible.

Currently, processing is defined as the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. This rule amends this definition to specify further that all processing procedures must result in a product that does not require refrigeration until opened.

In addition to the changes to the definition for processing, a specific definition for pickling is also added. Pickling is defined as tomatoes preserved in a brine or vinegar solution. These clarifications should lessen the chance of confusion between handlers and purchasers regarding tomatoes covered under a COP.

The Committee believes this rule will strengthen the existing safeguard provisions and will help deter the use of Florida COP tomatoes for unauthorized purposes. By requiring persons who wish to receive tomatoes under COPs to apply to the Committee to become approved receivers, the Committee has additional information regarding receivers and the ability to rescind their approved receiver status, if necessary. The Committee also believes enhancing the definitions for processed and pickled tomatoes helps further clarify the appropriate uses of tomatoes shipped under a COP. Therefore, the Committee voted unanimously to make these changes.

**Final Regulatory Flexibility Analysis**

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

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

There are approximately 100 producers of tomatoes in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000 (13 CFR 121.201). Currently, there are about 20 receivers who obtain tomatoes under COPs.

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2003–04 season was approximately $8.04 per 25-pound container, and fresh shipments for the 2003–04 season totaled 57,989,624 25-pound cartons of tomatoes. Committee data indicates approximately 25 percent of the handlers handle 94 percent of the total volume shipped outside the regulated area. Based on the average price, about 75 percent of handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida tomato handlers may be classified as small entities. It is believed that the majority of Florida tomato receivers and producers may be classified as small entities.

This final rule revises the COP requirements currently prescribed under the order. This rule requires those interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This change will assist the

Committee in assuring that tomatoes shipped under COPs are used for the intended COP purposes. This rule also clarifies the definitions for processing and pickling as used in the rules and regulations under the order. These clarifications will help reduce confusion between handlers and purchasers of tomatoes covered under a COP. The Committee unanimously recommended these changes at a meeting held on September 9, 2004. This rule adds § 966.124 to the rules and regulations, amends the safeguard provisions specified in § 966.323(c), and revises the definitions specified in § 966.323(g). Authority for these actions is provided for in §§ 966.54 and 966.56 of the order.

These changes are not expected to result in any increased costs for growers, handlers, or receivers who comply with COP requirements. The Committee recommended these changes to improve compliance with the provisions established under COPs. Because nearly 99 percent of Florida tomato shipments are utilized in the domestic fresh market, it is important to assure that tomatoes shipped under COPs are disposed of properly. Adequate safeguards are needed for this purpose.

This action will have a beneficial impact on producers, handlers, and receivers in that it will continue to allow approved receivers to obtain COP tomatoes. Handlers shipping to approved COP receivers also benefit because the non-compliant receivers will be removed from the Committee's approved receiver list and the handler can continue to take advantage of the exemptions by shipping to other approved COP receivers. Clarifying the definitions of processing and pickling also helps alleviate some of the questions and any confusion concerning what constitutes these procedures. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and growers regardless of their size of operation.

However, requiring receivers to register with the Committee imposes an additional reporting burden on both small and large receivers. Requiring receivers to apply annually will increase the annual burden by five minutes per receiver, for a total burden of 1.67 hours (5 minutes per response × 1 response per receiver × 20 receivers). Although this action places an additional burden on receivers of Florida COP tomatoes, the benefits of having the additional information regarding receivers outweigh the increase in reporting burden.

The Committee discussed alternatives to this action. One alternative considered was to further restrict handlers when shipping tomatoes under a COP. The Committee recognized that some industry members have developed markets for these tomatoes, which would otherwise be discarded. Therefore, the Committee voted to make the changes in this rule rather than further restricting this outlet. Another alternative considered was to only require processors and picklers to apply to the Committee. However, the Committee believed that the application process should be applicable to all parties receiving tomatoes under a COP. Consequently, this alternative was rejected.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, the Committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 9, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on May 27, 2005 (70 FR 30647). Copies of the rule were mailed or sent via facsimile to all Committee members and tomato handlers. Finally, the rule was made available through the Internet by the Office of the **Federal Register.** A 60-day comment period ending July 26, 2005, was provided to allow interested persons to respond to the proposal. No comments were received.

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

As mentioned previously, this action requires an additional collection of information. These information collection requirements are discussed in the following section.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements that are contained in this rule were approved by the Office of Management and Budge (OMB), under OMB No. 0581–0231. The information collection has been merged into OMB No. 0581–0178, Vegetable and Specialty Crops Marketing Orders, which expires October 31, 2007.

In summary, this final rule establishes reporting requirements authorized under the Florida tomato order. Information would be reported on form number FTC–111. These additional reporting requirements will enable the Committee to collect information from persons wishing to receive Florida tomatoes exempt from certain order requirements under a COP. The Committee will evaluate this information and determine whether an entity is qualified to receive COP tomatoes. This form will help ensure compliance with the regulations and assist the Committee and USDA with oversight and planning. The estimated burden due to this form required of each entity annually is 5 minutes per person, with a total increased burden estimated at 1.67 hours.

**Government Paperwork Elimination Act Compliance**

The Agricultural Marketing Service (AMS) is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the final rule should be effective by the start of the 2005–06 season, which begins October 10, 2005. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 60-day comment period was provided for in the proposed rule. No comments were received.

**List of Subjects in 7 CFR Part 966**

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

■ For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

## PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. In part 966, a new § 966.124 is added to read as follows:

**§ 966.124 Approved receiver.**

(a) *Approved receiver.* Any person who desires to acquire, as an approved receiver, tomatoes for purposes as set forth in § 966.120(a), shall annually, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

(1) Name, address, contact person, telephone number, and e-mail address of applicant;

(2) Purpose of shipment;

(3) Physical address of where manufacturing or other specified purpose is to occur;

(4) Whether or not the receiver packs, repacks or sells fresh tomatoes;

(5) A statement that the tomatoes obtained exempt from the fresh tomato regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for the purpose specified in the corresponding certificate of privilege;

(6) A statement agreeing to undergo random inspection by the committee;

(7) A statement agreeing to submit such reports as is required by the committee.

(b) The committee, or its duly authorized agents, shall give prompt consideration to each application for an approved receiver and shall determine whether the application is approved or disapproved and notify the applicant accordingly.

(c) The committee, or its duly authorized agents, may rescind a person's approved receiver status upon proof satisfactory that such a receiver has handled tomatoes contrary to the provisions established under the Certificate of Privilege. Such action rescinding approved receiver status shall apply to and not exceed a reasonable period of time as determined by the committee or its duly authorized agents. Any person who has been denied as an approved receiver or who has had their approved receiver status rescinded, may appeal to the committee for reconsideration. Such an appeal shall be made in writing.

■ 3. In § 966.323, a new paragraph (5) is added to paragraph (c), and paragraph (g) is amended by revising the definitions of *Processing* and *U.S. tomato Standards,* and by adding a definition for *Pickling* to read as follows:

**§ 966.323 Handling regulations.**

* * * * *

(c) * * *

(5) Make shipments only to those who have qualified with the committee as approved receivers.

* * * * *

(g) * * **Processing* as used in §§ 966.120 and 966.323 means the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. Further, all processing procedures must result in a product that does not require refrigeration until opened. *Pickling* as used in §§ 966.120 and 966.323 means to preserve tomatoes in a brine or vinegar solution. *U.S. tomato standards* means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855 through 51.1877), effective October 1, 1991, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

Dated: September 2, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05–17860 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2005–22309; Directorate Identifier 2005–NM–159–AD; Amendment 39–14254; AD 2005–18–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is superseding an existing airworthiness directive (AD) that applies to all Dassault Model Falcon 10 series airplanes. The existing AD currently requires revising the airplane flight manual (AFM) and installing a placard in the flight deck to prohibit flight into known or forecasted icing conditions. In lieu of the AFM revision and placard installation, that AD allows identifying the part number of each flexible hose in the wing (slat) anti-icing system, performing repetitive inspections of each hose for delamination, and performing corrective actions if necessary. This AD adds the following actions (also in lieu of the AFM revision and placard installation): New repetitive inspections for delamination at reduced intervals, corrective actions if necessary, and an additional AFM revision to include a statement to track flight cycles when the slat anti-icing system is activated. This AD also provides an option to repetitively replace the existing flexible hoses with improved flexible hoses, which terminates the repetitive inspection requirements. This AD results from a report of in-service delamination of a flexible hose in the slat anti-icing system at a time earlier than previously reported. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

**DATES:** This AD becomes effective September 26, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 26, 2005.

On April 26, 2005 (70 FR 18282, April 11, 2005), the Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, including the Service Bulletins Compliance Card.

We must receive any comments on this AD by November 8, 2005.

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

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

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, for service information identified in this AD.

You may examine the contents of the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–22309; the directorate identifier for this docket is 2005–NM–159–AD.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

On March 31, 2005, the FAA issued AD 2005–07–23, amendment 39–14048 (70 FR 18282, April 11, 2005). That AD applies to all Dassault Model Falcon 10 series airplanes. That AD requires revising the Limitations section of the airplane flight manual (AFM) to include a statement prohibiting flight into known or forecasted icing conditions, and installing a placard in the flight deck. In lieu of the AFM revision and placard installation, that AD allows identifying the part number of each flexible hose in the wing (slat) anti-icing system, performing repetitive detailed inspections of each hose for delamination, and performing corrective actions if necessary. That AD resulted from a report of delamination of the internal wall of a flexible hose in the slat anti-icing system. The actions specified in that AD are intended to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

## Actions Since AD Was Issued

Since we issued that AD the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, informed us of an in-service delamination of a flexible hose in the slat anti-icing system at a time earlier than previously reported.

In addition, the preamble to AD 2005–07–23 explains that we consider the requirements ''interim action'' and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and, although a final action has not yet been developed, this AD follows from that determination.

## Relevant Service Information

Avions Marcel Dassault-Breguet has issued Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005. The existing AD refers to Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, as the appropriate source of service information for accomplishing the required actions of that AD. Dassault Alert Service Bulletin F10–A312, Revision 1, describes procedures for a visual check and an improved boroscope inspection of the internal walls of each flexible hose in the slat anti-icing system for blistering (delamination), and performing corrective actions if necessary. The corrective actions include replacing any hose that doesn't have a certain part number with a hose having the part number specified in the service bulletin, and replacing any damaged hose with a new hose having the part number specified in the service bulletin. The DGAC mandated the service bulletin and issued French emergency airworthiness directive EASA.A.AD.01001, dated June 29, 2005, to ensure the continued airworthiness of these airplanes in France.

Avions Marcel Dassault-Breguet has also issued Dassault Service Bulletin F10–313, dated August 10, 2005. This service bulletin describes procedures for replacing the existing flexible hoses with improved flexible hoses, having a new part number. These new flexible hoses have a temporary life limit of 90 flight cycles during which the slat anti-icing system is in use.

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

## FAA's Determination and Requirements of This AD

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to supersede AD 2005–07–23. This new AD retains the requirements of the existing AD. This AD also:

- Provides an improved inspection method and reduces the intervals for the inspections;
- Provides an option to repetitively replace the existing flexible hoses with improved flexible hoses, which terminates the repetitive inspection requirements;
- Requires revising the Limitations section of the AFM to provide a mechanism for tracking flight cycles in which the slat anti-icing system is activated; and
- Requires sending the inspection results to the manufacturer.

## Differences Between the AD and the French Emergency Airworthiness Directive

This AD differs from the French emergency airworthiness directive in that it includes the option to install improved flexible hoses. The airplane manufacturer is requesting that the DGAC approve this option as an alternative method of complying with French emergency airworthiness directive EASA.A.AD.01001.

This AD also differs from the French emergency airworthiness directive by requiring an AFM revision to enable the tracking of flight cycles in which the slat anti-icing system is activated. The French emergency airworthiness directive contains instructions to the flightcrew to record in the flight log any time the anti-icing system switch is on during flight, but does not specify an AFM revision.

These differences have been coordinated with the DGAC.

## Interim Action

This AD is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the delamination of the internal walls of a flexible hose, and eventually to develop final action to address the unsafe condition. Once final action has been identified, we may consider further rulemaking.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

**Explanation of Change to Applicability**

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

**Clarification of Inspection Terminology**

In this AD, the ''visual check'' specified in Dassault Alert Service Bulletin F10–A312, Revision 1, is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in this AD.

**Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2005–22309; Directorate Identifier 2005–NM–159–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

**Examining the Docket**

You 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.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD 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, Incorporation by reference, Safety.

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14048 (70 FR 18282, April 11, 2005) and adding the following new AD:

**2005–18–14 Avions Marcel Dassault-Breguet Aviation (AMD/BA):** Docket No. FAA–2005–22309; Directorate Identifier 2005–NM–159–AD; Amendment 39–14254.

**Effective Date**

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

**Affected ADs**

(b) This AD supersedes AD 2005–07–23.

**Applicability**

(c) This AD applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD results from a report of in-service delamination of a flexible hose in the slat anti-icing system at a time earlier than previously reported. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in 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.

**Restatement of the Requirements of AD 2005–07–23**

*Repetitive Inspections, or Airplane Flight Manual (AFM) Revision and Placard Installation*

(f) Within 14 days after April 26, 2005 (the effective date of AD 2005–07–23), perform the actions specified in either paragraph (f)(1) or (f)(2) of this AD:

(1) Revise the Limitations section of the Dassault Aviation Falcon 10 AFM, and install a placard in the flight deck, to include the following information.

''Flights into known or forecasted icing conditions are prohibited.''

The AFM revision may be done by inserting a copy of this AD into the AFM. Install the placard on the pedestal in clear view of the pilot.

(2) Determine the part number of each flexible hose installed in the slat anti-icing system, perform a detailed inspection of the internal walls of the hoses for delamination, and perform any applicable corrective action, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005. If the part number for any hose cannot be determined, before further flight, replace that hose with a hose having part number (P/N) FAL1005D. Any corrective action must be

done before further flight. Repeat the detailed inspection thereafter at intervals not to exceed 60 flight cycles or 3 months, whichever is first, until the actions required by paragraph (i) of this AD are accomplished.

**Note 1:** When a statement identical to that in paragraph (f)(1) of this AD has been included in the general revision of the AFM, the general revision may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

**Note 2:** For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(g) For airplanes on which the actions described in paragraph (f)(1) of this AD are performed, doing the actions described in paragraph (f)(2) of this AD is terminating action for the requirements of paragraph (f)(1) of this AD. Once the initial detailed inspection specified in paragraph (f)(2) of this AD is performed, the AFM limitation and placard required by paragraph (f)(1) of this AD may be removed.

**New Requirements of This AD**

*New Inspections and Intervals*

(h) For airplanes not operated under the limitation in paragraph (f)(1) of this AD, before the next 10 flight cycles in which the slat anti-icing system is activated after the effective date of this AD: Do a boroscope inspection of each flexible hose installed in the slat anti-icing system. Do all the inspections and any applicable corrective action (including replacing the hose with a new hose having P/N FAL1005D), by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005. Any corrective action must be done before further flight. Repeat the inspection thereafter at intervals not to exceed 10 flight cycles in which the slat anti-icing system is activated. Doing this inspection terminates the repetitive inspection requirements of paragraph (f)(2) of this AD.

(i) For airplanes on which the actions described in paragraph (f)(1) of this AD are performed, doing the actions described in paragraph (h) of this AD is terminating action for the requirements of paragraph (f)(1) of this AD. Once the initial boroscope inspection specified in paragraph (h) of this AD is performed, the AFM limitation and placard required by paragraph (f)(1) of this AD may be removed.

*AFM Revision*

(j) For airplanes not operated under the limitation in paragraph (f)(1) of this AD, before further flight after the effective date of this AD: Revise the Limitations section of the Dassault Aviation Falcon 10 AFM, to include the following information.

''After each flight in which the slat anti-ice system is activated, inform maintenance.''

The AFM revision may be done by inserting a copy of this AD into the AFM.

**Note 3:** When a statement identical to that in paragraph (j)(1) of this AD has been included in the general revision of the AFM, the general revision may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

*Optional Replacement*

(k) For airplanes not operated under the limitation in paragraph (f)(1) of this AD: Replacing the flexible hose installed in the slat anti-icing system with a new hose having P/N FAL1007, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F10–313, dated August 10, 2005, terminates the repetitive inspection intervals of paragraph (h) and (f)(2) of this AD. Repeat the replacement thereafter at intervals not to exceed 90 flight cycles in which the slat anti-icing system is activated.

*Reporting Requirement*

(l) At the applicable time specified in paragraph (l)(1) or (l)(2) of this AD: After performing any inspection required by this AD, submit a report of the findings (positive and negative) of the inspection to: Dassault Falcon Jet, Attn: Service Engineering/Falcon 10, fax: (201) 541–4700. The report must include the airplane serial number, the location of the hose (inboard or outboard), the number of flight hours since hose installation, the number of cycles in icing conditions, and the manufacturing date and batch number of the hose. Submission of the Service Bulletins Compliance card, which is attached to Dassault Alert Service Bulletin F10–A312, is an acceptable method of complying with this requirement. 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.

(1) If the inspection is done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

*Actions Accomplished in Accordance With Previous Issue of Service Bulletin*

(m) Actions accomplished before the effective date of this AD in accordance with the Accomplishment Instructions of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, are acceptable for compliance with the corresponding action in this AD.

*Alternative Methods of Compliance (AMOCs)*

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

*Related Information*

(o) French emergency airworthiness directive EASA.A.AD.01001, dated June 29, 2005, also addresses the subject of this AD.

*Material Incorporated by Reference*

(p) You must use Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, including the Service Bulletins Compliance Card; and Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005, including the Service Bulletins Compliance Card; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. If accomplished, you must used Dassault Service Bulletin F10–313, dated August 10, 2005, to perform the optional replacement specified by this AD.

(1) The Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10-A312, Revision 1, dated June 27, 2005, including the Service Bulletins Compliance Card; and Dassault Service Bulletin F10–313, dated August 10, 2005; in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On April 26, 2005 (70 FR 18282, April 11, 2005), the Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, including the Service Bulletins Compliance Card.

(3) Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on August 26, 2005.

**Ali Bahrami,**

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

[FR Doc. 05–17598 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2004–19955; Directorate Identifier 2004–NE–17–AD; Amendment 39–14252; AD 2005–18–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Hartzell Propeller Inc. Propellers

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Hartzell Propeller Inc. propellers. This AD requires inspecting the propeller blades and other critical propeller parts for corrosion and mechanical damage. This AD results from two events where a ''Z-shank'' blade failed and separated and the results of teardown inspections that detected corrosion in the blade bore. We are issuing this AD to detect corrosion and mechanical damage that can cause failure of a propeller, which could result in loss of control of the airplane.

**DATES:** This AD becomes effective October 14, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 14, 2005.

**ADDRESSES:** You can get the service information identified in this AD from Hartzell Propeller Inc. Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778–4200; fax (937) 778–4391.

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

**FOR FURTHER INFORMATION CONTACT:** Tim Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–7132; fax (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to certain Hartzell Propeller Inc. propellers. We published the proposed AD in the **Federal Register** on December 29, 2004 (69 FR 77961). That action proposed to require inspecting the propeller blades and other critical propeller parts for corrosion and mechanical damage.

**Examining the AD Docket**

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

**Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

**Recommendation To Modify the AD To Exclude Certain Propellers**

One commenter recommends that this AD be modified to exclude propellers that have been examined in connection with AD 95–11–08 within the last five years. The commenter feels his propeller has been adequately inspected and he does not want to remove the propeller at this time. Doing so could introduce potential oil leaks that are difficult and expensive to seal.

We do not agree. AD 95–11–08 corrects an unsafe condition in blade clamp screws and on the outside surface of the blade shank. The requirements of that AD are not equivalent to the actions mandated by this AD. This AD mandates inspections of the entire propeller assembly, especially the inside surface area of the blade balance hole.

**Requests To Provide More Clarity in the Compliance Section**

One commenter requests that we clarify the compliance section. We agree, and reworded it. We changed the title for Table 1 to ''List of Applicable Propeller Assemblies by Hub Model Series''.

The same commenter suggests we should be more specific in detailing the inspection method in Table 3 if we intend a more thorough inspection. We agree. We have changed (b) in Table 3 to state ''Perform visual and nondestructive inspections of propeller components for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance hole.''

The same commenter states that if the FAA intends to detect small or light cracks in the hub or blade clamps, we should consider adding the following text to Table 3, under the ''Then:'' column, under (c): ''Perform a magnetic-particle-inspection of the hub and blade clamps for cracks''. However, if the FAA intends to detect gross corrosion only, then the added wording in (c) is not needed. The commenter further states that although they support the need for a blade dimensional inspection, they suggest the FAA review the justification for this inspection. The commenter believes the FAA may find this inspection requirement not supportable by service events.

We do not agree that (c) should be changed. Appropriate clarifying changes to Table 3, paragraph (b), as noted earlier, achieve the proper inspection.

The same commenter suggests that the text to Table 3, under the ''Then:'' column, under (d) which reads ''Repair and replace with serviceable parts, as necessary'' be changed to ''If any of these conditions are present, perform additional inspections, including magnetic particle or fluorescent-penetrant inspections as appropriate to determine the serviceability of the part''. The commenter states that these inspections be specifically required when corrosion or other damage has been visually identified since cracks are more likely to start from these conditions, and the cracks are likely to be small and only detectable by magnetic particle or fluorescent-penetrant inspection.

We do not agree that (d) should be changed. Appropriate clarifying changes to Table 3, paragraph (b), as noted earlier, achieve the proper inspection.

**Request for Repetitive Inspections**

One commenter, the National Transportation Safety Board (NTSB), states that it generally supports the proposed AD. However, the NTSB notes that the proposed AD only proposes a onetime inspection rather than a repetitive inspection. The commenter further states that although the proposed AD also includes a requirement to report inspection findings and indicates that we will use this information to determine whether repetitive inspections are in order, the NTSB continues to believe that repetitive inspections best reflect the manufacturer's inspection recommendations. These recommendations have been established in consideration of product design and service requirements. Therefore, the NTSB again urges us to require that these propellers be subject to repetitive inspections.

We do not agree. Our review of the service history for the specified propellers supports the need for a onetime action, especially in light of the aging of the specified propeller fleet. As stated in the proposed AD, we will review the need for a repetitive inspection only if new reports submitted per the AD requirements, document the need to mandate a repetitive inspection. We encourage the public to comply with manufacturer's maintenance recommendations, but the public is only required to maintain their aircraft in accordance with 14 CFR part 91 requirements.

**Conclusion**

We have carefully reviewed the available data, including the comments received, 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 1,700 Hartzell propeller assemblies of the affected design in the worldwide fleet. We estimate that 1,200 propeller assemblies installed on airplanes of U.S. registry will be affected by this AD. We also estimate that it will take about 20 work hours per propeller assembly to perform the actions, and that the average labor rate is $65 per work hour. Required parts will cost about $450 per propeller assembly. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $2,100,000.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2005–18–12 Hartzell Propeller Inc.** **Propellers:** Amendment 39–14252. Docket No. FAA–2004–19955; Directorate Identifier. 2004–NE–17–AD.

**Effective Date**

(a) This airworthiness directive (AD) becomes effective October 14, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Hartzell propeller assemblies with hub model series specified in Table 1 of this AD. These propellers are installed on, but not limited to, the aircraft listed in Table 2 of this AD.

TABLE 1.—LIST OF APPLICABLE PROPELLER ASSEMBLIES BY HUB MODEL SERIES

| |
|---|
| HC–92W Hub Model Series |
| BHC–92W Hub Model Series |
| HC–92Z Hub Model Series |
| BHC–92Z Hub Model Series |
| HC–B3P Hub Model Series |
| HC–B3R Hub Model Series |
| HC–B3W Hub Model Series |
| BHC–B3W Hub Model Series |
| HA–B3Z Hub Model Series |
| HC–B3Z Hub Model Series |

TABLE 2.—LIST OF AIRPLANES THAT MIGHT USE AN AFFECTED PROPELLER ASSEMBLY

| Aircraft manufacturer | Aircraft model |
|---|---|
| AERMACCHI (AERONAUTICA MACCHI) | AM–3C |
| AERO COMMANDER | 560–F680, 680E, 680F, 680FL, 680FLP, 720 |
| AEROSPATIALE (MORANE SAULNIER) | 733 |
| AEROSTAR AIRCRAFT CORP. | 360 |
| AEROTEK II, INC. (CALLAIR) | B1A (CALLAIR) |
| AIR & SPACE | 18, 18A |
| BEECH | 18 SERIES |
| | C45 |
| | 35 SERIES |
| | A65, 65, 65–80, 65–A80, 65–B80, 65–88 |
| | 95, B95, B95A, D95A, E95 |
| | 70 |
| | C18S [(C–45(A, F), UC–45(B, F), AT–7 (A, B, C), JRB–(1, 2, 3, 4), SNB–2(C)] |
| | C18S, AT–11 |
| | C–45G,C–45H; TC–45G, H, J; RC–45J |
| | D18S,E18S, G18S, H18; 3N, 3NM, 3TM |
| | E50, F50, G50, H50, J50 |
| BUSHMASTER AIRCRAFT CORP | BUSHMASTER 2000 |
| CESSNA | 172 |
| | 175, 175A |

TABLE 2.—LIST OF AIRPLANES THAT MIGHT USE AN AFFECTED PROPELLER ASSEMBLY—Continued

| Aircraft manufacturer | Aircraft model |
|---|---|
| | 190, 195, A, B |
| | 421, 421A |
| | A185E, A185F (SEAPLANES ONLY) |
| CESSNA | T50 |
| DE HAVILLAND CANADA | DHC–2 MKI |
| DORNIER | DO28D, DO28D–1 |
| FOUND BROTHERS | 100 |
| FOUND BROTHERS | FBA–2C |
| GOODYEAR (LOCKHEED MARTIN) | GZ20, GZ20A |
| GRUMMAN (GULFSTREAM AERO.) | G44, G44A |
| GRUMMAN (MCKINNON) | G21A |
| HELIO | H–250 |
| | H–295, HT–295 (U–10D) |
| | H–395 (L–28A, U–10B) |
| | H–500 |
| ICA (ROMANIA) | IAR–831 |
| JOBMASTER | |
| | DGA–15P |
| KWAD | SUPER–V |
| LAKE (REVO) | LA–4 |
| LOCKHEED | 12A |
| MESSERSCHMITT | 207 |
| MOONEY | M20A |
| NAVY | N3N–3 |
| NORD | 3400, 3402 |
| PACIFIC AEROSPACE (FLETCHER) | FU–24, FU–24A |
| PIAGGIO | P–166B, C |
| PILATUS | PC–6/350; PC–6/350–H1, –H2 |
| PIPER | PA–23 |
| | PA–24 |
| | PA–25 |
| PROCAER | F15/B |
| REVO (COLONIAL) | C–2 |
| SAAB | 91D SAFIR |
| SCHWEIZER (GRUMMAN) | G–164 |
| SIMMERING GRAZ PAUKER A.G | SGP222 |
| SPARTON | 7W |
| UTVA | 66 |
| WDL AVIATION (formerly WDL FLUGDIENST) | An Airship |
| WEATHERLY | 201B, 201C, 620, 620A, 620C |

**Unsafe Condition**

(d) This AD results from two events where a ''Z-shank'' blade failed and separated and the results of teardown inspections that detected corrosion in the blade bore. We are issuing this AD to detect corrosion and mechanical damage that can cause failure of a propeller, which could result in loss of control of the airplane.

**Compliance**

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

**Aircraft With Experimental Type Certificates**

(f) We recommend that you comply with the inspection requirements of this AD, if you have an aircraft with an experimental type certificate, and you have a propeller hub model listed in this AD installed on that aircraft.

**Inspection of the Propeller**

(g) If the time-since-overhaul (TSO) of the propeller is 10 years or fewer on the effective date of this AD, no further action is required.

(h) If the propeller assembly was inspected using Hartzell Service Bulletin (SB) No. HC–SB–61–136, Revision I, dated April 25, 2003; SB No. 136, Revision H, dated March 12, 1993; or SB No. 136, Revision G, dated November 15, 1991; no further action is required.

(i) If the TSO of the propeller assembly is more than 10 years on the effective date of this AD, or if the TSO is unknown, or if the propeller has not complied with Hartzell SB No. HC–SB–61–136, Revision I, dated April 25, 2003; or SB No. 136, Revision H, dated March 12, 1993; or SB No. 136, Revision G, dated November 15, 1991; perform the actions specified in Table 3 of this AD. Use the compliance times specified in Table 3 of this AD. Information on inspecting the propeller assembly for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance bore can be found in the applicable Hartzell maintenance manuals.

TABLE 3.—COMPLIANCE TIMES FOR ONETIME INSPECTION

| If the TSO of the propeller assembly on the effective date of this AD is . . . | Then . . . | Perform the the inspection . . . |
|---|---|---|
| (1) More 25 years or the TSO is not known. | (a) Disassemble and clean the propeller assembly .....<br>(b) Perform visual and nondestructive inspections of propeller components for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance hole.<br>(c) Inspect and rework the propeller blade bore. Use 3.A. of the Accomplishment instructions of Hartzell SB No. HC–SB–61–136, Revision I, dated April 26, 2003.<br>(d) Repair and replace with serviceable parts, as necessary.<br>(e) Reassemble and test. | Within 12 months after the effective date of this AD. |
| (2) Twenty-one to 25 years ..... | (a) Disassemble and clean the propeller assembly .....<br>(b) Perform visual and nondestructive inspections of propeller components for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance hole.<br>(c) Inspect and rework the propeller blade bore. Use 3.A. of the Accomplishment instructions of Hartzell SB No. HC–SB–61–136, Revision I, dated April 26, 2003.<br>(d) Repair and replace with serviceable parts, as necessary.<br>(e) Reassemble and test. | Within 18 months after the effective date of this AD. |
| (3) Sixteen to 20 years ..... | (a) Disassemble and clean the propeller assembly .....<br>(b) Perform visual and nondestructive inspections of propeller components for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance hole.<br>(c) Inspect and rework the propeller blade bore. Use 3.A. of the Accomplishment instructions of Hartzell SB No. HC–SB–61–136, Revision I, dated April 26, 2003.<br>(d) Repair and replace with serviceable parts, as necessary.<br>(e) Reassemble and test. | Within 24 months after the effective date of this AD. |
| (4) Eleven to 15 years ..... | (a) Disassemble and clean the propeller assembly .....<br>(b) Perform visual and nondestructive inspections of propeller components for cracks, corrosion or pits, nicks, scratches, wear, blade minimum dimensions, and damage in the blade balance hole.<br>(c) Inspect and rework the propeller blade bore. Use 3.A. of the Accomplishment instructions of Hartzell SB No. HC–SB–61–136, Revision I, dated April 26, 2003.<br>(d) Repair and replace with serviceable parts, as necessary.<br>(e) Reassemble and test. | Within 36 months after the effective date of this AD. |

**Propeller Overhaul**

(j) Performing an overhaul of the propeller assembly after the effective date of this AD constitutes compliance with the requirements specified in this AD. The latest applicable Maintenance Manuals issued by Hartzell Propeller Inc. contain information on overhauling a propeller assembly.

(k) The time-since-overhaul only changes if you overhaul the propeller assembly while performing the requirements specified in this AD.

**Reporting Requirements**

(l) Report inspection results to the Manager, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave, Des Plaines, IL 60018, within 15 working days of the inspection. The Office of Management and Budget (OMB) approved the reporting requirements and assigned OMB control number 2120–0056.

**Alternative Methods of Compliance**

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

**Related Information**

(n) None.

**Material Incorporated by Reference**

(o) You must use Hartzell Service Bulletin No. HC–SB–61–136, Revision I, dated April 25, 2003, to perform the inspections and rework required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Hartzell Propeller Inc. Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778–4200; fax (937) 778–4391, for a copy of this service information. You may review copies at the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001, on the internet at *http://dms.dot.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on August 29, 2005.

**Peter A. White,**

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

[FR Doc. 05–17667 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–22252; Directorate Identifier 2005–NM–182–AD; Amendment 39–14260; AD 2005–18–51]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 777 Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2005–18–51 that was sent previously to all known U.S. owners and operators of Boeing Model 777 airplanes by individual notices. This AD supersedes an existing AD that applies to certain Boeing Model 777–200 and ''300 series airplanes. The existing AD currently requires modification of the operational program software (OPS) of the air data inertial reference unit (ADIRU). This new AD requires installing a certain OPS in the ADIRU, and revising the airplane flight manual to provide the flightcrew with operating instructions for possible ADIRU heading errors and for potential incorrect display of drift angle. This AD results from a recent report of a significant nose-up pitch event. We are issuing this AD to prevent the OPS from using data from faulted (failed) sensors, which could result in anomalies of the fly-by-wire primary flight control, autopilot, auto-throttle, pilot display, and auto-brake systems. These anomalies could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane.

**DATES:** This AD becomes effective September 14, 2005 to all persons except those persons to whom it was made immediately effective by emergency AD 2005–18–51, issued August 29, 2005, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 14, 2005.

We must receive comments on this AD by November 8, 2005.

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

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Paul Feider, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6467; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:**

## Background

On April 29, 2005, we issued AD 2005–10–03, amendment 39–14080 (70 FR 24703, May 11, 2005), for certain Boeing Model 777–200 and ''300 series airplanes. That AD requires modification of the operational program software (OPS) of the air data inertial reference unit (ADIRU) from software version part number (P/N) 3470–HNC–100–03 to software version P/N 3475–HNC–100–06 or 3474–HNC–100–07. That AD resulted from a report of the display of erroneous heading information to the pilot due to a defect in the OPS of the ADIRU. We issued that AD to prevent the display of erroneous heading information to the pilot, which could result in loss of the main sources of attitude data, consequent high pilot workload, and subsequent deviation from the intended flight path.

## Actions Since Issuance of Previous AD

On August 29, 2005, we issued emergency AD 2005–18–51, which applies to all Boeing Model 777 airplanes. That AD resulted from a recent report of a significant nose-up pitch event on a Boeing Model 777–200 series airplane while climbing through 36,000 feet altitude. The flightcrew disconnected the autopilot and stabilized the airplane, during which time the airplane climbed above 41,000 feet, decelerated to a minimum speed of 158 knots, and activated the stick shaker. A review of the flight data recorder shows there were abrupt and persistent errors in the outputs of the ADIRU. These errors were caused by the OPS using data from faulted (failed) sensors. This problem exists in all software versions after P/N 3470–HNC–100–03, beginning with P/N 3477–HNC–100–04 approved in 1998 and including the versions mandated by AD 2005–10–03. While these versions have been installed on many airplanes before we issued AD 2005–10–03, they had not caused an incident until recently, and the problem was therefore unknown until then. OPS using data from faulted sensors, if not corrected, could result in anomalies of the fly-by-wire primary flight control, autopilot, auto-throttle, pilot display, and auto-brake systems, which could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane.

## Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 777–34A0137, dated August 26, 2005. The service bulletin describes procedures for installing OPS, P/N 3470–HNC–100–03, in the ADIRU.

We also have reviewed Boeing 777 Operations Manual Bulletin (OMB) CS3–3093, dated August 26, 2005, which describes operating instructions to inform the flightcrew of possible heading errors following on-ground automatic realignment of the ADIRU with the OPS, P/N 3470–HNC–100–03, installed.

In addition, we have reviewed Boeing 777 OMB CS3–3155, dated August 26, 2005, which describes operating instructions to inform the flightcrew of potential drift angle discrepancies on the primary flight display and the navigation display with the OPS, P/N 3470–HNC–100–03, installed.

## FAA's Determination and Requirements of This AD

Since the unsafe conditions described previously are likely to exist or develop on other airplanes of the same type design, we issued emergency AD 2005–18–51 to supersede AD 2005–10–03. This new AD requires accomplishing the actions specified in Boeing Alert Service Bulletin 777–34A0137, described previously. Because these actions reintroduce the unsafe condition identified in AD 2005–10–03, this new AD also requires revising the Limitation section of the Airplane Flight Manual by inserting a copy of Boeing 777 OMBs CS3–3093 and CS3–3155, described previously.

## Interim Action

We consider this AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD and AD 2005–10–03. Once this modification is developed, approved, and available, we may consider additional rulemaking

## FAA's Determination of the Effective Date

We found that immediate corrective action was required; therefore, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on August 29, 2005, to all known U.S. owners and operators of Boeing Model 777 airplanes. These conditions still exist, and the AD is

hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

**Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2005–22252; Directorate Identifier 2005–NM–182–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

**Examining the Dockets**

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.

**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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If this emergency regulation is later deemed significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation and place it in the AD Docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation, if filed.

**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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14080 (70 FR 24703, May 11, 2005) and adding the following new airworthiness directive (AD):

**AD 2005–18–51 Boeing:** Amendment 39–14260. Docket No. FAA–2005–22252; Directorate Identifier 2005–NM–182–AD.

**Effective Date**

(a) This AD becomes effective September 14, 2005, to all persons except those persons to whom it was made immediately effective by emergency AD 2005–18–51, issued on August 29, 2005, which contained the requirements of this amendment.

**Affected ADs**

(b) This AD supersedes AD 2005–10–03.

**Applicability**

(c) This AD applies to all Boeing Model 777–200, –300, and –300ER series airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD results from a recent report of a significant nose-up pitch event. We are issuing this AD to prevent the operational program software (OPS) from using data from faulted (failed) sensors, which could result in anomalies of the fly-by-wire primary flight control, autopilot, auto-throttle, pilot display, and auto-brake systems. These anomalies could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane.

**Compliance**

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

**Installation of OPS**

(f) Within 72 hours after the effective date of this AD, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD.

(1) Install OPS, part number (P/N) 3470–HNC–100–03, in the air data inertial reference unit (ADIRU), in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–34A0137, dated August 26, 2005.

(2) Revise the Limitations section of the Airplane Flight Manual (AFM) by inserting a copy of the Boeing operations manual bulletins in Table 1 of this AD.

TABLE 1.—OPERATIONS MANUAL BULLETINS

| Boeing 777 operations manual bulletin | Date |
|---|---|
| (i) CS3–3093 ..... | August 26, 2005. |
| (ii) CS3–3155 ..... | August 26, 2005. |

(g) When the information in the operations manual bulletins in Table 1 of this AD has been incorporated into the general revisions of the AFM, the general revisions may be incorporated into the AFM, and these operations manual bulletins may be removed from the AFM.

**Parts Installation**

(h) As of the effective date of this AD, only OPS, P/N 3470–HNC–100–03, may be loaded into the ADIRU.

**Alternative Methods of Compliance (AMOCs)**

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

**Related Information**

(j) None.

**Material Incorporated by Reference**

(k) You must use the service information in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

| Service information | Date |
|---|---|
| Boeing Alert Service Bulletin 777–34A0137 | August 26, 2005. |
| Boeing 777 Operations Manual Bulletin CS3–3093 | August 26, 2005. |
| Boeing 777 Operations Manual Bulletin CS3–3155 | August 26, 2005. |

Issued in Renton, Washington, on September 1, 2005.

**Ali Bahrami,**

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

[FR Doc. 05–17762 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–20847; Directorate Identifier 2004–NE–35–AD; Amendment 39–14261; AD 2005–18–20]**

**RIN 2120–AA64**

## Airworthiness Directives; Goodrich De-icing and Specialty Systems ''FASTprop'' Propeller De-icers

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Goodrich De-icing and Specialty Systems ''FASTprop'' propeller de-icers, part numbers P4E1188 series, P4E1601 series, P4E2200 series, P4E2271–10, P4E2575–7, P4E2575–10, P4E2598–10, P5855BSW, P6199SW, P6592SW, P6662SW, and P6975–11, installed. This AD requires inspection, repair, or replacement of those ''FASTprop'' propeller de-icers that fail daily visual checks. This AD results from reports of Goodrich ''FASTprop'' propeller de-icers becoming loose or debonded, and detaching from propeller blades during operation.

**DATES:** This AD becomes effective October 14, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 14, 2005.

**ADDRESSES:** Contact Goodrich De-icing and Specialty Systems, 1555 Corporate Woods Parkway, Uniontown, Ohio 44685, telephone (330) 374–3743, for the service information referenced in this AD.

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

**FOR FURTHER INFORMATION CONTACT:** Melissa T. Bradley, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–8110; fax (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to Goodrich De-icing and Specialty Systems ''FASTprop'' propeller de-icers, part numbers P4E1188 series, P4E1601 series, P4E2200 series, P4E2271–10, P4E2575–7, P4E2575–10, P4E2598–10, P5855BSW, P6199SW, P6592SW, P6662SW, and P6975–11. We published the proposed AD in the **Federal Register** on April 6, 2005 (70 FR 17361). That action proposed to require inspection, repair, or replacement of those ''FASTprop'' propeller de-icers that fail visual checks before the first flight each day.

**Examining the AD Docket**

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

**Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the one comment received.

The commenter states that we need to clarify the compliance section, and requests that any pilot be able to make required logbook entries after the visual check of propeller de-icers regardless of how the airplane is operated, whether under 14 CFR part 91, part 135, or part 121. The commenter interprets Goodrich De-icing and Specialty Systems Alert Service Bulletin (ASB) No. 30–60–00–1, dated November 15, 2004, as only allowing private pilots operating under 14 CFR part 91 to make the required logbook entries.

We agree that we need to clarify the compliance section. Accordingly, we added the following statement to the compliance section of this AD: ''Properly certificated maintenance personnel must perform the initial inspection required in this AD. Thereafter, the pilot or properly certificated maintenance personnel may perform the repetitive visual check.''

**Conclusion**

We have carefully reviewed the available data, including the comment received, 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**

We estimate that 3,400 Goodrich propeller de-icers are installed on airplanes of U.S. registry and will be affected by this AD. We also estimate that it will take about:

- Two minutes per propeller blade to perform the preflight visual check; and
- Five minutes per propeller blade to perform the inspection of de-icers that fail the visual check; and
- One-half work hour to replace a propeller de-icer.

The average labor rate is $65 per work hour. Required parts will cost about $110.00 per replacement propeller de-icer. The manufacturer has advised us that replacement de-icers will be provided at no cost to the operators. Based on these figures, not including free de-icer hardware supplied by the manufacturer, we estimate the total cost of the AD to U.S. operators to be $510,240.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2005–18–20 Goodrich De-icing and Specialty Systems:** Amendment 39–14261. Docket No. FAA–2005–20847; Directorate Identifier. 2004–NE–35–AD.

**Effective Date**

(a) This airworthiness directive (AD) becomes effective October 14, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Goodrich De-icing and Specialty Systems ''FASTprop'' propeller de-icers, part numbers (P/Ns) P4E1188 series, P4E1601 series, P4E2200 series, P4E2271–10, P4E2575–7, P4E2575–10, P4E2598–10, P5855BSW, P6199SW, P6592SW, P6662SW, and P6975–11, installed. These propeller de-icers are installed on, but not limited to, the airplanes listed in Table 1 of this AD.

TABLE 1.—GOODRICH ''FASTPROP'' PROPELLER DE-ICERS

| De-icer P/N | Installed on, but not limited to |
|---|---|
| P4E1188–2 | Metal propellers operated up to 2,900 rpm on:<br>Cessna 210E, 210F, 210G, 210H, 210J, 210K, 210L, T210F, T210G, T210H, T210J, T210K, and T210L.<br>With Supplemental Type Certificate (STC) SA1–502 on Raytheon (Beech) D18C, D18S, E18S, G18S, H18, C45G, C45H, TC45G, and TC45H. |
| P4E1188–3 | Metal propellers operated up to 2,900 rpm on:<br>Raytheon (Beech) D18C, D18S, E18S, E18S–9700, G18S, H18, C–45G, C–45H, C–45J, TC–45G. TC–45H, TC–45J (SNB–5), and JRB–6.<br>With STC SA1–503 on Raytheon (Beech), E50, F50, G50, H50, J50, and 65.<br>With STC SA15EA on Raytheon (Beech) E50, F50, G50, H50, J50, 65, and 65–80.<br>Raytheon (Beech) 55, B55, D55, D55A, E55, 95–C55, 95–C55A, 58, 95–55, 95–A55, 95–B55, 56TC, 60, 65, 65–80, 65–90, 65–A90, B90, C90, 99, 99A, A99, A99A, 100, and A100.<br>With STC SA1–506 on Cessna 310.<br>With McCauley props on Cessna 310, 320, 340, 401, 402, 411, 414, and 421.<br>With STC SA2424WE on Cessna 402.<br>With STC SA132EA on Twin Commander (Gulfstream) 560A, 560E, 680, 680E, and 720.<br>With STC SA179EA on Twin Commander (Gulfstream) 560F, 680FL, 680FL(P), and 680–F.<br>With STC SA1–520 on Twin Commander (Gulfstream) 560A, 560E 680, 680E, and 720.<br>On the following models equipped with 90-amp generator: Twin Commander (Gulfstream) 500B, 500S, and 500U.<br>With STC SA1–607 on Twin Commander (Gulfstream) 500A.<br>With STC SA2478SW on Twin Commander (Gulfstream) 500.<br>With STC SA2891WE or STC SA2691WE on Twin Commander (Gulfstream) 680F, 680FP, and 680FL(P).<br>Twin Commander (Gulfstream) 680V, 680T, 680W, and 681.<br>Mitsubishi Heavy Industries MU–2 series.<br>With STC SA195EA on Piper PA–23–250, E23–250 (serial number (SN) 27–2505 up). |

TABLE 1.—GOODRICH "FASTPROP" PROPELLER DE-ICERS—Continued

| De-icer P/N | Installed on, but not limited to |
|---|---|
| | Piper PA–31 (SN 31–5 up), PA–31–300 (SN 31–5 up), PA–31–325 (SN31–5 up), and PA–31–350 (SN 31–5001 up). |
| P4E1188–4 | Metal propellers operated up to 2,900 rpm on: |
| | B–N Group Ltd. (Britten Norman) BN–2, BN–2A, and BN–2A Mark III series, Vulcanair (Partenavia) P–68, Piper Aerostar 600, 601, and 601P. |
| | On the following models equipped with 3-blade props: |
| | Short Brothers SC7 series 3, M7 Aerospace (Fairchild) SA26–T, SA26–AT, SA226–T, SA226–AT, and SA226–TC. |
| | The following models equipped with 70-amp alternators and Hartzell HC–A3XK props: Twin Commander (Gulfstream) 500B, 500S, and 500U. |
| | The following models equipped with 70-amp alternator and Hartzell HC–C3YR–2 props: Twin Commander (Gulfstream) 500S and 500U. |
| | The following model with 70- or 100-amp alternators and Hartzell HC–C3YR–R props: Twin Commander (Gulfstream) 500S (SN 3115 up). |
| | With STC SA2478SW on model Twin Commander (Gulfstream) 500. |
| | With STC SA2691WE or SA2891WE on the following models: Twin Commander (Gulfstream) 680F, 680FL, and 680FLP. |
| P4E1188–5 | Metal propellers operated up to 2,900 rpm on: |
| | With Hartzell HC–B3TN–3 props on Raytheon (Beech) D18C, D18S, E18S, E18S–9700, G18S, H18, C45G, C45H, TC45G, TC45H, C45J, TC45J (SN B–5), JRB–6, 99, 99A, A99, A99A, 99B, B99, 100, A100, A100A, A100C, and B100. |
| | With Hartzell HC–B3TN–3 props on Raytheon (Beech) 65–90, 65–A90, 65–A90–1, 65–A90–2, 65–A90–3, 65–A90–4, B90, C90, E90, and H90. |
| | With Hartzell HC–B3TN–3 props on Bombardier (deHavilland) DHC–6–300, Israel Aircraft Industries 101 Arava, Mitsubishi Heavy Industries MU–2B–10, –15, –20, –25, –26, –30, –35, –36, MU–2 Series, Pilatus PC–6, Piper PA–31T (SN 31T–7400002 up), and PA31T1. |
| | With STC SA2293SW on British Aerospace (Scotland) Handley Page Jetstream 137 Mark I. |
| | AeroSpace Technologies of Australia (Government Aircraft Factories) N22B. |
| | Short Brothers SC7 series 3 equipped with 4-blade props. |
| P4E1188–6 | Metal propellers operated up to 2,900 rpm on: |
| | With Hartzell HC–B3TN–5( ) props on Cessna 425 and 441. |
| | Embraer EMB–110P1 and 110P2. |
| | Short Brothers SC7 series 3 equipped with 3-blade props. |
| | M7 Aerospace (Fairchild) SA226–T, SA226–AT, and SA226–TC. |
| P4E1188–7 | Metal propellers operated up to 2,900 rpm on: |
| | Mitsubishi Heavy Industries MU–2B, MU–2B–26A, MU–2B–36A, MU–2B–40, and MU–2B–60. |
| P4E1601–3 | Metal propellers operated up to 2,900 rpm on: |
| | Piper PA31 (SN 5 up), PA31–300 (SN 5 up), PA31–325 (SN 5up), PA31P (SN 31P–3 up), and PA31–350 (SN 31–5001 up). |
| P4E1601–4 | Metal propellers operated up to 2,900 rpm on: |
| | Raytheon (Beech) 65–88. |
| P4E1601–5 | Metal propellers operated up to 2,900 rpm on: |
| | Casa C212CB. |
| | Twin Commander (Gulfstream) 690 and 690A. |
| P4E1601–7 | Metal propellers operated up to 2,900 rpm on: |
| | Raytheon (Beech) B55, E55, 56TC, 58P, and 60. |
| | With STC SA2369SW on Nord 262A. |
| | The following models equipped with 70- or 100-amp alternator and Hartzell HC–C3YR–2 props: Twin Commander (Gulfstream) 500S (SN 3115 up) and Twin Commander (Gulfstream) 685. |
| | Short Brothers SD3–30. |
| P4E1601–10 | Metal propellers operated up to 2,900 rpm on: |
| | Raytheon (Beech) B55, E55, 56TC, 58P, and 60. |
| | Twin Commander (Gulfstream) 690C and 695. |
| | M7 Aerospace (Fairchild) SA–226–TB, SA227–AC, SA227–TT, and SA227–AT. |
| P4E2200–2 | Metal propellers operated up to 2,900 rpm on: |
| | With STC SA00719LA on Raytheon (Beech) A36. |
| | With STC SA00718LA on Raytheon (Beech) B36TC. |
| | Raytheon (Beech) V35 equipped with 2- or 3-blade McCauley props. |
| P4E2200–3 | Metal propellers operated up to 2,900 rpm on: |
| | Raytheon (Beech) E50, F50, G50, H50, and J50. |
| | Cessna E310J, T310P, 310, 310E, 310J, 310K, 310L, 310N, 320, 320D, 320F, 40, 402A, 402B, 411, 411A, 414, 421, 421A, and 421B. |
| | Piper PA23–250. |
| P4E2200–4 | Metal propellers operated up to 2,900 rpm on: |
| | B–N Group Ltd. (Britten Norman) BN–2A Mark III, BN–2, BN–2A. |
| | Piper 600, 601, 601P. |
| P4E2200–10 | Metal propellers operated up to 2,900 rpm on: |
| | With Volpar Turboliner conversion on the following models: Raytheon (Beech) D18C and D18S. |
| | Raytheon (Beech) 56TC, A56TC, 65–90, 65–A90, B90, C90, E90, H90, 99, A99, 99A, B99, 99B, 100, A100, A100A, A100C, B100, and 200. |
| | Embraer EMB 110P1 and 110P2. |
| | Mitsubishi Heavy Industries MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–30, and MU–2B–35. |
| | Pilatus PC–6. |

TABLE 1.—GOODRICH "FASTPROP" PROPELLER DE-ICERS—Continued

| De-icer P/N | Installed on, but not limited to |
|---|---|
| | Piper PA31–350 (SN 5001 up) and PA31P (SN 31P–3 up). |
| | M7 Aerospace (Fairchild) SA26–T, SA26–AT, SA226–T, SA226TC, and SA226AT. |
| | Twin Commander (Gulfstream) 500B, 500U, 560F, 680F, 680FP, 680FL, and 680FLP. |
| P4E2200–21 | Metal propellers operated up to 2,900 rpm with STC SA812NE on the following models: |
| | Raytheon (Beech) 65–90 series, B90, C90, E90, F90, H90, 99 A99 series, C99, 100, A100 series, B100, and 200. |
| | Embraer EMB110 series. |
| | M7 Aerospace (Fairchild) SA226–AT, SA226–T, and SA–226TC. |
| | Mitsubishi Heavy Industries MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–30, MU–2B–35, and MU–2B–36. |
| | Pilatus PC–6, PC–6B–H2, PC–6B1–H2, PC–6C–H2, PC–6C1–H2, and PC–7. Piper PA–31T, PA–31T1, PA–31T1A, PA–31T2A, PA–31T3, and PA–31T–1040. |
| P4E2271–10 | Metal propellers operated up to 2,900 rpm on: |
| | B–N Group Ltd. (Britten-Norman) BN–2, BN–2A series, and BN–2A Mark III. |
| | With Volpar Turboliner conversion on the following models: Raytheon (Beech) D18C, and D18S. |
| | The following models equipped with 2- or 3-blade props: S35, V35, V35A, V35B, 35–C33A, F33A, F33C, and A36. |
| | Raytheon (Beech) E50, F50, G50, H50, J50, E55, E55A, 56TC, A56TC, 58, 58A, 60, A60, B60, 65–90, 65–A90, B90, C90, E90, H90, 95–B55, 95–B55A, 99, A99, A99A, 99A, 100, A100, A100A, A100C, B100, and 200. |
| | With STC SA00966CH on Raytheon (Beech) C90B |
| | With STC SA3593NM on Raytheon (Beech) E90. |
| | With STC SA4131NM on Raytheon (Beech) F90. |
| | With STC SA2698NM on the following models: Raytheon (Beech) 200 and B200. |
| | Cessna 310, 310J, 310K, 310L, 310N, E310J, T310P, 320D, 320E, 320F, 340, 401A, 401B, 402A, 402B, 411, 411A, 414A, 414B, 421A, and 421B. |
| | With STC SA3532NM on Bombardier (deHavilland) DHC–6. |
| | With STC SA2369SW on Nord 262A. |
| | Mitsubishi Heavy Industries MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36A, MU–2B–40, and MU–2B–60. |
| | Piper PA23, PA23–160, PA23–250, PA–E23–250 (SN 27–2505 UP), PA31 (SN 31–5 up), PA31–300 (SN 31–5 up), PA31–325 (SN 31–5 up), PA31–350 (SN 5001 up) PA34–200, PA34–200T, PA600, PA601, and PA601P. |
| | Pilatus PC–6. |
| | Short Brothers SD–3–30. |
| | M7 Aerospace (Fairchild) SA26–T, SA26–AT, SA226–T, SA226–AT, SA226TB, and SA226–TC. |
| | Twin Commander (Gulfstream) 500B, and 500U. |
| P4E2575–7 | Metal propellers operated up to 1,700 rpm on Raytheon (Beech) 300. |
| P4E2575–10 | Metal propellers operated up to 1,700 rpm on Raytheon (Beech) 300. |
| P4E2598–10 | Metal propellers operated up to 1,591 rpm on: |
| | AvCraft (Dornier) 228, M7 Aerospace (Fairchild) SA227–TT (SN 421–541), SA227–AT (SN 423–549), and SA227–AC (SN 420–545). |
| P5855BSW | Metal propellers on: |
| | Cessna T310Q, T310R, 340, 340A, 402B, 402C, 414, 414A, 421A, and 421B. |
| P6199SW | Metal propellers operated up to 2,900 rpm on: |
| | The following models equipped with McCauley D3A34C401 or D3A34C402 props: Cessna 210L, 210M, 210N, P210N, T210L, T210M, and T210N. |
| P6592SW | Metal propellers operated up to 2,900 rpm on: |
| | Various aircraft models equipped with McCauley 3AF32C504, 3AF32C505, 3AF32C506, or 3AF32C507 props. |
| P6662SW | Metal propellers operated up to 2,900 rpm on: |
| | Various aircraft models equipped with McCauley 3AF32C512/G–82NEA–5, 3AF32C511/G–82NEA–4, or 4HFR34C7 props. |
| P6975–11 | Metal propellers operated up to 2,900 rpm on: |
| | With STC SA812EA and equipped with Hartzell HC–B3TN–3D, HC–B3TN–5C, or HC–B3TN–5M props: Air Tractor, AT–302 and AT–400. |
| | With STC SA812EA and equipped with Hartzell HC–B3TN–3C or HC–B3TN–3D props: Quality Aerospace (Ayres) S2R–T11. |
| | With STC SA2204WE and equipped with Hartzell HC–B3TN–5C props: Raytheon (Beech) D18C, D18S, E18S–9700, C45G, C45H, TC–45G, TC–45H, and TC–45J. |
| | Raytheon (Beech) T–34C equipped with Hartzell HC–B3TN–3H props. |
| | The following models equipped with Hartzell HC–B3TN–2B, HC–B3TN–3B, or HC–B3TN–3M props: Raytheon (Beech) 65–90, 65–A–90, 65–A90–1, 65–A90–2, 65–A90–3, and 65–A90–4. |
| | The following models equipped with Hartzell HC–B3TN–3B or HC–B3TN–3M props: Raytheon (Beech) B90, C90, E90, and H90. |
| | Raytheon (Beech) F90 equipped with Hartzell HC–B4TN–3A or HC–B4TN–3B props. |
| | The following models equipped with Hartzell HC–B3TN–3B props: Raytheon (Beech) 99, 99A, A99, and A99A. |
| | The following models equipped with Hartzell HC–B3TN–3B or HC–B3TN–3M props: Raytheon (Beech) C99, and 100. |
| | The following models equipped with Hartzell HC–B4TN–3 or HC–4TN–3A props: Raytheon (Beech) A100, A100A, and A100–1. |
| | Raytheon (Beech) B100 equipped with Hartzell HC–B4TN–5C or HC–B4TN–5F props. |
| | The following models equipped with Hartzell HC–B3TN–3G or HC–B3TN–3N props: Raytheon (Beech) 200, 200C, 200CT, 200T, A200, A200C, A200CT, B200, B200C, B200CT, and B200T. |
| | Raytheon (Beech) JRB–6 with STC SA1171WE equipped with Hartzell HC–B3TN–5C props. |
| | British Aerospace HP.137MK.1 with STC SA2293WE equipped with Hartzell HC–B3TN–3D props. |
| | CASA C212–100 Aviocar equipped with Hartzell HC–B4TN–5EL props. |
| | Cessna 441 equipped with Hartzell HC–B3TN–5E or HC–B3TN–5M props. |

TABLE 1.—GOODRICH ''FASTPROP'' PROPELLER DE-ICERS—Continued

| De-icer P/N | Installed on, but not limited to |
|---|---|
| | Bombardier (deHavilland) DHC–2MK.III equipped with HC–B3TN–3, HC–B3TN–3B, or HC–B3TN–3BY props.<br>Bombardier (deHavilland) DHC–6–300 equipped with Hartzell HC–B3TN–3(D)(Y) props.<br>Embraer EMB–110P1/2 equipped with Hartzell HC–B3TN–3C or HC–B3TN–3D props.<br>The following models equipped with Hartzell HC–B3TN–5( ) props: M7 Aerospace (Fairchild) SA226–AT, and SA226T.<br>M7 Aerospace (Fairchild) SA226–TC equipped with Hartzell HC–B4TN–5( ) props.<br>M7 Aerospace (Fairchild) SA226–TC with STC SA344GL equipped with Hartzell HC–B3TN–5( ) props.<br>M7 Aerospace (Fairchild) SA226–TC with STC SA344GI.<br>The following models equipped with Hartzell HC–A3VF–7 or HC–3VH–7B props: AeroSpace Technologies of Australia (Government Aircraft Factories) N22B and N24A.<br>The following models equipped with Hartzell HC–B3TN–3D props: IAI Arava 101 and 101B.<br>The following models equipped with Hartzell HC–B3TN–3DY props: McKinnon (Grumman) G–21E and G–21G.<br>The following models equipped with HC–B3TN–5( ) props: Mitsubishi Heavy Industries MU–2B, and MU–2B–10.<br>The following models equipped with Hartzell HC–B3TN–5 props: Mitsubishi Heavy Industries MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–30, MU–2B–35, and MU–2B–36.<br>The following models equipped with Hartzell HC–B3TN–3C props: Pilatus PC–6, PC–6/B–H2, PC–6/B1–H2, PC–6/C–H2, PC–6/C1–H2.<br>The following models equipped with Hartzell HC–B3TN–3B props: Piper PA–31T and PA31T1.<br>The following models equipped with Hartzell HC–B3TN–3B or HC–B3TN–3K props: Piper PA42 and PA42–720.<br>The following model equipped with Hartzell HC–B3TN–5( ) props: Short Brothers SC–7 series 3 Variant 200.<br>With STC SA02059AK on the following model equipped with HC–B4TN–5 props: Short Brothers SC–7 series 3 Variant 200.<br>The following models equipped with Hartzell HC–B3TN–5( ) props: Twin Commander (Gulfstream) 690, 690A, and 690B. |

**Unsafe Condition**

(d) This AD results from reports of Goodrich ''FASTprop'' propeller de-icers becoming loose or debonded, and detaching from propeller blades during operation. We are issuing this AD to prevent Goodrich ''FASTprop'' propeller de-icers from detaching from the propeller blade, resulting in damage to the airplane, and possible injury to passengers and crewmembers.

**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.

(f) Properly certificated maintenance personnel must perform the initial inspection required in this AD. Thereafter, the pilot or properly certificated maintenance personnel may perform the repetitive visual check.

**Initial Visual Inspection of ''FASTprop'' Propeller De-Icers**

(g) Within 10 hours after the effective date of this AD, inspect the ''FASTprop'' propeller de-icers. If any ''FASTprop'' propeller de-icer fails the inspection, then the ''FASTprop'' de-icer must be repaired or replaced as necessary before the next flight. Use paragraphs 2.A(3) through (5) of the Accomplishment Instructions of Goodrich De-icing and Specialty Systems Alert Service Bulletin (ASB) No. 30–60–00–1, dated November 15, 2004 to do these actions.

**Repetitive Visual Inspections of ''FASTprop'' Propeller De-Icers**

(h) After the initial inspection, visually check the ''FASTprop'' propeller de-icer once per day either during the pilot's first preflight inspection of the day or when maintenance personnel are available. If any ''FASTprop'' propeller de-icer fails the visual check, then the ''FASTprop'' de-icer must be inspected, repaired, or replaced as necessary before the next flight. Terminating action is accomplished when the ''FASTprop'' propeller de-icer is removed and replaced with an approved propeller de-icer. Use paragraph 2.A(2) of the Accomplishment Instructions of Goodrich De-icing and Specialty Systems Alert Service Bulletin (ASB) No. 30–60–00–1, dated November 15, 2004 to do these actions.

**Alternative Methods of Compliance**

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

**Special Flight Permits**

(j) Under 14 CFR part 39.23, we are limiting the special flight permits for this AD by requiring that any propeller found with a loose or debonded ''FASTprop'' de-icer must have all propeller blade de-icers removed before the flight, to maintain a balanced propeller. Information on removing de-icers can be found in paragraph 1.K.(1) of Goodrich De-icing and Specialty Systems ASB No. 30–60–00–1, dated November 15, 2004.

**Related Information**

(k) None.

**Material Incorporated by Reference**

(l) You must use Goodrich De-icing and Specialty Systems Alert Service Bulletin No. 30–60–00–1, dated November 15, 2004, to perform the inspections, repairs, and replacements required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Goodrich De-icing and Specialty Systems, 1555 Corporate Woods Parkway, Uniontown, Ohio 44685, telephone (330) 374–3743, for a copy of this service information. You may review copies at the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001, on the Internet at *http://dms.dot.gov*, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Burlington, Massachusetts, on September 1, 2005.

**Peter A. White,**

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

[FR Doc. 05–17773 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2004–19540; Directorate Identifier 2004–NM–110–AD; Amendment 39–14258; AD 2005–18–18]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 757 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 757 airplanes. This AD requires inspections of certain wire bundles in the left and right engine-to-wing aft fairings for discrepancies; installation of back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and associated re-routing of the wire bundles, if necessary. This AD results from a report indicating that a circuit breaker for the fuel shutoff valve tripped due to a wire that chafed against the structure in the flammable leakage zone of the aft fairing, causing a short circuit. We are issuing this AD to prevent chafing between the wire bundle and the structure of the aft fairing, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire.

**DATES:** This AD becomes effective October 14, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 14, 2005.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Thomas Thorson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6508; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:**

### 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 street address stated in the **ADDRESSES** section.

### Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 757 airplanes. That supplemental NPRM was published in the **Federal Register** on July 6, 2005 (70 FR 38823). That supplemental NPRM proposed to require inspections of certain wire bundles in the left and right engine-to-wing aft fairings for discrepancies; installation of back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and associated re-routing of the wire bundles, if necessary.

### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received. The commenters support the supplemental NPRM.

### Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed in the supplemental NPRM.

### Costs of Compliance

There are about 618 airplanes of the affected design in the worldwide fleet. This AD will affect about 342 airplanes of U.S. registry. The actions will take between 16 and 44 work hours per airplane, depending on airplane configuration, at an average labor rate of $65 per work hour. Required parts will cost about $600 per airplane. Based on these figures, the estimated cost of this AD on U.S. operators is between $560,880 and $1,183,320, or between $1,640 and $3,460 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 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, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**2005–18–18 Boeing:** Amendment 39–14258. Docket No. FAA–2004–19540; Directorate Identifier 2004–NM–110–AD.

#### Effective Date

(a) This AD becomes effective October 14, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Model 757–200, –200PF, –200CB, and –300 series airplanes; certificated in any category; equipped with Rolls-Royce engines; as identified in Boeing Alert Service Bulletins 757–28A0073 and 757–28A0074, both Revision 1, both dated February 24, 2005.

#### Unsafe Condition

(d) This AD was prompted by a report indicating that a circuit breaker for the fuel shutoff valve tripped due to a wire that

chafed against the structure in the flammable leakage zone of the aft fairing, causing a short circuit. The FAA is issuing this AD to prevent chafing between the wire bundle and the structure of the aft fairing, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire.

**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.

**One-Time Inspections/Related Investigative and Corrective Actions**

(f) Within 60 months after the effective date of this AD, do the actions required by paragraphs (f)(1) and (f)(2) of this AD.

(1) Accomplish the detailed inspections for discrepancies of the wire bundles in the left and right engine-to-wing aft fairings, and applicable and related investigative and corrective actions if necessary, as applicable, by doing all the actions specified in the Accomplishment Instructions of the applicable service bulletins listed in Table 1 of this AD. Accomplish any related investigative and corrective actions before further flight in accordance with the applicable service bulletin.

TABLE 1.—AIRPLANE MODELS AND SERVICE BULLETINS

| Boeing airplanes | Boeing Alert Service Bulletin | Revision level | Date |
|---|---|---|---|
| Model 757–200, –200CB, 200PF series airplanes | 757–28A0073 | Original | November 20, 2003. |
| Model 757–200, –200CB, 200PF series airplanes | 757–28A0073 | 1 | February 24, 2005. |
| Model 757–300 series airplanes | 757–28A0074 | Original | November 20, 2003. |
| Model 757–300 series airplanes | 757–28A0074 | 1 | February 24, 2005. |

(2) Install back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and re-route the wire bundles, if necessary, by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 757–28A0073 or 757–28A0074, both Revision 1, both dated February 24, 2005; as applicable.

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

**Alternative Methods of Compliance (AMOCs)**

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

**Material Incorporated by Reference**

(h) You must use the applicable service bulletin listed in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

| Boeing Alert Service Bulletin | Revision level | Date |
|---|---|---|
| 757–28A0073 | Original | November 20, 2003. |
| 757–28A0073 | 1 | February 24, 2005. |
| 757–28A0074 | Original | November 20, 2003. |
| 757–28A0074 | 1 | February 24, 2005. |

Issued in Renton, Washington, on August 31, 2005.

**Kalene C. Yanamura,**

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

[FR Doc. 05–17772 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–21683; Directorate Identifier 2005–NM–021–AD; Amendment 39–14259; AD 2005–18–19]**

**RIN 2120–AA64**

## Airworthiness Directives; Fokker Model F27 Mark 200, 400, 500, and 600 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 Fokker Model F27 Mark 200, 400, 500, and 600 airplanes. This AD requires a general visual inspection of the rotary knobs for the fuel tank isolation valves to determine if the seal wire has been installed correctly, and corrective actions if necessary. This AD results from investigation of a recent accident, which found that the rotary knobs controlling the fuel tank isolating valves had been in the shut position. We are issuing this AD to ensure that the rotary knobs are not inadvertently moved to the shut position, which could result in fuel starvation to both engines and

consequent inability to maintain controlled flight and landing.

**DATES:** This AD becomes effective October 14, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 14, 2005.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

You may examine the airworthiness directive (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 street address stated in the **ADDRESSES** section.

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Fokker Model F27 Mark 200, 400, 500, and 600 airplanes. That NPRM was published in the **Federal Register** on June 29, 2005 (70 FR 37291). That NPRM proposed to require a general visual inspection of the rotary knobs for the fuel tank isolation valves to determine if the seal wire has been installed correctly, and corrective actions if necessary.

### Correction to Final Rule

We have revised paragraph (h) of this Final Rule to correct an incorrect part number. We have determined that the incorrect part number does not exist.

### Comments

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

### Conclusion

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

### Costs of Compliance

This AD will affect about 1 airplane of U.S. registry. The required inspection will 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 AD for the one U.S. operator is $130.

### 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 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, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**2005–18–19 Fokker Services B.V.:** Amendment 39–14259. Docket No. FAA–2005–21683; Directorate Identifier 2005–NM–021–AD.

**Effective Date**

(a) This AD becomes effective October 14, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Fokker Model F27 Mark 200, 400, 500, and 600 airplanes, certificated in any category; serial numbers 10505 through 10591 inclusive; not equipped with inboard wing fuel tanks.

**Unsafe Condition**

(d) This AD was prompted by investigation of a recent accident, which found that the rotary knobs controlling the fuel tank isolating valves had been in the shut position. We are issuing this AD to ensure that the rotary knobs are not inadvertently moved to the shut position, which could result in fuel starvation to both engines and consequent inability to maintain controlled flight and landing.

**Compliance**

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

**Inspection and Corrective Action if Applicable**

(f) Within 3 months after the effective date of this AD, do a general visual inspection of the rotary knobs for the fuel tank isolation valves to determine if the seal wire is installed correctly and do the corrective action(s) as applicable, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/28–67, dated February

23, 2004. Do the applicable corrective actions before further flight.

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

**Credit for Alternative Method of Compliance**

(g) Actions done before the effective date of this AD in accordance with Fokker Service Bulletin F27/28–58, dated May 12, 1986, are acceptable for compliance with the requirements of paragraph (f) of this AD.

**Parts Installation**

(h) As of the effective date of this AD, no person may install a rotary knob having part number E10632–3, 10632–10003, or P80–004 on any airplane, unless the corrective actions specified in paragraph (f) of this AD have been accomplished.

**No Reporting Requirement**

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

**Alternative Methods of Compliance (AMOCs)**

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

**Related Information**

(k) Dutch airworthiness directive NL–2004–037 R1, dated April 14, 2005, also addresses the subject of this AD.

**Material Incorporated by Reference**

(l) You must use Fokker Service Bulletin F27/28–67, dated February 23, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 31, 2005.

**Kalene C. Yanamura,**

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

[FR Doc. 05–17771 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–21435; Directorate Identifier 2004–NM–163–AD; Amendment 39–14257; AD 2005–18–17]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model DHC–8–400 series airplanes. This AD requires a one-time inspection of the fuel and hydraulic tubes, and corrective actions if necessary. This AD also requires modifying fairlead plate assemblies. This AD results from reports of chafing between fuel and hydraulic tubes and the fairlead plate where the tubes pass through the firewall. We are issuing this AD to prevent chafing of the fuel and hydraulic tubes, which could lead to fuel and/or hydraulic fluid leakage in the engine nacelle area and consequent fire or explosion.

**DATES:** This AD becomes effective October 14, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 14, 2005.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC.

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 256–7504; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

You may examine the airworthiness directive (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 street address stated in the **ADDRESSES** section.

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Bombardier Model DHC–8–400 series airplanes. That NPRM was published in the **Federal Register** on June 14, 2005 (70 FR 34409). That NPRM proposed to require a one-time inspection of the fuel and hydraulic tubes, and corrective actions if necessary. That NPRM also proposed to require modifying fairlead plate assemblies.

### Explanation of Change to Applicability

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

### Comments

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

### Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

### Costs of Compliance

This AD will affect about 18 airplanes of U.S. registry. The actions will take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $200 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $8,280, or $460 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 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, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**2005–18–17 Bombardier, Inc. (Formerly de Havilland, Inc.):** Amendment 39–14257. Docket No. FAA–2005–21435; Directorate Identifier 2004–NM–163–AD.

**Effective Date**

(a) This AD becomes effective October 14, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Bombardier Model DHC–8–400 series airplanes, serial numbers 4003 through 4089 inclusive, certificated in any category.

**Unsafe Condition**

(d) This AD results from reports of chafing between fuel and hydraulic tubes and the fairlead plate where the tubes pass through the firewall. We are issuing this AD to prevent chafing of the fuel and hydraulic tubes, which could lead to fuel and/or hydraulic fluid leakage in the engine nacelle area and consequent fire or explosion.

**Compliance**

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

**Service Bulletin Reference**

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Bombardier Service Bulletin 84–54–09, Revision ''B,'' dated June 15, 2004.

**Inspection, Corrective Action, and Modification**

(g) For airplanes on which Bombardier Systems Drawings (SYD) 84–28–002 and SYD 84–29–006 have not been incorporated or on which Modsum 4–184081 and Modsum 4–184079 have not been incorporated: Within 500 flight hours after the effective date of this AD, do the actions specified in paragraph (i) of this AD.

(h) For airplanes on which Bombardier SYD 84–28–002 and SYD 84–29–006 have been incorporated or on which Modsum 4–184081 and Modsum 4–184079 have been incorporated: Within 4,000 flight hours after the effective date of this AD, do the actions specified in paragraph (i) of this AD.

(i) For airplanes identified in paragraphs (g) and (h) of this AD at the times specified in paragraphs (g) and (h) of this AD, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD in accordance with the service bulletin.

(1) Do a general visual inspection of the fuel/hydraulic tubes for nicks, dents, chafing, or damage. If any nick, dent, chafing, or damage is found that is above the applicable limit specified as ''Acceptable'' in the service bulletin: Do the applicable corrective action in accordance with the service bulletin at the applicable time specified in the service bulletin.

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

(2) Modify the fairlead plate assemblies in accordance with the service bulletin.

**Note 2:** Bombardier Service Bulletin 84–54–09, Revision ''B,'' dated June 15, 2004, refers to GKN Aerospace Services Service Bulletin 1–71–20, dated April 7, 2004, as an additional source of service information for modifying the fairlead plate assemblies. The GKN service bulletin is included in the Bombardier service bulletin.

**Actions Done According to Previous Issue of Service Bulletin**

(j) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 84–54–09, dated January 23, 2004; or Revision ''A,'' dated April 22, 2004; are acceptable for compliance with the corresponding requirements of this AD.

**Parts Installation**

(k) After the effective date of this AD, no person may install a plate, part number 85415048–107, 85415048–108, 85415087–107, or 85415087–108, on any airplane.

**Alternative Methods of Compliance (AMOCs)**

(l) The Manager, New York Aircraft Certification Office, 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**

(m) Canadian airworthiness directive CF–2004–07, dated April 14, 2004, also addresses the subject of this AD.

**Material Incorporated by Reference**

(n) You must use Bombardier Service Bulletin 84–54–09, Revision ''B,'' dated June 15, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://*

*dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on September 1, 2005.

**Ali Bahrami,**

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

[FR Doc. 05–17779 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 61

**[Docket No. FAA–2004–19630; Amendment No. 61–108]**

**RIN 2120–AI38**

## Second-in-Command Pilot Type Rating

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

**ACTION:** Final rule; compliance date and correction.

**SUMMARY:** The FAA is establishing a compliance date for the final rule published in the **Federal Register** on August 4, 2005. The rule revised the pilot certification regulations to establish a second-in-command (SIC) pilot type rating and associated qualifying procedures. This action is necessary to give affected pilots time to prepare and file the paperwork necessary to obtain the SIC pilot type rating. We also are correcting the amendment number of the final rule.

**DATES:** *Effective date:* The final rule's effective date remains September 6, 2005.

*Compliance date:* Pilots acting as a second in command and who will be flying outside U.S. domestic airspace and landing in a foreign country must hold the appropriate SIC pilot type rating no later than June 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** John D. Lynch, Certification Branch, AFS–840, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3844 or via the Internet at: *john.d.lynch@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Availability of Rulemaking Documents

You can get an electronic copy of this document using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policy Web page at *http://www.faa.gov/regulations_policy/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

### Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at our site, *http://www.faa.gov/avr/arm/sbrefa.cfm*.

### Authority for This Action

The Department of Transportation (DOT) has the responsibility, under the laws of the United States, to develop transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation (49 U.S.C. 101). The Federal Aviation Administration (FAA) is an agency of DOT. The Administrator of the FAA has general authority to issue rules regarding aviation safety (49 U.S.C. 106(g) and 44701). When an individual is found to be qualified for, and physically able to perform, certain duties, including those associated with flying and navigating an aircraft, the FAA issues an airman certificate. The airman certificate must specify the capacity in which the holder of the certificate may serve with respect to an aircraft (49 U.S.C. 44703). It is relevant to this rulemaking to also point out that, in carrying out their duties, the Secretary of Transportation and the Administrator of the FAA must act consistently with obligations of the United States Government under an international agreement (49 U.S.C. 40105).

This action establishes a compliance date for the SIC pilot type rating and associated qualifying procedures. The compliance date is the date that those affected by a rule must begin to follow it. In the preamble to the amendments adopted on August 4, 2005, the FAA found the amendments to be a reasonable and necessary exercise of our rulemaking authority and obligations. We now find that establishing a compliance date, by extension, also is a reasonable and necessary exercise of our rulemaking authority and obligations.

### Background

On August 4, 2005, the FAA amended its regulations to provide for issuance of a pilot type rating for SIC privileges when a person completes the SIC pilot familiarization training set forth under 14 CFR 61.55(b), an FAA-approved SIC training curriculum under 14 CFR parts 121 or 135, or a proficiency check under 14 CFR part 125. See 70 FR 45263. The amendments adopted on August 4, 2005, are based on a notice of proposed rulemaking (NPRM) published in the **Federal Register** on November 16, 2004. See 69 FR 67258.

The amendments require pilots acting as second in command and who plan to fly outside U.S. airspace and land in foreign countries to obtain the SIC pilot type rating. The amendments also establish two procedures for obtaining the SIC pilot type rating. The effective date of the amendments is September 6, 2005. The effective date is the date the amendments affect the current Code of Federal Regulations (CFR).

### Establishing a Compliance Date

Although we received two comments on the November NPRM asking for 6 to 18 months for pilots to comply with the requirement to obtain a SIC pilot type rating,[1] the FAA believed that 30 days (by September 6, 2005) was sufficient time. Additionally, the FAA has been put on notice by several foreign civil aviation authorities that they intend to begin enforcing the type-rating requirement; thus we believe that the sooner the rule becomes effective and U.S. pilots receive their SIC pilot type ratings, the sooner U.S. flight crews will be able to operate internationally unimpeded.

The Agency, however, has reevaluated the time necessary for pilots to comply with the amendments. Since

[1] The National Air Carrier Association recommended that the FAA provide a minimum of six months from issuing the final rule to full implementation and revision of its ICAO difference because its member airlines need to provide time for the initial processing of the several hundred thousand applications required for this SIC pilot type rating. The representative of American Airlines requested 18 months to complete the initial certification process for its initial 3,066 pilots that are not currently type rated.

the final rule was published, we have received information from the airlines and trade associations demonstrating that it will not be possible to comply with the rule by the effective date of September 6, 2005. The pilots who need the SIC pilot type rating have to prepare and file the necessary paperwork, and the FAA and its designees need time to process the forms and issue the ratings. In spite of general agreement that the rule is needed, it simply is physically impossible for everyone to comply by September 6, 2005. This is particularly true of the major airlines, which employ thousands of pilots.

The FAA, therefore, has reconsidered the position we originally took in responding to the comments on the November NPRM. We believe it will benefit no one to place a potentially large number of pilots in technical noncompliance with the regulations. The airlines have a duty to comply with the regulations. They could not, in good faith, assign a pilot to an international flight knowing that the pilot did not possess a required type rating. This situation could result in disruption of international freight and passenger service.

For this reason, we are establishing a compliance date for the August amendments. The compliance date is June 6, 2006. A compliance date, in contrast to an effective date, is the date that those affected by the rule must begin to follow it. Thus, pilots acting as a second in command and who will be flying outside U.S. domestic airspace and landing in a foreign country must hold the appropriate SIC pilot type rating no later than June 6, 2006. This period of nine additional months should be sufficient to enable affected pilots to obtain the SIC pilot type rating. This is particularly true in light of the fact that the August amendments incorporate several changes to what was originally proposed that streamline the processes.

As we stated in our response to the comments on this issue, it is important for the August amendments to take effect as soon as possible. Those amendments put in place the procedure that pilots will follow to obtain the SIC pilot type rating. It would serve no purpose to delay the effective date of the rule. For this reason, the effective date of the rule is unaffected by this action and remains September 6, 2005.

**Good Cause for Foregoing Public Notice and Comment**

Section 553(b)(3)(B) of the Administrative Procedures Act, 5 U.S.C. 553(b)(3)(B), authorizes agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

In this case, the FAA finds that notice and public comment are unnecessary and contrary to the public interest. This action establishes a compliance date for the amendments adopted on August 4, 2005. We adopted those amendments using the public notice and comment procedure. That the public had ample notice and opportunity to comment is indisputable since we received comments on the issue of when affected pilots would have to comply. As a result, we find that another round of public notice and comment is unnecessary. Additional public notice and comment is also contrary to the public interest since it would delay establishment of a compliance date, which could result in pilots not obtaining the necessary pilot type rating in a timely manner. This, in turn, could disrupt international freight and passenger service.

**International Compatibility**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

**Paperwork Reduction Act**

As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), the FAA submitted a copy of the amended information collection requirements in the August 4, 2005, final rule to the Office of Management and Budget for its review. OMB approved the collection of this information and assigned OMB Control Number 2120–0693.

This action establishes a compliance date for the amendments adopted on August 4, 2005, which requires pilots who need to obtain an SIC rating to use the existing Airman Certificate and/or Rating Application, FAA Form 8710–1. An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

**Executive Order 12866 and DOT Regulatory Policies and Procedures**

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

This action establishes a compliance date for the amendments adopted on August 4, 2005. Its economic impact, beyond that of the amendments adopted on August 4, 2005, is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

**Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both

barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will impose the same costs on domestic and international entities and, thus, has a neutral trade impact.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

**Executive Order 13132, Federalism**

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

**Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 307k and involves no extraordinary circumstances.

**Regulations That Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

**Correction**

Under the final rule, FR Doc. 05–15376, published on August 4, 2005 (70 FR 45263), make the following correction:

1. On page 45264, in column 1 in the heading section, beginning on line 4, correct ''Amendment No. 05–113'' to read ''Amendment No. 61–113''.

Issued in Washington, DC on September 2, 2005.

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 05–17896 Filed 9–6–05; 11:26 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2005–21873; Airspace Docket No. 05–ACE–27]**

## Modification of Class D and Class E Airspace; Salina Municipal Airport, KS

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

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

**SUMMARY:** This action corrects an error in the legal description of Class D airspace in a direct final rule, request for comments that was published in the **Federal Register** on Friday July 29, 2005 (70 FR 43742).

**DATES:** This direct final rule is effective on 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:**

**History**

**Federal Register** Document 2005–21873, published on Friday July 29, 2005 (70 FR 43742), modified Class D and Class E Airspace at Salina Municipal Airport, KS. The phrase ''This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory,'' was incorrectly deleted from the legal description of Class D airspace. This action corrects that error.

Accordingly, pursuant to the authority delegated to me, the error in the legal description of Class D Airspace, Topeka, Forbes Field, KS as published in the **Federal Register** Friday July 29, 2005 (70 FR 43742), (FR Doc. 2005–21873), is corrected as follows:

On page 43743, Column 1, under **SUMMARY**, delete the following sentences: ''This action also removes references to effective dates and times established in advance by a Notice to Airmen from the legal descriptions for Class D airspace. The effective dates and times are now continuously published in the Airport/Facility Directory''.

## PART 71—[CORRECTED]

**§ 71.1 [Corrected]**

■ On page 43744, Column 1, at the end of the legal description of **ACE KS D Salina KS,** add the phrase ''This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen.The effective date and time will thereafter be continuously published in the Airport/Facility Directory.''

Issued in Kansas City, MO, on August 24, 2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 05–17834 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[CGD01–05–027]**

**RIN 1625–AA00**

## Safety Zone; New York Super Boat Race, Hudson River, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily altering the effective period of the safety zone defined in 33 CFR 165.162 for the annual New York Super Boat Race. This temporary rule changes the effective date for this safety zone from Sunday, September 11, 2005 to Saturday, September 10, 2005. This action is required to protect life on navigable waters during the event.

**DATES:** This rule is effective from 10 a.m. to 4 p.m. on September 10, 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 CGD01–05–027 and are available for inspection or copying at the Waterways Management Division, Coast Guard Sector New York, 212 Coast Guard Drive, Staten Island, NY 10305 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander B. Willis, Waterways Management Division, Coast Guard Sector New York at (718) 354–4220.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On July 29, 2005, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; New York Super Boat Race, Hudson River, New York in the **Federal Register** (70 FR 43815). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. If this rule were made effective 30 days after publication, then this rule would be void because it would become effective after the date of the event.

**Background and Purpose**

The Coast Guard received the annual application to hold the New York Super Boat Race on the waters of the Hudson River. With this application, the event sponsor requested that the event be permitted to take place on Saturday, September 10, 2005 rather than the usual Sunday following Labor Day, which falls on September 11, 2005. The temporary deviation from the permanent regulation was requested to avoid interfering with the events scheduled in the area associated with the observance of 9–11.

**Discussion of Comments and Changes**

We received no letters commenting on the proposed rule and no changes have been made to the proposed rule as published.

**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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. Although this regulation prevents traffic from transiting a portion of the Lower Hudson River during the race, the effect of this regulation will not be significant for several reasons: It is an annual event with local support, the volume of commercial vessel traffic transiting the Lower Hudson River on a Saturday is similar to that on a Sunday and less than half of the normal weekday traffic volume; pleasure craft desiring to view the event will be directed to designated spectator viewing areas outside the safety zone; pleasure craft can take an alternate route through the East River and the Harlem River; the duration of the event is limited to six hours; extensive advisories will be made to the affected maritime community by Local Notice to Mariners, Safety Voice Broadcast, and facsimile notification. Additionally, commercial ferry traffic will be authorized to transit around the perimeter of the safety zone for their scheduled operations at the direction of the Patrol Commander.

**Small Entities**

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

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 rule affects the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Hudson River from 10 a.m. to 4 p.m. on September 10, 2005. This rule does not have a significant economic impact on a substantial number of small entities for the reasons stated in the Regulatory Evaluation section above.

**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.

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 a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This rule will not effect a taking of private property or otherwise have

taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

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

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard temporarily amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 10 a.m. to 4 p.m. on September 10, 2005, suspend § 165.162(c) and add § 165.162(d) to read as follows:

**§ 165.162 Safety Zone; New York Super Boat Race, Hudson River, New York.**

* * * * *

(d) *Effective Period.* This section is in effect from 10 a.m. until 4 p.m. on Saturday, September 10, 2005.

Dated: August 29, 2005.

**Glenn A. Wiltshire,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 05–17832 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[AS123–NBK; FRL–7955–6]**

### Revisions to the Territory of American Samoa State Implementation Plan, 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 Territory of American Samoa that are incorporated by reference (IBR) into the Territory of American Samoa State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the territorial agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information, and the Regional Office.

**DATES:** Effective Date: This rule is effective on September 9, 2005.

**ADDRESSES:** SIP materials that are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations and online at EPA Region IX's Web site:

Air Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947–4126, *rose.julie@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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C. Revised Format of the ''Identification of Plan'' Section in Subpart DDD
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II. Public Comments
III. Statutory and Executive Order Reviews

## I. Background

### A. State Implementation Plan History and Process

Each State is required to have a SIP that contains the control measures and strategies that will be used to attain and maintain the national ambient air quality standards (NAAQS). The control measures and strategies must be formally adopted by each State after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures are approved by EPA after notice and comment, they are incorporated into the SIP and are identified in Part 52, Approval and Promulgation of Implementation Plans, Title 40 of the Code of Federal Regulations (40 CFR part 52). The actual State regulations that are approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference,'' which means that the citation of a given State regulation with a specific effective date has been approved by EPA. This format allows both EPA and the public to know which measures are contained in a given SIP and ensures that the State is enforcing the regulations. It also allows EPA and the public to take enforcement action should a State not enforce its SIP-approved regulations.

The SIP is a living document that the State can revise as necessary to address the unique air pollution problems in the State. From time to time, therefore, EPA 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), as a result of consultations between EPA and OFR, EPA revised the procedures for incorporating by reference federally-approved SIPs. EPA began the process of developing (1) a revised SIP document for each State that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR, and (3) a revised format of the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures. 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.

### B. Content of Revised IBR Document

The new SIP compilations contain the Federally-approved portion of regulations submitted by each State agency. These regulations have all been approved by EPA through previous rule making actions in the **Federal Register.** The compilations are stored in hard covered folders and will be updated, usually on an annual basis.

Each compilation contains two parts. Part 1 contains the regulations and Part 2 contains nonregulatory provisions that have been EPA-approved. Each part consists of a table of identifying information for each regulation and each nonregulatory provision. The table of identifying information corresponds to the table of contents published in 40 CFR part 52 for each State and Territory. The Regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations. The Region IX EPA Office developed and will maintain the compilation for the Territory of American Samoa. A copy of the full text of each State's current compilation will also be maintained at the Office of the Federal Register and EPA's Air Docket and Information Center.

### C. Revised Format of the ''Identification of Plan'' Section in Subpart DDD

In order to better serve the public, EPA is revising the organization of the ''Identification of plan'' section to include additional information that will make it clearer as to what provisions constitute the enforceable elements of the SIP.

The revised ''Identification of plan'' section will contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source specific permits, and (e) EPA approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

### D. Enforceability and Legal Effect

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraph (c), (d), or (e) of the applicable ''Identification of plan'' found in each subpart of 40 CFR part 52. To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA is retaining the original ''Identification of plan'' section, previously appearing in the CFR as the first section of part 52 for subpart DDD, American Samoa.

### E. Notice of Administrative Change

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to State programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

## II. Public Comments

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) that, 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 rule simply codifies provisions that 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.

## III. 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 is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

*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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective September 9, 2005. 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**. These corrections to the ''Identification of plan'' for the Territory of American Samoa are 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 Territory of American Samoa SIP compilation 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'' reorganization actions for the Territory of American Samoa.

**List of Subjects in 40 CFR Part 52**

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

Dated: August 2, 2005.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

■ Part 52, 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 DDD—American Samoa

■ 2. Section 52.2820 is redesignated as § 52.2823 and the Section heading and paragraph (a) are revised to read as follows:

### § 52.2823 Original identification of plan.

(a) This section identified the original ''Implementation Plan for Compliance With the Ambient Air Quality Standards for the Territory of American Samoa'' and all revisions submitted by the Territory of American Samoa that were federally approved prior to June 1, 2005.

* * * * *

■ 3. A new § 52.2820 is added to read as follows:

### § 52.2820 Identification of plan.

(a) Purpose and scope. This section sets forth the applicable State implementation plan for American Samoa under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to June 1, 2005, 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. Material is incorporated 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 after June 1, 2005, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region IX certifies that the rules/regulations provided by EPA in the SIP compilation 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 June 1, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the Region IX EPA Office at 75 Hawthorne Street, San Francisco, CA 94105; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC; 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.*

(c) EPA approved regulations.

TABLE 52.2820.—EPA APPROVED TERRITORY OF AMERICAN SAMOA REGULATIONS

| State citation | Title/subject | Effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Air Pollution Control Rules and Regulations | | | | |
| Section 1.0 | Definitions (1.0.1—1.0.18) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.1 | Approval of New Sources: Permit to Operate (1.1.1—1.1.14). | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.2 | Source Monitoring, Record Keeping, and Reporting (1.2.1—1.2.2). | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.3 | Sampling and Testing Methods (1.3.1–1.3.2) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.4 | Malfunction of Equipment; Reporting (1.4.1–1.4.2). | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.5 | Prohibition of Air Pollution | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.6 | Compliance Schedule (1.6.1, Existing Sources) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.7 | Circumvention | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.8 | Severability | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 1.9 | Ambient Air Quality Standards (1.9.1–1.9.2) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 2.1 | Control of Open Burning | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| | Control of Particulate Emissions | | | |
| Section 3.1 | Visible Emissions (3.1.1–3.1.2) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 3.2 | Fugitive Dust (3.2.1–3.2.3) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 3.3 | Incineration (3.3.1–3.3.4) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 3.4 | Fuel Burning Equipment (3.4.1–3.4.2) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 3.5 | Process Industries—General (3.5.1, 3.5.3–3.5.5). | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Table 1 | Particulate Emission Allowable Based on Process Weight. | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| Section 3.6 | Sampling Methods (3.6.1) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |
| | Control of Sulfur Compound Emissions | | | |
| Section 4.1 | Fuel Combustion (4.1.1) | 06/08/1972 | 03/02/1976, 41 FR 8956 | |

(d) EPA approved State source specific requirements.

| Name of source | Permit No. | Effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| None | | | | |

(e) [Reserved].

[FR Doc. 05–17931 Filed 9–8–05; 8:45 am]
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[RO3–OAR–2005–MD–0008; FRL –7966–7]**

### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Control of Emissions From Commercial and Industrial Solid Waste Incineration (CISWI) Units

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the May 12, 2005 negative declaration letter submitted by the Maryland Department of the Environment (MDE). The negative declaration certifies that existing CISWI units, subject to Clean Air Act (the Act) requirements of sections 111(d) and 129 and related emission guidelines (EG), have been permanently shut down and have been dismantled in the State of Maryland.

**DATES:** This rule is effective November 8, 2005 without further notice, unless EPA receives adverse written comment by October 11, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number RO3–OAR–2005–MD–0008 by one of the following methods:

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

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the online instructions for submitting comments.

C. E-mail: *http://wilkie.walter@epa.gov*

D. Mail: RO3–OAR–2005–MD–0008, Walter Wilkie, Chief, Air Quality Analysis, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. RO3–OAR–2005–MD–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information

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

*Docket:* All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the state submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, Maryland 21230

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Sections 111(d) and 129 of the Act require states to submit for approval plans to control certain pollutants (*i.e.*, designated pollutants) at existing solid waste combustor facilities (*i.e.*, designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established EG for such existing sources. Unless part of a state or Federal plan, EG requirements are not federally enforceable.

Designated pollutants are those pollutants for which no air quality criteria have been issued, and which are not included on a list published under section 108(a) and 112(b) of the Act, but emissions of which are subject to a new source performance standard. Section 129 of the Act requires EPA to promulgate EG for CISWI units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, and mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity).

On December 1, 2000 EPA promulgated CISWI unit new source performance standards and EG, 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EG apply is each CISWI unit, as defined in subpart DDDD, that commenced construction on or before November 30, 1999.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Also, part 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a state, the state must develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require submittal of a section 111(d)/129 plan for the designated facility.

## II. Final Action

The MDE has determined that existing CISWI units have been permanently shut down and have been dismantled in the state of Maryland. Accordingly, the MDE submitted a negative declaration letter to EPA. The letter is dated May 12, 2005. Therefore, EPA is amending part 62, subpart V, to reflect the receipt of the negative declaration.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects an already existing Federal requirement for state air pollution control agencies and existing CISWI units, if any, that are subject to the provisions of 40 CFR part 60, and part 62. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the negative declaration should relevant adverse or critical comments be filed. This rule will be effective November 8, 2005 without further notice unless the Agency receives relevant adverse comments by October 11, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## III. 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 (Public Law 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 negative declaration, 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 section 111(d)/129 negative declaration 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 section 111(d)/129 negative declaration related submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan related submission, to use VCS in place of a negative declaration 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*

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 8, 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, approving the MDE's negative declaration for CISWI units, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: September 1, 2005.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 62 is amended as follows:

## PART 62—[AMENDED]

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

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

## Subpart V—Maryland

■ 2. A new center heading, after § 62.5122, consisting of § 62.5127 is added to read as follows:

**Emissions From Existing Commercial and Industrial Solid Waste Incinerator (CISWI) Units—Negative Declaration**

**§ 62.5127 Identification of plan—Negative Declaration**

May 12, 2005 Maryland Department of the Environment letter certifying that existing CISWI units, subject to 40 CFR part 60, subpart DDDD, have been permanently shut down and have been dismantled in the state.

[FR Doc. 05–17929 Filed 9–8–05; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Parts 571 and 588

**[Docket No. NHTSA–2005–22324]**

**RIN 2127–AI95**

## Federal Motor Vehicle Safety Standards; Child Restraint Systems; Child Restraint Systems Recordkeeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This document amends Federal Motor Vehicle Safety Standard No. 213, ''Child restraint systems,'' to permit information regarding online product registration to be included on the owner registration form required under the standard. This amendment enhances the opportunity of restraint owners to register their restraints online, which may increase registration rates and the effectiveness of recall campaigns. The final rule also better enables manufacturers to supplement (but not replace) recall notification via first-class mail with e-mail notification, which increases the likelihood that owners learn of a recall. The agency is also requiring that the telephone number required on child restraint labels for the purpose of enabling consumers to register by telephone be a U.S. number.

**DATES:** This final rule is effective November 8, 2005.

*Petitions:* Petitions for reconsideration must be received by October 24, 2005 and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** The following persons at the National Highway Traffic Safety Administration:

*For non-legal issues:* Mr. Tewabe Asebe of the NHTSA Office of Rulemaking at (202) 366–2365.

*For legal issues:* Mr. Christopher Calamita of the NHTSA Office of Chief Counsel at (202) 366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

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## I. Background

*FMVSS No. 213*

Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child restraint systems* (49 CFR 571.213), establishes an owner registration program for child restraint systems. NHTSA implemented the program to improve the effectiveness of manufacturer campaigns to recall child restraint systems that contain a safety-related defect or that fail to conform to FMVSS No. 213. By increasing the number of identified child restraint owners, the program increases the manufacturers' ability to inform owners of restraints about defects or noncompliances in those restraints.

Under the standard, child restraint manufacturers are required to provide a registration form attached to each child restraint (S5.8). The registration form must conform in size, content and format to forms depicted in the standard (figures 9a and 9b). Each form must include a detachable postage-paid addressed postcard that provides a space for the consumer to record his or her name and address, and must be preprinted with the restraint's model name or number and its date of manufacture. Except for information that distinguishes a particular restraint from other systems, no other information is permitted to appear on the postcard. Child restraint manufacturers have not been prohibited from using the internet in their owner registration programs. However, wording about registering online was not permitted on the card.

Child restraint manufacturers are also required to supply a telephone number on child restraint system labels to enable owners (particularly second-hand owners) to register over the telephone.

NHTSA requires manufacturers to keep a record of registered owner information along with the relevant child restraint system information (restraint model, serial number, and manufactured dates) for not less than six years from the date of manufacture of the child restraint system (49 CFR part 588, *Child restraint systems recordkeeping requirements*).

In the event of a recall, manufacturers must send notification by first-class mail to the registered child restraint owners. (Public notice of the recall can be also required.) Prior to the registration requirement [1], an estimated 3 percent of consumers registered their child restraints. Currently, according to data from NHTSA's Office of Defects Investigation, the registration rate is at 27 percent.

*Notice of Proposed Rulemaking (NPRM)*

In an effort to increase the registration rate and in response to the public's increasing access to the Internet [2], the agency proposed to permit child restraint manufacturers to include information regarding online registration of a child restraint on the registration card required under S5.8 of FMVSS No. 213 (69 FR 32954; June 14, 2004). NHTSA believed that the rapid growth of the Internet and of Internet access provided an opportunity to improve the child restraint registration rate, which in turn could improve the effectiveness of child restraint recall campaigns. To facilitate the registration of owners who seek to register by telephone, the NPRM also proposed to require that the telephone number that manufacturers must provide on child restraint labels be a U.S. number.

*Comments*

In response to the NPRM, the agency received comments from National Safe Kids Campaign (Safe Kids); American Academy of Pediatrics; Advocates for Highway and Auto Safety (Advocates), child restraint manufacturers Evenflo Company, Inc. (Evenflo) and Graco; American Automobile Association (AAA); and Locker Greenberg & Brainin, P.C., representing the Juvenile Products Manufacturers Association (JPMA). All of the commenters were generally supportive of the proposed amendments to FMVSS No. 213. Commenters representing child restraint manufacturers generally requested that additional flexibility be provided in the method of recall notification, while consumer groups stressed that the first class mail requirement be maintained. Consumer groups also commented that any revision include a requirement for child restraint manufacturers to maintain the privacy of customer information. Commenters also provided several alternative suggestions for the format of the paper registration card and the online registration form.

## II. Final Rule

This final rule adopts the proposals of the June 2004 notice, with minor changes. We are amending FMVSS No. 213 to permit child restraint manufacturers the option of including specified wording in the child restraint paper registration card to provide for online registration of child restraints. The minor changes relate to where on the form certain information must be provided, and to the information required to be in the child restraint owners manual. Today's rule also requires that manufacturers provide a U.S. phone number for purposes of facilitating registration by telephone.

Today's rule does not amend the notification requirements, *i.e.,* manufacturers must still provide recall notification via first-class mail. A manufacturer may choose to supplement this notification via an e-mail message, but it is not required to do so.

The purpose of the rulemaking is to facilitate registration of child restraints, to increase registration rates. For those child restraint owners with access to the Internet, online registration may be a preferred method of registering a child restraint. Providing for another means of registration may increase registration rates, which may increase the number of owners learning of a recall and responding to it. A related purpose of this rule is to improve how consumers currently register. As stated by Evenflo, Graco, and the JPMA in their comments to the NPRM, permitting manufacturers the option of including electronic registration information on the paper registration card will help minimize errors and omissions in consumer information that now occur as a result of transcribing information submitted on paper cards, difficulty in reading consumers' handwriting, or cards damaged in the mail. In addition, this final rule also enhances manufacturers' abilities to notify owners of a safety recall. Manufacturers may supplement recall notification via first-class mail with voluntary e-mail notification.

NHTSA is not mandating online registration because such a requirement would implicitly require manufacturers to have and maintain an Internet registration system. While over forty percent of U.S. households had Internet access in 2000, a majority did not.

[1] The final rule establishing the registration requirement was published September 10, 1992 and became effective March 9, 1993. (57 *FR* 41428).

[2] The September 2001 U.S. Census Bureau report, *Home Computer and Internet Use in the United States: August 2000*, revealed that forty-two percent of all households had at least one household member who used the Internet at home in 2000.

Further, it is uncertain how many households in that forty percent had consistent access to the Internet. At present, Internet access is not so prevalent as to justify mandating electronic registration.

*a. Changes to the Current Registration Card*

Under today's final rule, a manufacturer is permitted to add to the registration card attached to the child restraint (referred to in this preamble as the ''the paper registration card''): (a) Specified statements informing child restraint owners that they may register online; (b) the Internet address for registering with the company; (c) specified statements reflecting use of the Internet to register; and (d) a space for the consumer's e-mail address.

This final rule provides manufacturers the option of including electronic registration information on the paper registration card. However, if a manufacturer does provide such information, the information must be provided as prescribed in today's final rule. The reason for this requirement is to ensure that the paper registration card continues to be standardized in size, content, and format, so that it is easy to read and clutter-free.

1. Providing Manufacturer's Internet Address

To prevent the consumer from having to search for an electronic registration form (referred to in this document as the ''e-form'') on a manufacturer's Web site, we proposed that manufacturers that choose to provide electronic registration information on the paper registration card must provide an Internet address that directly links to the e-form. We stated that this would likely increase the ease and convenience of registering. We also proposed that this Internet address should be placed on the mail-in portion of the paper registration card.

In its comments, Safe Kids suggested that the required location for a manufacturer's Internet address should be the portion of the paper registration card that is kept by the consumer. It stated that this would allow a child restraint owner to register online even after the paper registration card was mailed and may facilitate the registration of subsequent owners, if this portion of the card were transferred with the child restraint.

We agree with Safe Kids that the Internet registration address should be placed on the portion of the paper card retained by the owner. This will provide the consumer a quick reference for locating the electronic registration site. Therefore, under today's final rule, the required location for the Internet address is placed on the portion of the paper registration card maintained by the consumer.

Graco recommended that language be included on the paper registration card to indicate that the customer should have the card available when he or she registers online and that the card includes information on the model number, serial number, and the date of manufacture, *i.e.,* information that would be required to register the restraint.

We do not agree to this request. The information required to be provided on the paper registration card is intentionally very limited and standardized to provide only the most critical information necessary to the consumer. Providing the information suggested by Graco would potentially clutter the card and overload the reader. Further, as explained later in this preamble, we have made provisions to include this information on the e-form. If a consumer attempts to register online and does not have the paper registration card at hand, then he or she will be directed to locate the necessary information by either locating the card, or by getting the information from the label on the child restraint. As such, we are not requiring any additional language for the paper registration card.

2. Collecting E-mail Addresses

A. Space on the Card for Consumers' E-mail Addresses

The agency proposed to permit manufacturers to include a space on the paper registration card for a customer's e-mail address. This was consistent with an agency October 2002 report on the registration program, which stated that: ''Adding a space for an e-mail address on the registration form could make initial recall notification faster. It could also be helpful in locating seat owners that have changed residence but retained their e-mail address.'' [3] Under the proposal, if a manufacturer were to collect e-mail addresses, it would be required to maintain a record of all collected e-mail addresses for a period of 6 years, just as with the other registration information.

We are adopting this provision as proposed. Under today's final rule, manufacturers are permitted to provide a space for a child restraint owner's e-mail address. This space must specify that providing an e-mail address is not required. By permitting the collection of e-mail addresses on the child restraint registration form, manufacturers would have the ability to provide e-mail notification of a recall in conjunction with the mandatory first-class mail notification. Providing an additional method of notifying child restraint owners of a recall would increase the likelihood of a recalled child restraint being remedied.

B. Consequences of Having the Information

In the proposal, we requested comment on whether a manufacturer that has voluntarily collected a customer's e-mail address should be required to provide a recall notification via e-mail, as well as via first-class mail. We noted that use of customer e-mail addresses could also make initial recall notification faster. Conversely, first-class mail notification can take up to several days to reach the intended customer, and even longer if the letter must be forwarded to a new address. Further, a child restraint owner may maintain the same e-mail address even after moving to a new street address, resulting in an e-mail notification reaching the owner even if mail forwarding has been discontinued.

Commenters generally recognized the potential benefits of e-mail notification, but raised a variety of concerns. Safe Kids, Advocates and AAA recommended that manufacturers be provided the option of supplementing first-class mail notification with an e-mail message. Advocates noted that computer e-mail users may change services, and thus their e-mail addresses, while remaining at the same street address. Safe Kids noted that with the sizable amount of junk e-mails that most people receive, there is the potential for electronic notifications to go unread or be deleted. Evenflo further noted that mass corrective action e-mailings may be blocked by filtering software as unsolicited e-mails. Evenflo was also concerned that unassociated advertising e-mails, or ''spoof'' e-mails may be formatted to appear as legitimate consumer contacts from a child restraint manufacturer.

Both Evenflo and the JPMA expressed concern that the development of State or Federal ''anti-spam'' legislation may complicate mass consumer e-mail contacts, even for legitimate purposes such as a recall notification. JPMA and Graco commented that customers should be provided the option of choosing the method of contact, *i.e.,* first-class mail or electronic notification.

The requirement for notification of a defect or noncompliance via first class mail is prescribed by statute (49 U.S.C. 30119(d)). That requirement to provide

[3] ''Evaluation of Child Safety Seat Registration,'' DOT HS 809 518, NHTSA Technical Report (October 2002).

notification by first class mail is unchanged by today's final rule. With regard to e-mail notification, we recognize the potential difficulties raised by commenters. Therefore, we are not generally requiring manufacturers to send electronic notification of a defect or noncompliance if manufacturers collect consumer e-mail addresses. However, manufacturers are not prohibited from using electronic notification as a supplement to notification by first class mail. (Additionally, the agency could compel electronic notification as a supplement if the traditional means of notifying the public of a recall (first class mail, public notices) are insufficient.[4] This determination would be made on a case-by-case basis.) As e-mail services evolve and develop, we may further assess at a future date the merits of electronic notification.

C. Use of Consumer Information

In the notice of proposed rulemaking, we stated that we would expect that manufacturers would not use any registration information, including e-mail addresses, for commercial purposes. We noted that in developing the original registration requirements, focus groups reacted favorably to the idea of being assured by the manufacturer that information retained in these records would not be used for commercial mailing lists. We expected that the public would respond similarly to assurances that a registered e-mail address would not result in unsolicited e-mails.

Safe Kids, Advocates, and AAA commented that safeguards against commercial use of registration information should be mandated. Safe Kids requested that the agency require registration materials to contain language stating that information would not be used for commercial purposes. Advocates raised the possibility of instituting penalties for violations of such a requirement.

Graco, Evenflo, and the JPMA all supported restricted use of a consumer's e-mail address obtained through child restraint registration. Graco and Evenflo suggested that manufacturers be permitted to have a field on the e-form that would provide consumers the option of receiving product information.

As stated in the preamble of the proposed rulemaking, NHTSA expects that manufacturers will respect owners' preferences that this information, along with other registration information, will be kept separate from other customer lists. To date, we have not received complaints from consumers that would indicate manufacturers were doing otherwise. Accordingly, at this time we do not see the need to change the status quo by instituting the safeguards suggested by Safe Kids and Advocates.

Nonetheless, while manufacturers may provide avenues for customers to receive additional product information, manufacturers must provide this separate from the registration process. That is, whether that process be via the paper registration card, telephone registration, or electronic registration, those processes must be absent any solicitation of the consumer for commercial purposes. As stated above, the information required to be provided to customers for purposes of registration is intentionally very limited and standardized to provide only the most critical information necessary to the consumer. This conveys the importance of registration in a clear manner.

*b. The Electronic Registration Form (E-form)*

To increase the likelihood that owners will find electronic registration user-friendly, we proposed a standardized appearance of the online registration form (e-form) presented to the consumer. That is, similar to the standardized mail-in registration form,[5] the only fields that would be permitted on an e-form would be those for: (a) The owner's name and address; (b) the restraint model and serial number; (c) date of manufacture of the child restraint; and (d) at the manufacturer's option, the owner's e-mail address.

Under the proposal, the e-form would be required to contain relevant portions of the standardized warnings and other information mandated for paper registration forms. The only additional information permitted on the e-form would be information identifying the manufacturer and a link to the manufacturer's Web site home page. We requested comment on whether some additional information should be permitted or required on the form, *e.g.*, instructions to the consumer as to where the restraint's model name and number can be found.

Commenters were generally supportive of the format of the e-form proposed by the agency. The manufacturers requested that a prompt be permitted to notify an owner if the e-form was not filled out completely. The prompt would be generated upon clicking a ''confirm'' or ''submit'' field, which could be located next to the manufacturer's logo or link to the manufacturer's homepage. Graco and Evenflo also recommended that the e-form inform consumers what child restraint specific information is required to properly fill out the form and where that information can be located.

We are adopting the proposed e-form format requirements, with a few changes suggested by the commenters and with other minor additions. We are permitting manufacturers to use a prompt to indicate that a form has not been fully completed. We note however, that as with the paper registration card, the e-form must indicate that inclusion of a consumer's e-mail address may be provided at the consumer's option.

Further, manufacturers are prevented from having additional screens or advertisement banners appear as a result of a child restraint owner accessing the Web page that contains the e-form (*e.g.*, ''pop-up advertisements'' are prohibited). By preventing additional information or advertising from appearing on the registration page or as a result of accessing the e-form, the benefits of a standardized registration form are maintained, helping to improve the rate of registration.

The JPMA requested that a statement be included on the electronic registration form informing readers that the registration is not applicable to consumers outside the U.S. The JPMA expressed concerns with potential conflicts with the laws of non-U.S. jurisdictions and child restraints purchased outside of the U.S.

We concur with the suggested change. Paper registration cards now accompanying child restraints do not need such language because only child restraints manufactured for sale in the U.S. are required to have registration cards. In contrast, an electronic registration form available on a manufacturer's Web site may be accessed anywhere in the world. Persons purchasing a child restraint outside of the U.S. may not know that the FMVSS No. 213 registration program is limited to the U.S. Therefore, we have included a statement on the electronic registration form that clarifies its applicability to child restraints purchased in the U.S.

Advocates requested that the agency require that the electronic registration

[4] Under 49 U.S.C. 30119(d)(2), the agency can require a manufacturer of equipment to provide public notice to effectuate the recall of a defective or noncompliant product. In the past, child restraint manufacturers have provided notice through a variety of means including, but not limited to, retailers, child safety centers, pediatricians, and the media.

[5] In developing the mail-in registration form, the agency found that focus groups ''widely and enthusiastically accepted the text and format of the parts of the form that did not vary among the proposed options.'' 57 FR 414321.

information be encrypted. Advocates stated that encrypting the data would protect the information from being accessed by third parties.

We are not including an ''encryption'' requirement for electronic registration. The registration form does not entail the submission of financial information or other identifiers such as a Social Security number. The information provided is the same information that commonly can be obtained through a telephone directory. Further, because technology changes at such a rapid pace, any level of encryption required by the agency would likely become obsolete in a short time frame. Manufacturers' means of securing the information they now receive from consumers should be adequate to protect the registration information they will receive through the electronic registration program.

*c. Registration by Telephone*

When the agency established the current child restraint registration program (requiring the paper registration card), we also established a requirement for child restraint manufacturers to label each child restraint with a telephone number that consumers could use to register their restraints as an alternative to the mail-in form. A phone number was particularly important for persons owning secondhand restraints, since the original registration card would likely be missing from such restraints.

The NPRM proposed that the telephone number must be a U.S. number.[6] No opposing comments were received on this issue. This final rule adopts the proposed restriction. While we are unaware of any manufacturer currently providing a non-U.S. telephone number, this rule will ensure that a non-U.S. number is not provided in the future. A non-U.S. telephone number would present a high cost to a child restraint owner seeking to register a child restraint and would be a disincentive for consumers, particularly second-hand owners, to register.

*d. Child Restraint Label and Printed Instructions*

The NPRM would have permitted the printed instructions accompanying a restraint to include a discussion on registering via the Internet, but would not have required the Web site address be included in the instructions even if a manufacturer opted to include a Web site on the paper registration card. In its comments, Safe Kids suggested that Internet registration information be include in the instruction manual. We agree with Safe Kids that including the Internet address in the printed instructions may facilitate registration by owners' who have misplaced the paper registration card, who have changed address, or by subsequent owners. Therefore, under today's final rule, if a manufacturer opts to include an Internet address on the paper registration card, it must also include the Internet address in the printed instructions.

In their comments, the JPMA and Evenflo recommended that the agency include language on the child restraint label and in the instruction manual directed specifically at second-hand owners and owners who have moved since registering their child restraint. The suggested language stated: ''If you have moved or are not the original purchaser of this child restraint, please contact (manufacturer) to register this restraint.''

We are not adopting such a requirement. Child restraint labels already require general language on the importance of product registration (''Register your child restraint with the manufacturer,'' see *e.g.*, S5.5.2(g)(iv)). Space on the labels is limited, and in order to maintain the effectiveness of the information contained on the labels, we need to limit the required information. Also, the requested information is already provided in instruction manuals. The manuals are required to provide information on the importance of registration (''You must register this restraint to be reached in a recall,'' S5.6.1.7), and, under today's final rule, if a manufacturer opts to include an Internet address on the paper registration card, it must also include the Internet address in the printed instructions. Manufacturers are not prohibited from supplementing the information with a statement as suggested by the commenters.

## III. New NHTSA Hotline Number

Child restraint manufacturers are required to provide the telephone number for the U.S. Government's (NHTSA's) Auto Safety Hotline on both child restraint labels and the accompanying printed instructions. (See FMVSS No. 213, S5.5.1(m), S5.5.5(k), S5.6.1.7, S5.6.2.2.) The Auto Safety Hotline provides child restraint owners with information on product recalls.

Until recently, FMVSS No. 213 required two phone numbers; a toll-free number and a number for the District of Columbia area. The separate phone number for the District of Columbia area is no longer needed, as the toll-free number now functions for the entire U.S. Accordingly, child restraint labels and instructions only need refer to the toll-free number. Thus, on June 21, 2005, the agency published a technical amendment that replaced the required telephone number in FMVSS No. 213 with 1–888–327–4236 (70 FR 35556; Docket No. NHTSA–2005–21564). The technical amendment is effective June 21, 2006. Early compliance is permitted.

## IV. Rulemaking Analyses and Notices

*A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''nonsignificant'' under the Department of Transportation's regulatory policies and procedures. We do not anticipate this final rule to result in any costs for child restraint system manufacturers. The final rule does not establish any new requirements for manufacturers of child restraint systems unless a manufacturer voluntarily chooses to collect e-mail addresses or provide an Internet address for electronic registration on the child restraint registration card. If a manufacturer voluntarily collects customer e-mail addresses and provides for electronic registration of restraints, the anticipated costs for the recordkeeping requirements are minimal.

Many child restraint system manufacturers already provide an electronic product registration service and by encouraging electronic registration, manufacturers could reduce the number of postage-paid registration cards returned, thereby reducing postage fees for the manufacturer.[7] Manufacturers that collect customer e-mail addresses could incorporate this information into the registration records currently maintained. Also, child restraint system owner information submitted online would be in electronic format, minimizing the data entry burden required to record owner information and reduce recordkeeping costs.

While the use of online resources for child restraint system registration has the potential for increased child restraint registration and enhanced recall notification, we are not requiring

[6] This amendment arose out of a concern about the potential use of non-U.S. phone numbers for registration purposes. *http://www.nhtsa/dot.gov/cars/rules/interps/files/002775cmc_phoneno.html.*

[7] A manufacturer is not charged a fee by the post office for a postage pre-paid postcard until the card is actually sent through the mail.

manufacturers to have a means by which consumers can register their restraint via the Internet. We want to avoid imposing potentially prohibitive costs on manufacturers not currently equipped to incorporate Internet resources into child restraint system registration. Manufacturers not currently situated for Internet registration would have the cost of developing an Internet system to process registrations as well as the costs associated with revising the mandated registration forms and modifying recordkeeping procedures. If and when Internet and e-mail access becomes more universal, the benefit of mandatory Internet registration provisions can be evaluated.

*B. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

I certify that this final rule does not have a significant economic impact on a substantial number of small entities. The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)).

The final rule directly affects child restraint manufacturers. According to the Small Business Administration's small business size standards (see 5 CFR 121.201), a child restraint manufacturer (NAICS code 336360, Motor Vehicle Seating and Interior Trim Manufacturer) must have 500 or fewer employees to qualify as a small business. Most if not all of the affected manufacturers are small businesses under this definition. However, the final rule does not impose any new requirements on manufacturers that produce child restraint systems. The final rule provides flexibility in child restraint system registration by allowing manufacturers to promote electronic registration. Given the final rule does not impose any new requirements, a regulatory flexibility analysis was not prepared.

*C. Paperwork Reduction Act*

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The final rule reconfigures the information collection and recordkeeping requirements of FMVS No. 213 and 49 CFR part 588, which have been approved under OMB No. 2127–0576. The agency does not anticipate this reconfiguration to increase the cost or burden of the approved collection.

*Agency:* National Highway Traffic Safety Administration (NHTSA).

*Title:* Voluntary Child Safety Registration Form.

*Type of Request:* Reconfiguration of existing collection.

*OMB Clearance Number:* 2127–0576.

*Form Number:* None.

*Summary of the Collection of Information:* Under the final rule in this document, if a child restraint manufacturer voluntarily collects an e-mail address as part of the child restraint registration, then the manufacturer is required to maintain a record of that information. The recordkeeping format and retention requirements for child restraint owner e-mail addresses are identical to the format and retention requirements mandated for owner registration under 49 CFR part 588. The final rule also requires that if a manufacturer voluntarily provides for electronic registration, then the manufacturer is required to use a standardized format similar to the format currently required for the postage-paid registration form.

The final rule does not mandate the collection of e-mail addresses or the use of electronic registration.

*Description of the Need for the Information and Use of the Information:* Public access and use of the Internet has increased exponentially since its inception. The proposed rule would permit manufacturers to take advantage of this growth in technology and use electronic registration as a supplement to registration by mail. This provides child restraint system owners with an additional option for registering a child restraint system and potentially increases the number of child restraint systems registered. By increasing the number of identified child restraint purchasers, the program increases the manufacturers' ability to inform owners of restraints about defects or noncompliances in those restraints.

*Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information):* NHTSA estimates that twenty-three child restraint manufacturers are subject to the reconfigured collection requirements. If a manufacturer voluntarily collects a child restraint system owner's e-mail address as part of the child restraint registration, then the manufacturer is required to record and maintain that e-mail address along with the registration information currently recorded and maintained. If a child restraint manufacturer provides for electronic registration, the electronic registration form is required to be in a format similar to the format for the postage-paid form.

*Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information:* NHTSA does not anticipate a significant change to the hour burden or costs associated with child restraint registration. By allowing manufacturers the ability to promote online registration, we anticipate a reduction in the collection and recordkeeping burden. Internet registration reduces a manufacturer's postage costs by reducing the number of postage-paid registration cards sent through the mail. Registration information collected on the Internet is in an electronic form, which can be transferred more easily and stored than paper registration cards. Registration information received in electronic form reduces the data entry burden of child restraint system manufacturers. This reduction in burden offsets any burden created by the e-mail recordkeeping requirement and the standardized Internet registration form.

Manufacturers commented that by permitting electronic registration, data will be provided in a more usable format and as well as improve the accuracy of the data. Manufacturers did not provide additional comment regarding the collection of information requirements or the associated recordkeeping burden.

*D. National Environmental Policy Act*

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment. The subject of this rule is the labeling and registration information requirements of child restraint systems.

*E. Executive Order 13132 (Federalism)*

Executive Order 13132 requires NHTSA to develop an accountable

process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications, that imposes substantial direct costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA may also not issue a regulation with federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

*F. Executive Order 12778 (Civil Justice Reform)*

This rule will not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

*G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The agency searched for, but did not find any voluntary consensus standards relevant to this rule.

*H. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

*I. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

*J. Privacy Act*

Anyone is able to search the electronic form of all submissions received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

**List of Subjects**

*49 CFR Part 571*

Motor vehicle safety, Reporting and recordkeeping requirements, Tires, Incorporation by Reference.

*49 CFR Part 588*

Motor vehicle safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 571 as follows:

## PART 571—FEDERAL MOTOR VEHICLE SAFTEY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.213 is amended to revise paragraph (m) of S5.5.2, paragraph (k) of S5.5.5, S5.6.1.7, S5.6.2.2, S5.8, and Figures 9(a) and 9(b), and

■ 3. Section 571.213 is amended by adding S5.8.1 and S5.8.2, to read as follows:

**§ 571.213 Standard No. 213; Child restraint systems.**

* * * * *

S5.5.2 * * *

(m) One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restrains could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available [preceding four words is optional] and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available [preceding four words are optional], and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*) or register online (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

* * * * *

S5.5.5 * * *

(k) One of the following statements, inserting an address and a U.S. telephone number. If manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Auto Safety Hotline an 1–800–424–9393.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

* * * * *

S5.6.1.7 One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

* * * * *

S5.6.2.2 The instructions for each built-in child restraint system other than a factory-installed restraint, shall include one of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert U.S. telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Auto Safety Hotline at 1–800–424–9393.''

* * * * *

S5.8 Information requirements—attached registration form and electronic registration form.

S5.8.1 *Attached registration form.*

(a) Each child restraint system, except a factory-installed built-in restraint system, shall have a registration form attached to any surface of the restraint that contacts the dummy when the dummy is positioned in the system in accordance with S6.1.2 of Standard 213.

(b) Each attached form shall:

(1) Consist of a postcard that is attached at a perforation to an informational card;

(2) Conform in size, content and format to Figures 9a and 9b of this section; and

(3) Have a thickness of at least 0.007 inches and not more than 0.0095 inches.

(c) Each postcard shall provide the model name or number and date of manufacture (month, year) of the child restraint system to which the form is attached, shall contain space for the purchaser to record his or her name, mailing address, and at the manufacturer's option, e-mail address, shall be addressed to the manufacturer, and shall be postage paid. No other information shall appear on the postcard, except identifying information that distinguishes a particular child restraint system from other systems of that model name or number may be preprinted in the shaded area of the postcard, as shown in figure 9a.

(d) Manufacturers may voluntarily provide a web address on the informational card enabling owners to register child restraints online, provided that the Web address is a direct link to the electronic registration form meeting the requirements of S5.8.2 of this section.

S5.8.2 *Electronic registration form.*

(a) Each electronic registration form must meet the requirements of this S5.8.2. Each form shall:

(1) Contain the following statements at the top of the form:

(i) ''FOR YOUR CHILD'S CONTINUED SAFETY'' (Displayed in bold type face, caps, and minimum 12 point type.)

(ii) ''Although child restraint systems undergo testing and evaluation, it is possible that a child restraint could be recalled.'' (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(iii) ''In case of a recall, we can reach you only if we have your name and address, so please fill in the registration form to be on our recall list.'' (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(iv) ''In order to properly register your child restraint system, you will need to provide the model number, serial number and date of manufacture. This information is printed on the registration card and can also be found on a white label located on the back of the child restraint system.'' (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(v) ''This registration is only applicable to child restraint systems purchased in the United States.'' (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(2) Provide as required registration fields, space for the purchaser to record the model name or number and date of manufacture (month, year) of the child restraint system, and space for the purchaser to record his or her name and mailing address. At the manufacturer's option, a space is provided for the purchaser to record his or her e-mail address.

(b) No other information shall appear on the electronic registration form, except for information identifying the manufacturer or a link to the manufacturer's home page, a field to confirm submission, and a prompt to indicate any incomplete or invalid fields prior to submission. Accessing the web page that contains the electronic registration form shall not cause additional screens or electronic banners to appear.

(c) The electronic registration form shall be accessed directly by the web address that the manufacturer printed on the attached registration form. The form must appear on screen when the consumer has inputted the web address provided by the manufacturer, without any further keystrokes on the keyboard or clicks of the mouse.

* * * * *

BILLING CODE 4910–59–P

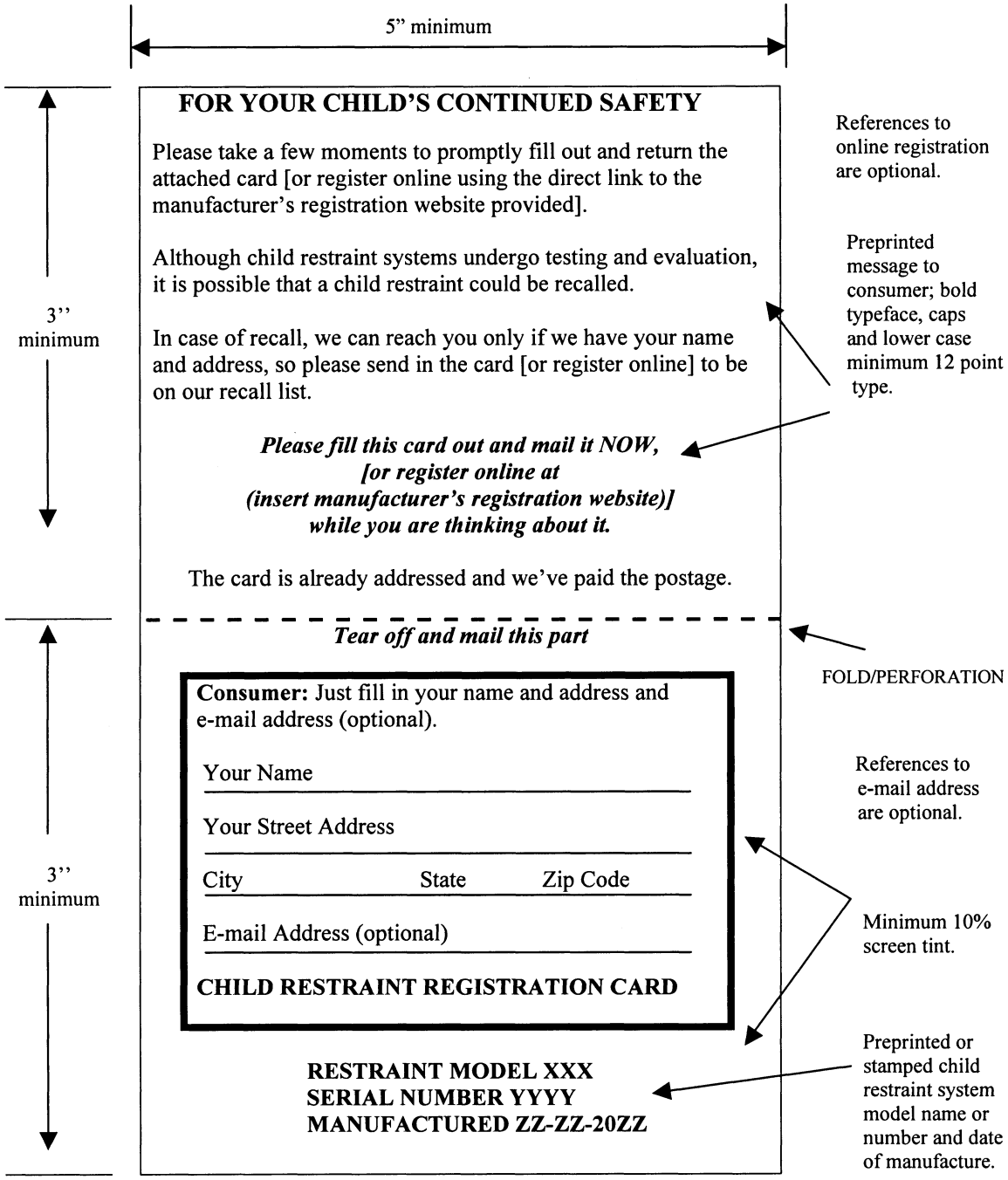


Figure 9a - Registration form for child restraint systems - product identification number and purchaser information side.

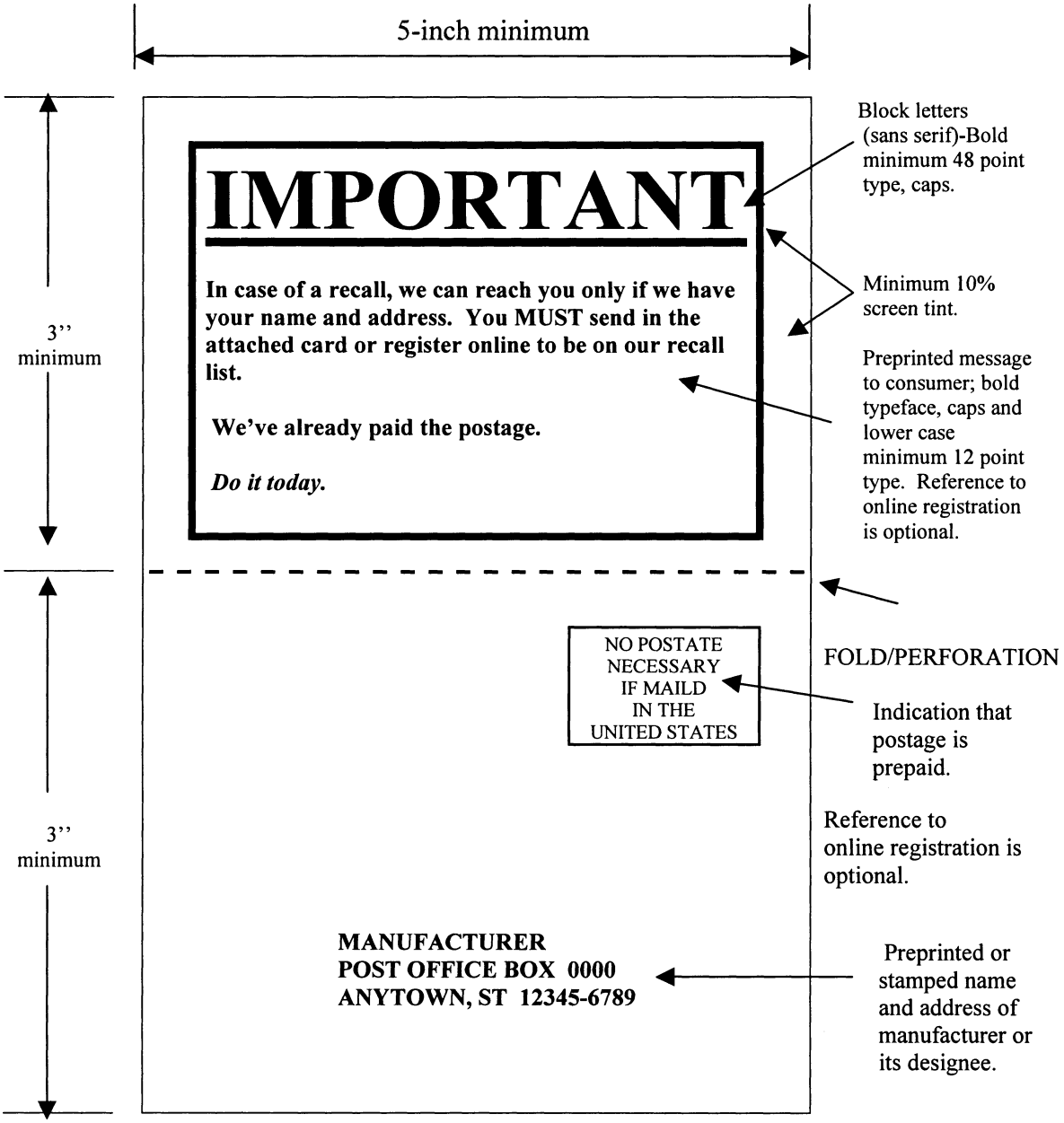


Figure 9b – Registration form for child restraint systems — address side.

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* * * * *

## PART 588—CHILD RESTRAINT SYSTEMS RECORDKEEPING REQUIREMENTS

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 588 as follows:

■ 1. The authority citation for part 588 reads as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 588.5 is revised to read as follows:

**§ 588.5 Records.**

Each manufacturer, or manufacturer's designee, shall record and maintain records of the owners of child restraint systems who have submitted a registration form. The record shall be in a form suitable for inspection such as computer information storage devices or card files, and shall include the names, mailing addresses, and if collected, se-mail addresses of the owners, and the model name or number and date of manufacture (month, year) of the owner's child restraint systems.

Issued on: August 31, 2005.

**Jacqueline Glassman,**

*Deputy Administrator.*

[FR Doc. 05–17844 Filed 9–8–05; 8:45 am]

BILLING CODE 4910–59–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 050613158-5237-02; I.D. 090105A]**

**RIN 0648–AT48**

## Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Modification of Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning

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

**ACTION:** Temporary rule; emergency action; request for comments.

**SUMMARY:** At the request of the U.S. Food and Drug Administration (FDA), NMFS closed portions of Federal waters of the Gulf of Maine, Georges Bank, and southern New England from June 14, 2005, through September 30, 2005, to the harvest for human consumption of certain bivalve molluscan shellfish due to the presence in those waters of the toxin that causes Paralytic Shellfish Poisoning (PSP). The FDA has determined that harvesting for human consumption of bivalve molluscan shellfish other than whole and roe-on scallops from a portion of the closed area is now safe and may be resumed. As a result, NMFS is modifying its previous closure to allow such fishing.

**DATES:** Effective September 9, 2005 through September 30, 2005. Comments must be received by October 11, 2005.

**ADDRESSES:** Comments may be submitted by any of the following methods:

• E-mail: PSPClosure2@NOAA.gov. Include in the subject line the following: ''Comments on Modification of the Emergency Rule for Area Closure Due to PSP.''

• Federal e-Rulemaking Portal: http://www.regulations.gov.

• Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Modification of the Emergency Rule for Area Closure Due to PSP.''

• Fax: (978) 281–9135.

Copies of the modified emergency rule are available from Patricia A. Kurkul, at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** E. Martin Jaffe, Fishery Policy Analyst, phone: (978) 281–9272, fax: (978) 281–9135.

**SUPPLEMENTARY INFORMATION:**

### Background

Toxic algal blooms are responsible for the marine toxin that causes PSP in persons consuming affected shellfish. People have become seriously ill and some have died from consuming affected shellfish under similar circumstances. The scallop adductor muscle, or ''meat,'' is unaffected by the toxin.

On June 10, 2005, the FDA requested NMFS issue an emergency rule to close an area of Federal waters to the harvesting of bivalve molluscan shellfish intended for human consumption because of toxic algal blooms off the coasts of New Hampshire and Massachusetts. This closure prohibited harvests of shellfish such as Atlantic surfclams and ocean quahogs, as well as scallop viscera. The emergency rule for the action, in effect from June 14 through September 30, 2005, was published in the **Federal Register** on June 16, 2005 (70 FR 35047). The emergency rule was modified on July 7, 2005 (70 FR 39192) to allow for the collection of biological samples by commercial fishing vessels issued a Letter of Authorization signed by the Regional Administrator.

The action temporarily closed all Federal waters of the Exclusive Economic Zone of the northeastern United States to any bivalve molluscan shellfish harvesting, except for Atlantic sea scallops shucked at sea for their adductor muscles, in the area bound by the following coordinates in the order stated: (1) 43°00′ N. lat., 71°00′ W. long.; (2) 43°00′ N. lat., 69°00′ W. long.; (3) 40°00′ N. lat., 69°00′ W. long.; (4) 40°00′ N. lat., 71°00′ W. long., and then ending at the first point. Further details of the original closure may be found in the June 16, 2005, and the July 7, 2005, **Federal Register** rules and are not repeated here.

As a result of tests conducted by the FDA in cooperation with NMFS and the fishing industry, FDA has determined that PSP toxin levels in a portion of the closed area (described below) are now well below those known to cause illness in humans. With the exception of whole and roe-on scallops, the FDA has determined that harvesting of bivalve molluscan shellfish for human consumption from the area described is once again safe.

As a result of FDA's findings NMFS is reopening to shellfish harvest those waters south of 41°39′ N. lat., west of 69°00′ W. long., north of 40°00′ N. lat., and east of 71°00′ W. long. Because scallop viscera and roe are capable of retaining PSP toxins longer than other species of molluscan shellfish, NMFS is retaining the limitation that scallop harvesting is only permitted in the area for the purpose of shucking at sea of the adductor muscle.

### Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1855(c).

This rule has been determined to be not significant under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comments for this action, as prior notice and comment would be impractical and contrary to the public interest. The original emergency closure was in response to a public health emergency. With certain exceptions, that emergency no longer exists. Therefore to continue the closure to the harvest of shellfish through September 30, 2005, would service no purpose and be contrary to the public interest. In addition, because this rule relieves a restriction by reopening a previously closed portion of the current closed area, it is not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1).

Because a notice of proposed rulemaking is not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 6, 2005.

**James W. Balsiger,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, paragraph (a)(166) is suspended and paragraph (a)(170) is added to read as follows:

**§ 648.14 Prohibitions.**

(a) * * *

(170) Fish for, harvest, catch, possess, or attempt to fish for, harvest, catch, or possess any bivalve shellfish, including Atlantic surfclams, ocean quahogs, and mussels, with the exception of sea scallops harvested only for adductor muscles and shucked at sea, or a vessel issued and possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing the collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the area of the U.S. Exclusive Economic Zone bound by the following coordinates in the order stated: (1) 43°00′ N. lat., 71°00′ W. long.; (2) 43°00′ N. lat., 69°00′ W. long.; (3) 41°39′ N. lat., 69°00′ W. long.; (4) 41°39′ N. lat., 71°00′ W. long., and then ending at the first point.

* * * * *

[FR Doc. 05–17986 Filed 9–7–05; 10:44 am]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 70, No. 174
Friday, September 9, 2005

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

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Part 381

**[Docket No. 04–033P]**

**RIN 0583–AC60**

## Allowing Bar-Type Cut Turkey Operations To Use J–Type Cut Maximum Line Speeds

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal poultry products inspection regulations to provide that turkey slaughter establishments that open turkey carcasses with Bar-type cuts may operate at the maximum line speeds established for J-type cuts, if the establishment uses the specific type of shackle described in this proposed rule. Under this proposed rule, as under current regulations, the inspector in charge will reduce line speeds when, in his or her judgment, the prescribed inspection procedure cannot be adequately performed within the time available because of the health conditions of a particular flock or because of other factors. Such factors include the manner in which birds are being presented to the inspector for inspection and the level of contamination among the birds on the line.

**DATES:** Comments must be received on or before December 8, 2005.

**ADDRESSES:** FSIS invites interested persons to submit comments on this proposal. Comments may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions at that site for submitting comments. Electronic mail: *fsis.regulationscomments@fsis.usda.gov.*

All submissions received must include the Agency name and docket number 04–033P.

All comments submitted in response to this proposal, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations_&_policies/2005_Proposed_Rules_Index/index.asp.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Shaukat Syed, Director, New Technology Staff, Office of Policy, Program, and Employee Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 205–0675.

**SUPPLEMENTARY INFORMATION:**

### Background

The Poultry Products Inspection Act (PPIA) requires post-mortem inspection of all carcasses of slaughtered poultry subject to the Act and such reinspection as deemed necessary (21 U.S.C. 455(b)). Under traditional post-mortem turkey inspection, one inspector inspects the whole bird and is responsible for the proper disposition of the bird, including any required trimming, before it leaves the inspection station. Under the New Turkey Inspection (NTI) System regulations, one or two inspectors on each eviscerating line examine the whole carcass and viscera of each bird. Establishments are responsible for independently performing the necessary trimming of designated defects on passed carcasses. Establishments also must meet certain facilities requirements to use the NTI System (9 CFR 381.36(e)). The NTI System allows establishments to run their eviscerating lines at a faster rate than they can under traditional inspection.

The NTI System regulations (9 CFR 381.68) provide maximum line speeds for: (1) One inspector and two inspector lines; (2) light (under 16 pounds) and heavy (over 16 pounds) turkeys; and (3) turkeys with J-type cut openings and turkeys with Bar-type cut openings.

Some turkey slaughter establishments cut a J-type opening in the turkey carcass, which is a large abdominal opening in the turkey that facilitates the removal of the viscera. These establishments use a metal or plastic device that is inserted into the cavity of the carcass to hold the hocks. Other establishments leave a section of skin intact between the vent and body opening to secure the hocks. This type of opening is called a Bar-type cut opening.

When the final NTI System regulations were published in 1985 (50 FR 37508), because of the shackles that were used, Bar-type cut turkeys presented for inspection on a three-point suspension required an extra inspection hand motion to raise the bar-cut skin flap to observe the under side of the bar-cut skin flap and the kidney area. This extra hand motion is not necessary to inspect J-type cut turkeys. Therefore, the regulations require a slower line speed for Bar-type cut operations than for J-type cut operations. The preamble to the final NTI system regulations explains that the maximum inspection rates in these regulations were established by work measurement calculations and were based on the amount of time necessary for an inspector to properly perform the correct inspection procedure (50 FR 37511).

The NTI System regulations provide that the line speeds are for lines using standard 9-inch shackles on 12-inch centers with birds hung on every shackle and opened with J- or Bar-type openings cuts. The regulations also state that maximum rates for those establishments having varying configurations will be established by the Administrator but will not exceed those in the table in 9 CFR 381.68(c). Therefore, the regulations prohibit an establishment processing carcasses with Bar-type cuts from using the J-type cut line speeds (9 CFR 381.68(a)).

As is explained in the preamble to the final NTI System regulations, the maximum line speeds in the NTI System regulations will be achieved only when all plant conditions are optimal (50 FR 37510). The regulations state that the inspector in charge may reduce inspection line rates when, in his or her judgment, the prescribed inspection procedure cannot be adequately performed within the time

available because the health conditions of a particular flock dictate a need for a more extended inspection (9 CFR 381.68(c)).

**Development of Modified Shackle**

In 1988, a turkey slaughter establishment developed a turkey shackle that positioned the three-point hung turkey carcasses on a shackle with a 4 inch by 4 inch selector (or kickout), a 45 degree bend of the lower 2 inches, an extended central loop portion of the shackle that lowered the abdominal cavity opening of the carcasses to an angle of 30 degrees from the vertical in direct alignment with the inspector's view, and a width of 10.5 inches. This shackle allows light to illuminate the total inside surfaces of the carcass and allows FSIS inspectors to view and properly inspect the inside surfaces of the carcass with minimal manipulation. Thus, with the modified shackles, the Bar-type cut inspection hand motions are similar to the J-type cut inspection hand motions.

After the turkey slaughter establishment installed the modified shackles, FSIS conducted a study on the effectiveness of these shackles. From April 12 to 14, 1988, on a two-inspector NTI Bar-type cut line, FSIS observed 2,000 light turkeys moving at 45 birds per minute and 3,000 heavy turkeys moving at 35 birds per minute. FSIS observed line speeds for these turkey carcasses on the modified shackles at the regulatory maximum line speeds for Bar-type cut turkeys. On a two-inspector NTI Bar-type cut line, FSIS also observed 2,000 light turkeys moving at 51 birds per minute and 3,000 heavy turkeys moving at 41 birds per minute. FSIS observed line speeds for Bar-type cut turkeys on the modified shackles at the regulatory maximum J-type cut line speeds.

Three FSIS public health veterinarians observed every third bird to get a representative sample from each of the two inspector lines. The FSIS public health veterinarians observed the whole birds to determine whether any obvious or borderline condemnable birds passed inspection. Other data FSIS collected included (1) the number of birds slaughtered on the three days that FSIS conducted this study, (2) the total numbers of light and heavy turkeys reprocessed on April 13 and 14 from lines moving at the regulatory maximum speed for Bar-type cut turkeys and lines moving at the regulatory maximum speed for J-type cut turkeys, (3) the presentation records from the week prior to the study and the days the study was conducted, and (4) the prechill and postchill Finished Product Standards (FPS) records for the week prior to testing and the days testing was performed. The FPS for turkeys are not included in the Federal poultry products inspection regulations.

FSIS evaluated the presentation records, prechill FPS data, and postchill FPS data from this study and concluded that the data showed no differences in processed turkeys attributable to the line speed changes during the period of the study or between the test period and the previous week. FSIS concluded that, in a Bar-type cut operation using the modified shackle and regulatory maximum J-type cut line speeds, establishment employees and FSIS inspectors are able to perform as well as they did when using the slower, regulatory maximum Bar-type cut line speeds. FSIS also concluded that, because the modified shackle allowed for modification of the inspection hand motions, use of the modified shackle also decreases the inspector's work load for the Bar-type cut inspection procedure.

Under 9 CFR 381.3(b), for limited periods, the Administrator may waive provisions of the regulations to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements. Therefore, under this regulation, on July 21, 1989, the Administrator waived the NTI System regulations for the first establishment that installed the modified shackles, so that the Bar-type cut establishment could run at the maximum line speeds for J-type cut turkeys. That establishment is no longer using the modified shackle.

Two other turkey slaughter establishments that have Bar-type cut operations have also installed the modified shackles described above. Under 9 CFR 381.3(b), FSIS has allowed both of these establishments to run at the maximum line speeds for J-type cut turkeys. FSIS authorized one to begin operating at the faster line speeds on June 15, 2001, and the other on March 17, 2004. FSIS reviewed in-plant trial data from these establishments, including: Disposition accuracy, contamination rate, microbiological characteristics, and other product characteristics. The data show no statistical difference between turkeys processed using the modified Bar-type cut shackle running at the faster J-type cut line speeds and turkeys processed at the same establishment using the original Bar-type cut shackle (non-modified) running at the slower Bar-type cut line speeds.

On February 19, 2004, ConAgra Foods, the parent company of the establishments that process Bar-type cut turkey carcasses with modified shackles, using the faster line speeds for J-type cuts, submitted a petition to FSIS requesting that the Agency revise its regulations to allow turkey establishments that use Bar-type cuts and modified shackles to operate under the inspection rates (line speeds) established for J-type cuts. The petition stated that this revision to the regulations would not affect product quality or safety. The petition also stated that this revision to the regulations would promote fair regulatory competition in the marketplace by allowing establishments operating under the faster line speeds to better manage their assets.

**Proposed Changes**

Based on the in-plant trial data discussed above, FSIS agrees with ConAgra Foods that the change the company requested would not affect product quality or safety. As is discussed under the ''Executive Order 12866'' heading below, this rule will likely result in benefits to establishments and to FSIS. The Agency has tentatively concluded that this rule would facilitate post-mortem inspection of turkey carcasses. Therefore, consistent with the petitioner's request, FSIS is proposing to amend the NTI System regulations to provide that turkey slaughter establishments that open turkey carcasses with Bar-type cuts may operate at the maximum line speeds established for J-type cuts, if the establishment uses a shackle with a 4 inch by 4 inch selector (or kickout), a 45 degree bend of the lower 2 inches, an extended central loop portion of the shackle that lowers the abdominal cavity opening of the carcasses to an angle of 30 degrees from the vertical in direct alignment with the inspector's view, and a width of 10.5 inches.

As is discussed above, FSIS has already allowed establishments that use the modified shackle for turkey carcasses with Bar-type cut openings to operate at J-type cut line speeds under 9 CFR 381.3(b). However, FSIS may exempt establishments from regulatory requirements for a limited period of time only. For the two Bar-type cut turkey establishments that use the modified shackle and run at the maximum J-type cut line speeds to be able to run at these line speeds on a permanent basis, it is necessary that FSIS amend the regulations.

In addition, it is necessary that FSIS amend the regulations to allow all turkey slaughter establishments that may use Bar-type cut openings to run at the maximum J-type cut line speeds,

provided that such establishments use the correct shackles, and provided that the health conditions of the flock or other factors do not cause the inspector in charge to reduce the line speed.

Under this proposed rule, as under current regulations, the inspector in charge could reduce line speeds when, in his or her judgment, the prescribed inspection procedure cannot be adequately performed within the time available because of the health conditions of a particular flock. In addition, this proposed rule makes clear that the inspector in charge could reduce line speeds when the prescribed inspection procedure cannot be adequately performed within the time available because of factors other than the health conditions of the flock. FSIS is proposing to amend the regulations to state that factors that could cause the inspector in charge to reduce line speeds could include the manner in which birds are being presented to the inspector for inspection and the level of contamination among the birds on the line.

This proposed change clarifies that the inspector has discretion to slow the line for reasons other than the health conditions of the flock, if the reasons are consistent with other poultry inspection regulations. The regulations concerning the young chicken and squab slaughter inspection rate maximums under traditional inspection procedure provide that the inspector in charge may reduce production line rates when the prescribed inspection procedure cannot be adequately performed within the time available, either because the birds are not presented in a manner that makes the carcasses readily accessible for inspection, or because the health conditions of a particular flock dictate a need for a more extended inspection procedure (9 CFR 381.67). Similarly, the Streamlined Inspection System (SIS) regulations provide that the inspector in charge determines the line speed based on a variety of conditions, including the health of each flock and the manner in which birds are being presented to the inspector for inspection (9 CFR 381.76(b)(1)(ii)).

**Executive Order 12866**

This action has been reviewed for compliance with Executive Order (EO) 12866. This rule has been designated ''non-significant'' and therefore has not been reviewed by the Office of Management and Budget.

**Need for the Rule**

This rule is necessary to provide more production options for turkey slaughter establishments. When the New Turkey Inspection system regulations were published in 1985, because of the shackles that were used, Bar-type cut turkeys presented for inspection on a three-point suspension required an extra inspection hand motion to raise the bar-cut skin flap to observe the under side of the bar-cut skin flap and the kidney area. This extra hand motion is not necessary for inspection of J-type cuts. Therefore, the regulations require a slower line speed for Bar-type cut operations than for J-type cut operations. With the modified shackle described in the proposed rule, Bar-type cut inspection hand motions are similar to the J-type cut inspection hand motions. Based on in-plant trial data, establishments that use the modified shackle to process Bar-type cut turkeys can operate under inspection using the J-type cut line speeds as effectively as they could operate under the Bar-type cut line speeds.

This rule is also necessary to make clear that the inspector in charge could reduce line speeds when, in his or her judgment, the prescribed procedure cannot be adequately performed within the time available because of factors in addition to the health conditions of a particular flock. Other factors that could cause the inspector in charge to reduce line speeds include the manner in which birds are being presented to the inspector for inspection and the level of contamination among the birds on the line.

**Industry Overview**

According to FSIS' Animal Disposition Reporting System (ADRS), the U.S. turkey industry consists of approximately 80 slaughter and processing establishments, of which 25 are considered very small, 30 are considered small, and 25 are considered large.[1] The total industry employs between 20,000 and 25,000 people in the United States, with thousands more employed in related industries, such as contract growing, product distribution, equipment manufacturing, and many other affiliated services.[2]

Turkey companies are vertically integrated, meaning that they control or contract for all phases of production and processing—from breeding through delivery to retail. In a vertically integrated framework of turkey contracting, establishments (integrators) accept much of the risk of turkey growing in exchange for greater control over both the quality and quantity of birds. Usually, the contract calls for establishments to provide growers with chicks or poult hatchlings and feed from their own hatcheries and feed mills, veterinary services, medication, and field supervisors to monitor operations. The contract growers provide housing, equipment, labor, water, and all or most of the fuel and litter. Growers raise the birds until ready for shipment to the establishments. In their contractual arrangements with growers, establishments usually agree to pay a pre-established fee per pound for live turkeys plus a bonus or penalty for performance relative to other growers.[3]

In 2003, the number of turkeys raised in the United States was 274 million heads, weighing an average of 27.5 pounds. In 2003, the number of pounds of turkey produced was 7.5 billion pounds. At a rate of 36 cents per pound, the value of production equaled $2.7 billion. The top 10 turkey processing states in 2003 were Minnesota (1.2 billion pounds), North Carolina (1.1 billion pounds), Missouri (816 million pounds), South Carolina (494 million pounds), Virginia (492 million pounds), Arkansas (477 million pounds), California (418 million pounds), Indiana (396 million pounds), Iowa (267 million pounds), and Pennsylvania (215 million pounds).[4] The 25 large producers accounted for 91 percent, or 6.8 billion pounds, of the 7.5 billion pounds of turkey produced in 2003.

U.S. consumption of turkey and turkey products are estimated to be at 17 pounds per person for 2004. The most popular turkey product continues to be the whole turkey, comprising 25 percent of all turkey sales in 2003.

U.S. exports of turkey products in 2003 were 480 million pounds, comprising 9 percent of total turkey production. In 2003, the top four export markets for U.S. turkey products were Mexico (241 million pounds), Hong Kong (45 million pounds), Taiwan (30 million pounds) and Russia (25 million pounds).[5]

Traditionally, turkey plants have faced highly seasonal demand, with most production occurring in the last quarter of the year to accommodate the

[1] In the preamble to the final rule entitled, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' establishments that employ between 1–9 persons and have less than $2.5 million in annual sales are considered very small; those that employ 10 to 499 persons are considered small; and those that employ 500 or more persons are considered large.

[2] National Turkey Federation Web site (*http://www.eatturkey.com/index.html*). Turkey Facts and Trivia.

[3] USDA Structural Change in U.S. Chicken and Turkey Slaughter, Michael Ollinger, James MacDonald, Milton Madison, September 2000, pp. 11–12 (ERS Agricultural Economic Report Number 787).

[4] USDA Poultry Slaughter 2003 Annual Summary, March 2004.

[5] National Turkey Federation Statistics.

increased consumption of turkeys around Christmas and Thanksgiving. Because of a shift in consumers' taste for turkey and turkey products, consumers are consuming more turkey products such as turkey sausages, ground turkey, luncheon meat, tray packs; pre-cooked turkey products such as deli breasts, turkey ham, and turkey bacon; and other further processed turkey products on a year-round basis. More consumers are consuming turkey on a year-round basis because of health concerns and turkey's nutritional value that addresses those concerns.[6] This trend in consumption reduces the excess capacity that plants were experiencing during much of the year to a more balanced production cycle year round. By supplying turkey and turkey products year round, turkey plants were able to stabilize production rates. Stabilized production rates lower production costs because plants are able to avoid hiring, training, laying off employees, and starting up and shutting down of facilities on a seasonal basis.

**Estimated Benefits**

Establishments that process Bar-type cut turkeys and install the modified shackles will likely realize benefits because these establishments will be able to process more turkeys by using the J-type cut line speeds than they can process by using the Bar-type cut line speeds. According to ConAgra Foods, the company that petitioned FSIS to amend the NTI System regulations, by using the J-type cut line speeds, a turkey plant processing Bar-type cut turkeys can increase its production capacity by 13 percent. Also according to ConAgra Foods, under typical pricing and operation parameters, this increase will result in increased revenue of $600,000 to $3,000,000 annually per establishment. FSIS requests comments on typical pricing and operation parameters for turkey slaughter establishments. An increase in capacity to process turkeys will allow establishments to receive a greater return on their fixed assets. Consumers may realize benefits as a result of this rule if establishments using the modified shackle pass some of their cost savings along to consumers in the form of reduced prices.

If all 80 turkey slaughter establishments (based on the 2003 ADRS data) install the modified shackles, annual undiscounted benefits could range from $48 million to $240 million. However, it is not realistic to assume that all 80 turkey slaughter establishments would install modified shackles.

The use of the modified shackles for Bar-type cut turkeys, compared to the traditional shackles for these turkeys, changes the presentation of the turkey, so that the inspector need not manipulate the bar skin strip to observe the underside of that flap and the kidney area. Therefore, FSIS may realize benefits because the inspectors would not be required to perform this extra hand motion. The elimination of this extra hand motion may reduce undue fatigue among turkey inspectors. Also, the elimination of the extra hand motion decreases the inspection work load at the Bar-type cut establishments.

Based on in-plant trial data from Bar-type cut turkey slaughter establishments that ran at the J-type cut maximum line speeds and that used the modified shackle described in this proposed rule, this rule would not affect production quality or safety.

**Estimated Costs**

The costs of this rule would be the costs establishments would incur for purchasing and installing the modified shackles. Establishments would not likely incur these costs unless they would realize benefits. Industry sources estimate that it would cost a typical plant $50,000 to install modified shackles on two assembly lines.

If this rule is adopted, in addition to the two turkey slaughter establishments that use the modified shackles, other turkey slaughter establishments that process whole birds may choose to install modified shackles. Even if all 80 turkey slaughter establishments (based on the 2003 ADRS data) install the modified shackles, the total first-year cost to establishments would only be $4.0 million, based on the cost estimate of $50,000 per establishment.

**Regulatory Flexibility Act (RFA)**

FSIS has examined the economic implications of the proposed rule as required by the Regulatory Flexibility Act (5 U.S.C 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires that the regulatory options that would lessen the economic effect of the rule on small entities be analyzed. FSIS has determined that the proposed rule would not have a significant impact on a substantial number of small entities for the reasons discussed below.

One of the establishments using the modified shackle is small and one is large. Under the proposed rule, turkey slaughter establishments would not be required to install modified shackles and are only likely to do so should they incur profits through the faster line speed for the production of whole turkeys. Based on the ADRS data discussed above, there are about 30 small turkey slaughter establishments that could potentially install modified shackles. Very small establishments are not likely to install modified shackles, because they are seasonal turkey processors.

**Executive Order 12988**

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

**Paperwork Reduction Act**

There are no paperwork or recordkeeping requirements associated with this proposed rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

**Public Notification and Request for Data**

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this proposed rule, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2005_Proposed_Rules_Index/index.asp.*

The Regulations.gov Web site is the central online rulemaking portal of the United States Government. It is being offered as a public service to increase participation in the Federal Government's regulatory activities. FSIS participates in Regulations.gov and will accept comments on documents published on the site. The site allows visitors to search by keyword or Department or Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The Web site is located at *http://www.regulations.gov/.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents

[6] Consumers are recognizing the health benefits of turkey as a low-fat, high-protein source. National Turkey Federation Web site.

and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

**List of Subjects in 9 CFR Part 381**

Poultry products inspection, Post-Mortem.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

## PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

**Authority:** 21 U.S.C. 451 *et seq.*

2. Section 381.68 would be amended as follows:

a. Paragraph (a) would be amended by revising the first two sentences and by adding a new sentence after the second newly revised sentence;

b. Paragraph (c) would be amended by text after the phrase ''particular flock''; and by revising the table and footnotes.

The revisions and additions would read as follows:

**§ 381.68 Maximum inspection rates—New turkey inspection system.**

(a) The maximum inspection rates for one inspector New Turkey Inspection (NTI–1 and NTI–1 Modified) and two inspectors New Turkey Inspection (NTI–2 and NTI–2 Modified) are listed in the table below. The line speeds for NTI–1 and NTI–2 are for lines using standard 9-inch shackles on 12-inch centers with birds hung on every shackle and opened with J-type or Bar-type opening cuts. The line speeds for NTI–1 Modified and NTI–2 Modified are for Bar-type cut turkey lines using a shackle with a 4-inch by 4-inch selector (or kickout), a 45 degree bend of the lower 2 inches, an extended central loop portion of the shackle that lowers the abdominal cavity opening of the carcasses to an angle of 30 degrees from the vertical in direct alignment with the inspector's view, and a width of 10.5 inches. * * *

* * * * *

(c) * * * or other factors, including the manner in which birds are being presented to the inspector for inspection and the level of contamination among the birds on the line, * * *

| Inspection system | Line configuration | Number of inspectors | Birds/minute | | | |
|---|---|---|---|---|---|---|
| | | | J-type | | Bar-type | |
| | | | (<16#) light | (>16#) [1] heavy | (<16#) light | (>16#) [1] heavy |
| NTI–1 | 12–1 | 1 | 32 | 30 | 25 | 21 |
| NTI–2 | [2] 24–2 | 2 | 51 | 41 | 45 | 35 |
| NTI–1 Modified | 12–1 | 1 | ..... | ..... | 32 | 30 |
| NTI–2 Modified | [2] 24–2 | 2 | ..... | ..... | 51 | 41 |

[1] This weight refers to the bird at the point of post-mortem inspection without blood or feet.
[2] The turkeys are suspended on the slaughter line at 12-inch intervals with two inspectors each looking at alternating birds at 24-inch intervals.

* * * * *

Done in Washington, DC, on: September 6, 2005.

**Barbara J. Masters,**

*Administrator.*

[FR Doc. 05–17887 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Engine Components Inc. (ECi) Reciprocating Engine Cylinder Assemblies

**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 Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve'' reciprocating engines, with certain Engine Components Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Classic Cast,'' installed. This proposed AD would require replacing these ECi cylinder assemblies. This proposed AD results from reports of about 30 failures of the subject cylinder assemblies marketed by ECi. We are proposing this AD to prevent loss of engine power due to cracks in the cylinder assemblies and possible engine failure caused by separation of a cylinder head.

**DATES:** We must receive any comments on this proposed AD by November 8, 2005.

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

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

and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0003.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

**FOR FURTHER INFORMATION CONTACT:** Peter Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76193; telephone (817) 222–5145; fax (817) 222–5785.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

**Examining the AD Docket**

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

**Discussion**

We received reports of about 30 failures of ECi cylinder assemblies, P/N AEL65102 series, with casting P/N AEL65099, installed on Lycoming Engines models 320, 360, and 540 series, parallel valve reciprocating engines. Parallel valve Lycoming reciprocating engines are identified by the intake and exhaust valves in a parallel configuration. We investigated the failures and discovered that cylinder head fatigue cracks start in the thin wall located between the counter-bore of the exhaust valve seat and adjacent cooling fin root. Our investigation concluded that the wall thickness of the affected area is too thin, making the wall vulnerable to fatigue cracking. Our investigation also concluded that the fatigue origin is not associated with surface damage resulting from cylinder head over-temperature conditions. Based on these findings, we issued Special Airworthiness Information Bulletin (SAIB) No. NE–01–32, dated July 18, 2001, to alert owners and operators to visually inspect, and to report and replace ECi cylinder heads if found cracked.

As a result of our investigation and issuing SAIB No. NE–01–32, ECi introduced an improved cylinder head design for casting P/N AEL65099, starting with serial number (SN) 9880. Their design change increased the cylinder head exhaust port wall thickness. Since the issuance of the SAIB, we continue to receive reports of cracking of ECi cylinder assemblies with casting P/N AEL65099, SNs 1 through 9879. The most recent report, from Kenya, described three cylinders showing cracks, with two of the cylinders separating from the barrel. This condition, if not corrected, could result in loss of engine power due to cracks in the cylinder assembly and possible engine failure caused by separation of a cylinder head. This proposed AD only applies to ECi ''Classic Cast'' cylinder assemblies identified with casting P/N AEL65099 and SNs 1 through 9879.

**FAA's Determination and Requirements of the Proposed AD**

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design.

We are proposing this AD, which would require the following:

- Determine if ECi cylinder assemblies, P/N AEL65102 series ''Classic Cast'', with casting P/N AEL65099 and SN 1 through 9879 are installed on your engine; and
- If any cylinder assembly is an ECi P/N AEL65102 series ''Classic Cast'', with casting P/N AEL65099 and a SN 1 through 9879, and has fewer than 800 operating hours-in-service (HIS) on the effective date of the proposed AD, replace the cylinder assembly at no later than 800 operating HIS. No action is required until the operating HIS reaches 800 hours.
- If any cylinder assembly is an ECi P/N AEL65102 series ''Classic Cast'', with casting P/N AEL65099 and a SN 1 through 9879, and has 800 operating HIS or more on the effective date of the proposed AD, replace the cylinder assembly within 60 operating HIS after the effective date of the proposed AD.
- After the effective date of the proposed AD, do not install any ECi cylinder assembly, P/N AEL65102, with casting P/N AEL65099 that has a SN 1 through 9879, onto any engine.

**Costs of Compliance**

There were 9,879 ECi cylinder assemblies produced of the affected design available to the worldwide fleet. ECi reported that about fifteen percent of their cylinder assemblies go to foreign countries. We estimate ten percent of the remaining cylinders were never installed or are already removed from service, leaving 7,557 cylinder assemblies in service in the United States. We estimate that 1,574 Lycoming engines are in the United States with the subject cylinder assemblies installed. We estimate that it would take about two work hours per engine to perform the proposed aircraft inspections of the cylinder assemblies for applicability, and that the average labor rate is $65 per work hour. From the Lycoming Engines ''Removal and Installation Labor Allowance Guidebook'', dated May 2000, the complete cylinder replacement for a four cylinder engine takes 12 hours, while the complete cylinder replacement for a six cylinder engine takes 16 hours. Required parts would cost about $1,000 per cylinder assembly. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $9,152,140. ECi indicated that they might give operators and repair stations credit for returned cylinder assemblies toward the purchase of new ECi cylinder assemblies.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Engine Components Incorporated (ECi):** Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by November 8, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, parallel valve, reciprocating engines specified in Table 1 of this AD, with Engine Components Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Classic Cast'', with casting P/N AEL65099 and serial numbers (SNs) 1 through 9879, installed.

TABLE 1.—ENGINE MODELS

| Cylinder head part number | Installed on engine models |
|---|---|
| AEL65102–NST04 | O–320—A1B, A2B, A2C, A2D, A3A, A3B, B2B, B2C, B3B, B3C, C2B, C2C, C3B, C3C, D1A, D1AD, D1B, D1C, D1D, D1F, D2A, D2B, D2C, D2F, D2G, D2H, D2J, D3G, E1A, E1B, E1C, F1F, E1J, E2A, E2B, E2C, E2D, E2E, E2F, E2G, E2H, E3D, E3H. |
| | IO–320—A1A, A2A, B1A, B1B, B1C, B1D, B1E, B2A, C1B, D1A, D1AD, D1B, D1C, E1A, E1B, E2A, E2B. |
| | AEIO–320—D1B, D2A, D2B, E1A, E1B, E2B. |
| | AIO–320—A1A, A1B, A2A, A2B, B1B, C1B. |
| | LIO–320—B1A. |
| AEL65102–NST05 | O–320—C1A, C1F, F1A. |
| | LIO–320—C1A. |
| AEL65102–NST06 | O–320—A1A, A2A, A2B, A2C, A3A, A3B, A3C, E1A, E1B, E2A, E2C. |
| AEL65102–NST07 | O–320—A2A, B1A, B1B. |
| AEL65102–NST08 | O–320—C1A, C1B, C2A, C2B, C3A, C2B, C3C. |
| AEL65102–NST10 | O–360—A1A, A1C, A1D, A2A, A2E, A3A, A3D, A4A, C1A, C1C, C1G, C2A, C2B, C2C, C2D, B1A, B1B, B2A, B2B, D1A, D2A, D2B. |
| | IO–360—B1A, B1B, B1C. |
| | HO–360—A1A, B1A, B1B. |
| | HIO–360—B1A, B1B. |
| | AEIO–360—B1B. |
| | AEIO–540—A1A, A1A5, A1B5, A1C5, A1D, A1D5, A2B, A3D5, A4A5, A4B5, A4C5, A4D5, B1A5, B1B5, B1C5, B2C5D, B4A5, B4A5D, D1A5, E1A, E4A5, E4B5, E4C5, F1A5, F1B5, G1A5, G2A5. |
| | IO–540—C1B5, C1C5, C2C, C4B5, C4B5D, C4C5, D4A5, D4B5, N1A5, N1A5D. |
| AEL65102–NST12 | O–360—A1A, A1AD, A1C, A1D, A1F, A1F6, A1F6D, A1G, A1G6, A1G6D, A1H, A1H6, A1J, A1LD, A2A, A2D, A2F, A2G, A2H, A3A, A3AD, A3D, A4A, A4AD, A4D, A4G, A4J, A4JD, A4K, A4M, A4N, A5AD, B1A, C1A, C1E, C1F, C1G, C2A, C2B, C2C, C2D, C2E, D2A, F1A6, G1A6. |
| | TIO–360—A1A6D. |
| | LTO–360—A1A6D. |
| | IO–360—A1G6D, A1H6, B1B, B1BD, B1D, B1E, B1F, B1F6, B2E, B2F, B2F6, B4A, E1A, E4A, F1A. |
| | IHO–360—B1A, B1B. |
| | AEIO–360—B1B, B1D, B1F, B1F6, B1G6, B2F, B2F6, B4A, H1A. |
| | O–540—A4D5, B2B5, B2C5, B2C5D, B4B5, B4B5D, E4A5, E4B5, E4B5D, E4C5, G1A5, G1A5D, G2A5, H1A5, H1A5D, H1B5, H1B5D, H2A5, H2A5D, H2B5D. |
| | IO–540—C4A5, C4B5, C4B5D, C4D5D, D4A5, D4B5, D4C5, N1A5, T4A5, T4A5D, T4B5D, T4C5D, V4A5D. |
| | AEIO–540—D4A5, D4B5, D4C5. |
| AEL65102–NST26 | IO–540—J4A5, R1A5. |
| | TIO–540—C1A, E1A, G1A, H1A. |

TABLE 1.—ENGINE MODELS—Continued

| Cylinder head part number | Installed on engine models |
|---|---|
| AEL65102–NST38 | (T)IO–360—F1A.<br>TIO–360—AA1AD, AB1AD, C1A, C1AD, AF1A, K1AD.<br>LTIO–540—K1AD. |
| AEL65102–NST38 | O–540—J1A5D, J1B5D, J1C5D, J1D5D, J2A5D, J2B5D, J2C5D, J3A5, J3A5D, J3C5D.<br>IO–540—L3C5D, W1A5D, W3A5D. |
| AEL65102–NST44 | O–540—L3C5D. |

For information, the subject engines are installed on, but not limited to, the aircraft listed in the following Table 2:

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO

| | |
|---|---|
| O–320–A1A | Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Apache (PA–23), Pawnee (PA–25).<br>Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).<br>Mooney Aircraft: Mark (20A).<br>Dinfia: Ranquel (1A–46).<br>Simmering-Graz Pauker: Flamingo (SGP–M–222).<br>Aviamilano: Scricciolo (P–19).<br>Vos Helicopter Co.: Spring Bok. |
| O–320–A1B | Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Apache (PA–23).<br>Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).<br>S.O.C.A.T.A.: Horizon (Gardan). |
| O–320–A2A | Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Agriculture (PA–18A ''150'') Super Cub (PA–18 ''150''), Caribbean (PA–22 ''150''), Pawnee (PA–25).<br>Intermountain Mfg. Co.: Call Air Texas (A–5, A–5T).<br>Lake Aircraft: Colonial (C–1).<br>Rawdon Bros.: Rawdon (T–1, T–15, T–15D).<br>Shinn Engineering: Shinn (2150–A).<br>Dinfia: Ranquel (1A–46).<br>Neiva: (1PD–5802).<br>Sud: Gardan-Horizon (GY–80).<br>LaVerda: Falco (F8L Series II, America).<br>Malmo: Vipan (MF1–10).<br>Kingsford Smith: Autocrat (SCRM–153).<br>Aero Commander: 100. |
| O–320–A2B | Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Cherokee (PA–28 ''150''), Super Cub (PA–18 ''150'').<br>Champion Aircraft: Challenger (7GCA, 7GCB, 7KC), Citabria (7GCAA, 7GCRC), Agriculture (7GCBA).<br>Beagle: Pup (150).<br>Artic: Interstate S1B2.<br>Robinson: R–22.<br>Varga: Kachina 2150A. |
| O–320–A2C | Robinson: R–22.<br>Cicare: Cicare AG.<br>Bellanca Aircraft: Citabria 150 (7GCAA), Citabria 150S (7GCBC). |
| O–320–A2D | Piper Aircraft: Apache (PA–23). |
| O–320–A3A | Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).<br>Corben-Fettes: Globe Special (Globe GC–1B). |
| O–320–A3B | Piper Aircraft: Apache (PA–23).<br>Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).<br>Teal II: TSC (1A2). |
| O–320–B1A | Piper Aircraft: Apache (PA–23 ''160'').<br>Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).<br>Malmo: Vipan (MF1–10). |
| O–320–B1B | Piper Aircraft: Apache (PA–23 ''160'').<br>Doyn Aircraft: Doyn-Cessna (170, 170A, 170B). |
| O–320–B2A | Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160''). |
| O–320–B2B | Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160'').<br>Beagle: Airedale (D5–160).<br>Fuji-Heavy Industries: Fuji (F–200).<br>Uirapuru: Aerotec 122. |
| O–320–B2C | Robinson: R–22. |
| O–320–B2D | Maule: MX–7–160. |
| O–320–B2E | Lycon. |
| O–320–B3A | Piper Aircraft: Apache (PA–23 ''160'').<br>Doyn Aircraft: Doyn–Cessna (170, 170A, 170B). |
| O–320–B3B | Piper Aircraft: Apache (PA–23 ''160'').<br>Doyn Aircraft: Doyn–Cessna (170, 170A, 170B).<br>Sud: Gardan (GY80–160). |

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

| | |
|---|---|
| O–320–C1A | Piper Aircraft: Apache (PA–23 ''160''). |
| | Riley Aircraft: Rayjay (Apache). |
| O–320–C1B | Piper Aircraft: Apache (PA–23 ''160''). |
| O–320–C3A | Piper Aircraft: Apache (PA–23 ''160''). |
| O–320–C3B | Piper Aircraft: Apache (PA–23 ''160''). |
| O–320–D1A | Sud: Gardan (GY–80). |
| | Gyroflug: Speed Cancard. |
| | Grob: G115. |
| O–320–D1F | Slingsby: T67 Firefly. |
| O–320–D2A | Piper Aircraft: Cherokee (PA–28S ''160''). |
| | Robin: Major (DR400–140B), Chevalier (DR–360), (R–3140). |
| | S.O.C.A.T.A.: Tampico TB9. |
| | Slingsby: T67C Firefly. |
| | Daetwyler: MD–3–160. |
| | Nash Aircraft Ltd.: Petrel |
| | Aviolight: P66D Delta |
| | General Avia: Pinguino. |
| O–320–D2B | Beech Aircraft: Musketeer (M–23). |
| | Piper Aircraft: Cherokee (PA–28 ''160''). |
| O–320–D2J | Cessna Aircraft: Skyhawk 172 |
| O–320–D3G | Piper Aircraft: Warrior II, Cadet (PA–28–161). |
| O–320–E1A | Grob: G115 |
| O–320–E1C | M.B.B. (Messerschmitt–Boelkow–Blohm): Monsun (BO–209–B). |
| O–320–E1F | M.B.B.: Monsun (BO–209–B). |
| O–320–E2A | Piper Aircraft: Cherokee (PA–28 ''140'', PA–28 ''150''). |
| | Robin: Major (DR–340), Sitar, Bagheera (GY–100–135). |
| | S.O.C.A.T.A.: Super Rallye (MS–886), Rallye Commodore (MS–892). |
| | Siai–Marchetti: (S–202). |
| | F.F.A.: Bravo (AS–202/15). |
| | Partenavia: Oscar (P66B), Bucker (131 APM). |
| | Aeromot: Paulistina P–56. |
| | Pezetel: Koliber 150. |
| O–320–E2C | Beech Aircraft: Musketeer III (M–23III). |
| | M.B.B.: Monsun (B–209–B). |
| O–320–E2D | Cessna Aircraft: Cardinal (172–I, 177). |
| O–320–E2F | M.B.B.: Monsun (BO–209–B). |
| O–320–E2G | American Aviation Corp.: Traveler |
| O–320–E3D | Piper Aircraft: Cherokee (140). |
| | Beech Aircraft: Sport. |
| O–320–H2AD | Cessna Aircraft: Skyhawk 172. |
| | Partenavia: P–66C. |
| IO–320–B2A | Piper Aircraft: Twin Comanche (PA–30). |
| IO–320–B1C | Hi. Shear: Wing. |
| IO–320–B1D | Ted Smith Aircraft: Aerostar. |
| IO–320–C1A | Piper Aircraft: Twin Comanche (PA–30 Turbo). |
| IO–320–D1A | M.B.B.: Monsun (BO–209–C). |
| IO–320–D1B | M.B.B.: Monsun (BO–209–C). |
| IO–320–E1A | M.B.B.: Monsun (BO–209–C). |
| IO–320–E1B | Bellanca Aircraft. |
| IO–320–E2A | Champion Aircraft: Citabria. |
| IO–320–E2B | Bellanca Aircraft. |
| IO–320–F1A | CAAR Engineering: Carr Midget. |
| LIO–320–B1A | Piper Aircraft: Twin Comanche (PA–39). |
| LIO–320–C1A | Piper Aircraft: Twin Comanche (PA–39). |
| AIO–320–B1B | M.B.B.: Monsun (BO–209–C). |
| AEIO–320–D1B | Slingsby: T67M Firefly. |
| AEIO–320–D2B | Hundustan Aeronautics Ltd.: HT–2 |
| AEIO–320–E1A | Bellanca Aircraft. |
| | Champion Aircraft. |
| AEIO–320–E1B | Bellanca Aircraft. |
| | Champion Aircraft: Decathalon (8KCAB–CS). |
| AEIO–320–E2B | Bellanca Aircraft. |
| | Champion Aircraft: Decathalon (8KCAB). |
| O–320–A1A | Riley Aircraft: Riley Twin. |
| O–360–A1A | Beech Aircraft: Travel Air (95, B–95). |
| | Piper Aircraft: Comanche (PA–24). |
| | Intermountain Mfg. Co.: Call Air (A–6). |
| | Lake Aircraft: Colonial (C–2, LA –4, 4A or 4P). |
| | Doyn Aircraft: Doyn–Cessna (170B, 172, 172A, 172B). |
| | Mooney Aircraft: Mark ''20B'' (M–20B). |
| | Earl Horton: Pawnee (Piper PA–25). |
| | Dinfia: Ranquel (1A–51). |
| | Neiva: (1PD–5901). |

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

| | |
|---|---|
| | Regente: (N–591). |
| | Wassmer: Super 4 (WA–50A), Sancy (WA–40), Baladou (WA–40), Pariou (WA–40). |
| | Sud: Gardan (GY–180). |
| | Bolkow: (207). |
| | Partenavia: Oscar (P–66). |
| | Siai–Marchetti: (S–205). |
| | Procaer: Picchio (F–15–A). |
| | S.A.A.B.: Safir (91–D). |
| | Malmo: Vipan (MF–10B). |
| | Aero Boero: AB–180. |
| | Beagle: Airedale (A–109). |
| | DeHavilland: Drover (DHA–3MK3). |
| | Kingsford-Smith: Bushmaster (J5–6). |
| | Aero Engine Service Ltd.: Victa (R–2). |
| O–360–A1AD | S.O.C.A.T.A.: Tabago TB–10. |
| O–360–A1D | Piper Aircraft: Comanche (PA–24). |
| | Lake Aircraft: Colonial (LA–4, 4A or 4P). |
| | Doyn Aircraft: Doyn–Beech (Beech 95). |
| | Mooney Aircraft: Master "21" (M–20E), |
| | Mark "20B", "20D", (M20B, M20C), |
| | Mooney Statesman (M–20G). |
| | Dinfia: Querandi (1A–45). |
| | Wassmer: (WA–50). |
| | Malmo: Vipan (MF1–10). |
| | Cessna Aircraft: Skyhawk. |
| | Doyn Aircraft: Doyn-Piper (PA–23 "160"). |
| O–360–A1F6 | Cessna Aircraft: Cardinal. |
| O–360–A1F6D | Cessna Aircraft: Cardinal 177. |
| | Teal III: TSC (1A3). |
| O–360–A1G6 | Aero Commander. |
| O–360–A1G6D | Beech Aircraft: Duchess 76. |
| O–360–A1H6 | Piper Aircraft: Seminole (PA–44). |
| O–360–A1LD | Wassmer: Europa WA–52. |
| O–360–A1P | Aviat: Husky. |
| O–360–A2A | Center Est Aeronautique: Regente (DR–253). |
| | S.O.C.A.T.A.: Rallye Commodore (MS–893). |
| | Societe Aeronautique Normande: Mousquetaire (D–140). |
| | Bolkow: Klemm (K1–107C). |
| | Partenavia: Oscar (P–66). |
| | Beagle: Husky (D5–180) (J1–U). |
| O–360–A2D | Piper Aircraft: Comanche (PA–24), Cherokee "C" (PA–28 "180"). |
| | Mooney Aircraft: Master "21" (M–20D), Mark "21" (M–20E). |
| O–360–A2E | Std. Helicopter. |
| O–360–A2F | Aero Commander: Lark (100). |
| | Cessna Aircraft: Cardinal. |
| O–360–A2G | Beech Aircraft: Sport. |
| O–360–A3A | C.A.A.R.P.S.A.N.: (M–23III). |
| | Societe Aeronautique Normande: Jodel (D–140C). |
| | Robin: Regent (DR400/180), Remorqueur (DR400/180R). R–3170. |
| | S.O.C.A.T.A.: Rallye 180GT, Sportavia Sportsman (RS–180). |
| | Norman Aeroplace Co.: NAC–1 Freelance. |
| | Nash Aircraft Ltd.: Petrel. |
| O–360–A3AD | S.O.C.A.T.A.: TB–10. |
| | Robin: Aiglon (R–1180T) |
| O–360–A4A | Piper Aircraft: Cherokee "D" (PA–28 "180"). |
| O–360–A4D | Varga: Kachina. |
| O–360–A4G | Beech Aircraft: Musketeer Custom III. |
| O–360–A4K | Grumman American: Tiger. |
| | Beech Aircraft: Sundowner 180. |
| O–360–A4M | Piper Aircraft: Archer II (PA–28 "18"). |
| | Valmet: PIK–23. |
| O–360–A4N | Cessna Aircraft: 172 (Optional). |
| O–360–A4P | Penn Yan: Super Cub Conversion. |
| O–360–A5AD | C. Itoh and Co.: Fuji FA –200. |
| O–360–B2C | Seabird Aviation: SB7L. |
| O–360–C1A | Intermountain Mfg. Co.: Call Air (A–6). |
| O–360–C1E | Bellanca Aircraft: Scout (8GCBC–CS). |
| O–360–C1F | Maule: Star Rocket MX–7–180. |
| O–360–C1G | Christen: Husky (A–1). |
| O–360–C2B | Hughes Tool Co.: (269A). |
| O–360–C2D | Hughes Tool Co.: (269A). |
| O–360–C2E | Hughes Tool Co.: (YHO–2HU) Military. |
| | Bellanca Aircraft: Scout (8GCBC FP). |
| O–360–C4F | Maule: MX–7–180A. |

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

| | |
|---|---|
| O–360–C4P | Penn Yan: Super Cub Conversion. |
| O–360–E1A6D | Piper Aircraft: Seminole (PA–44 ''180''). |
| O–360–F1A6 | Cessna Aircraft: Cutlass RG. |
| O–360–J2A | Robinson: R22. |
| IO–360–B1A | Beech Aircraft: Travel-Air (B–95A). |
| | Doyn Aircraft: Doyn-Piper (PA–23 ''200''). |
| IO–360–B1B | Beech Aircraft: Travel-Air (B–95B). |
| | Doyn Aircraft: Doyn-Piper (PA–23 ''200''). |
| | Fuji: (FA–200). |
| IO–360–B1D | United Consultants: See-Bee. |
| IO–360–B1E | Piper Aircraft: Arrow (PA–28 ''180R''). |
| IO–360–B1F | Utva: 75. |
| IO–360–B2E | C.A.A.R.P. C.A.P. (10). |
| IO–360–B1F6 | Great Lakes: Trainer. |
| IO–360–B1G6 | American Blimp: Spector 42. |
| IO–360–B2F6 | Great Lakes: Trainer. |
| LO–360–A1G6D | Beech Aircraft: Duchess. |
| LO–360–A1H6 | Piper Aircraft: Seminole (PA–44). |
| IO–360–E1A | T.R. Smith Aircraft: Aerostar. |
| IO–360–L2A | Cessna Aircraft: Skyhawk C–172. |
| IO–360–M1A | Diamond Aircraft: DA–40. |
| IO–360–M1B | Vans Aircraft: RV6, RV7, RV8. |
| | Lancair: 360. |
| AIO–360–B1B | Moravan: Zlin (Z–526–L). |
| AEIO–360–B1F | F.F.A.: Bravo (200). |
| | Grob: G115/Sport-Acro. |
| AEIO–360–B1G6 | Great Lakes. |
| AEIO–360–B2F | Mundry: CAP–10. |
| AEIO–360–B4A | Pitts: S–1S. |
| AEIO–360–H1A | Bellanca Aircraft: Super Decathalon (8KCAB–180). |
| AEIO–360–H1B | American Champion: Super Decathalon. |
| TO–360–C1A6D | Avions Pierre Robin. |
| | Partenavia. |
| | Rockwell: 112TC. |
| TO–360–F1A6D | Maule: Star Rocket (M–5–210TC). |
| TIO–360–C1A6D | Partenavia: P68C–TC. |
| VO–360–A1A | Brantly Hynes Helicopter: (B–2). |
| VO–360–A1B | Brantly Hynes Helicopter: (B–2, B2–A). |
| | Military (YHO–3BR). |
| VO–360–B1A | Brantly Hynes Helicopter: (B–2, B2–A). |
| IVO–360–A1A | Brantly Hynes Helicopter: (B2–B). |
| HO–360–B1A | Hughes Tool Co.: (269A). |
| HO–360–B1B | Hughes Tool Co.: (269A). |
| HO–360–C1A | Schweizer: (300C). |
| HIO–360–B1A | Hughes Tool Co.: Military (269–A–1). (TH–55A). |
| HIO–360–B1B | Hughes Tool Co.: (269A). |
| HIO–360–G1A | Schweizer: (CB). |
| O–540–A1A | Rhein–Flugzeugbau: (RF–1). |
| O–540–A1A5 | Piper Aircraft: Comanche (PA–24 ''150''). |
| | Helio: Military (H–250). |
| | Yoeman Aviation: (YA–1). |
| O–540–A1B5 | Piper Aircraft: Aztec (PA–23 ''250''), Comanche (PA–24 ''250''). |
| O–540–A1C5 | Piper Aircraft: Comanche (PA–24 ''250''). |
| O–540–A1D | Found Bros.: (FBA–2C). |
| | Dornier: (DO–28–B1). |
| O–540–A1D5 | Piper Aircraft: Aztec (PA–23 ''250''), Comanche (PA–24 ''250''), Military Aztec. (U–11A). |
| | Dornier: (DO–28). |
| O–540–A2B | Aero Commander: (500). |
| | Mid-States Mfg. Co.: Twin Courier (H–500), (U–5). |
| O–540–A3D5 | Piper Aircraft: Navy Aztec (PA–23 ''250''). |
| O–540–B1A5 | Piper Aircraft: Apache (PA–23 ''235''). |
| O–540–B1B5 | Piper Aircraft: Cherokee (PA–24 ''250''). |
| | Doyn Aircraft: Doyn-Piper (PA–24 ''250''). |
| O–540–B1D5 | Wassmer: (WA–421). |
| O–540–B2B5 | Piper Aircraft: Pawnee (PA–24 ''235''), Cherokee (PA–28 ''235''), Aztec (PA –23 ''235''). |
| | Intermountain Mfg. Co.: Call Air (A–9). |
| | Rawdon Bros.: Rawdon (T–1). |
| | S.O.C.A.T.A.: Rallye 235CA. |
| O–540–B2C5 | Piper Aircraft: Pawnee (PA–24 ''235''). |
| O–540–B4B5 | Piper Aircraft: Cherokee (PA–28 ''235''). |
| | Embraer: Corioca (EMB–710). |
| | S.O.C.A.T.A.: Rallye 235GT, Rallye 235C. |
| | Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235). |

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

| | |
|---|---|
| O–540–E4A5 | Piper Aircraft: Comanche (PA–24 ''260''). |
| | Aviamilano: Flamingo (F–250). |
| | Siai-Marchetti: (SF–260), (SF–208). |
| O–540–E4B5 | Britten-Norman: (BN–2). |
| | Piper Aircraft: Cherokee Six (PA–32 ''260''). |
| O–540–E4C5 | Pilatus Britten-Norman: Islander (BN–2A–26), Islander (BN–2A–27), Islander II (BN–2B–26), Islander (BN–2A–21), Trislander (BN–2A–Mark III–2). |
| O–540–F1B5 | Omega Aircraft: (BS–12D1). |
| | Robinson: (R–44). |
| O–540–G1A5 | Piper Aircraft: Pawnee (PA–25 ''260''). |
| O–540–H1B5D | Aero Boero: 260. |
| O–540–H2A5 | Embraer: Impanema ''AG''. |
| | Gippsland: GA–200. |
| O–540–H2B5D | Aero Boero: 260. |
| O–540–J1A5D | Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235). |
| O–540–J3A5 | Robin: R–3000/235. |
| O–540–J3A5D | Piper Aircraft: Dakota (PA–28–236). |
| O–540–J3C5D | Cessna Aircraft: Skylane RG. |
| O–540–L3C5D | Cessna Aircraft: TR–182, Turbo Skylane RG. |
| IO–540–C1B5 | Piper Aircraft: Aztec B (PA–23 ''250''), Comanche (PA–24 ''250''). |
| IO–540–C1C5 | Riley Aircraft: Turbo-Rocket. |
| IO–540–C4B5 | Piper Aircraft: Aztec C (PA–23 ''250''), Aztec F. |
| | Wassmer: (WA4–21). |
| | Avions Pierre Robin: (HR100/250). |
| | Bellanca Aircraft: Aries T–250. |
| | Aerofab: Renegade 250. |
| IO–540–C4D5 | S.O.C.A.T.A.: TB–20. |
| IO–540–C4D5D | S.O.C.A.T.A.: Trinidad TB–20. |
| IO–540–D4A5 | Piper Aircraft: Comanche (PA–24 ''260''). |
| | Siai-Marchetti: (SF–260). |
| IO–540–D4B5 | Cerva: (CE–43 Guepard). |
| IO–540–J4A5 | Piper Aircraft: Aztec (PA–23 ''250''). |
| IO–540–R1A5 | Piper Aircraft: Comanche (PA–24). |
| IO–540–T4A5D | General Aviation: Model 114. |
| IO–540–T4B5 | Commander: 114B. |
| IO–540–T4B5D | Rockwell: 114. |
| IO–540–T4C5D | Lake Aircraft: Seawolf. |
| IO–540–V4A5 | Maule: MT–7–260, M–7–260. |
| | Aircraft Manufacturing Factory. |
| IO–540–V4A5D | Brooklands: Scoutmaster. |
| IO–540–W1A5 | Maule: MX–7–235, MT–7–235, M7–235. |
| IO–540–W1A5D | Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235). |
| IO–540–W3A5D | Schweizer: Power Glider. |
| AEIO–540–D4A5 | Christen: Pitts (S–2S), S–2B). |
| | Siai-Marchetti: SF–260. |
| | H.A.L.: HPT–32. |
| | Slingsby: Firefly T3A. |
| AEIO–540–D4B5 | Moravan: Zlin–50L. |
| | H.A.L.: HPT–32. |
| AEIO–540–D4D5 | Burkhart Grob: Grob G, 115T Aero. |
| TIO–540–C1A | Piper Aircraft: Turbo Aztec (PA–23–250). |
| TIO–540–K1AD | Piper Aircraft. |
| TIO–540–AA1AD | Aerofab Inc.: Turbo Renegade (270). |
| TIO–540–AB1AD | S.O.C.A.T.A.: Trinidad TC TB–21. |
| TIO–540–AB1BD | Schweizer. |
| TIO–540–AF1A | Mooney Aircraft: ''TLS'' M20M. |
| TIO–540–AF1B | Mooney Aircraft: ''TLS'' M20M. |
| TIO–540–AG1A | Commander Aircraft: 114TC. |
| TIO–540–AK1A | Cessna Aircraft: Turbo Skylane T182T. |
| LTIO–540–K1AD | Piper Aircraft. |

**Unsafe Condition**

(d) This AD results from reports of approximately 30 failures of the subject cylinder assemblies marketed by ECi. We are issuing this AD to prevent loss of engine power due to cracks in the cylinder assemblies and possible engine failure caused by separation of a cylinder head.

**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.

**Engines Not Repaired or Overhauled since New**

(f) If your engine has not been overhauled or had any major repair since new, no further action is required.

**Engines Overhauled or Repaired since New**

(g) If your engine was overhauled or repaired since new, do the following:

(1) Determine if ECi cylinder assemblies, P/N AEL65102 series ''Classic Cast,'' with casting P/N AEL65099 and SNs 1 through 9879 are installed on your engine, as follows:

(i) Inspect the engine log books and maintenance records for reference to the subject ECi cylinder assemblies.

(ii) If the engine log books and maintenance records did not record the P/N and SN of the cylinder assemblies, visually inspect the cylinder assemblies and verify the P/N and SN of the cylinder assemblies.

(2) If the cylinder assemblies are not ECi, P/N AEL65102 series ''Classic Cast'', with casting P/N AEL65099, no further action is required.

(3) If any cylinder assembly is an ECi P/N AEL65102 series ''Classic Cast,'' with casting P/N AEL65099 and a SN 1 through 9879, do the following:

(i) If the cylinder assembly has fewer than 800 operating hours-in-service (HIS) on the effective date of this AD, replace the cylinder assembly at no later than 800 operating HIS. No action is required until the operating HIS reaches 800 hours.

(ii) If the cylinder assembly has 800 operating HIS or more on the effective date of this AD, replace the cylinder assembly within 60 operating HIS after the effective date of this AD.

**Definition of a Replacement Cylinder Assembly**

(h) For the purpose of this AD, a replacement cylinder assembly is defined as follows:

(1) A serviceable cylinder assembly made by Lycoming Engines.

(2) A serviceable FAA-approved, Parts Manufacturer Approval cylinder assembly from another manufacturer.

(3) A serviceable ECi cylinder assembly, P/N AEL65102 series, ''Titan,'' with casting P/N AEL85009.

(4) A serviceable ECi cylinder assembly, P/N AEL65102 series, with casting, P/N AEL65099, that has a SN 9880 or higher.

**Prohibition of Cylinder Assemblies, P/N AEL65102 Series ''Classic Cast,'' With Casting P/N AEL65099 and SNs 1 Through 9879**

(i) After the effective date of this AD, do not install any ECi cylinder assembly, P/N AEL65102, with casting P/N AEL65099 that has a SN 1 through 9879, onto any engine.

**Alternative Methods of Compliance**

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

Issued in Burlington, Massachusetts, on September 2, 2005.

**Ann C. Mollica,**

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

[FR Doc. 05–17893 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2005–22021; Airspace Docket No. 04–AAL–06]**

## Proposed Establishment of Class E Airspace; Arctic Village, AK

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to establish Class E airspace at Arctic Village, AK to the size necessary to contain aircraft executing two new Standard Instrument Approach Procedures (SIAP) and an Instrument Flight Rules (IFR) departure procedure. Adoption of this proposal would result in establishing Class E airspace upward from 700 feet (ft.) above the surface and from 1,200 ft. above the surface at Arctic Village, Alaska.

**DATES:** Comments must be received on or before October 24, 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–2005–22021/ Airspace Docket No. 04–AAL–06, 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 the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or argument as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–22021/Airspace Docket No. 04–AAL–06.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), by establishing Class E airspace at Arctic Village, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 feet (ft.) above the surface within a 6.4 nautical mile (NM) radius of the Arctic Village Airport and within 3 NM each side of the 040° bearing from the Arctic Village airport extending from the 6.4 NM radius to 14.8 NM North of the airport and that airspace extending upward from 1,200 ft. above the surface within a 65 NM radius of the airport.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two SIAPs for the Arctic Village Airport, along with a departure procedure and has established takeoff weather minima. The new approaches are: (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 02, original, and (2) RNAV (GPS) RWY 20, original. Establishment of Class E controlled airspace extending upward from 700 ft and 1,200 ft above the surface is needed to provide air traffic control services and would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument and departure procedures for the Arctic Village Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace area designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, Part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority, because it proposes to establish Class E airspace sufficient to contain aircraft executing instrument procedures at Arctic Village Airport and represents the FAA's continuing effort to safely and efficiently manage the navigable airspace.

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

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, 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 Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 1004, and effective September 16, 2004, is to be amended as follows:

* * * * *

*Paragraph 6005 Class E airspace extending upward from 700 or more above the surface of the earth.*

* * * * *

**AAL AK E5 Artic Village, AK [New]**

Artic Village Airport, AK

(Lat. 68°06′53″ N., long. 145°34′46″ W.)

That airspace extending upward from 700 ft. above the surface within a 6.4 nautical mile (NM) radius of the Arctic Village Airport and within 3 NM each side of the 040° bearing from the Arctic Village airport extending from the 6.4 NM radius to 14.8 NM North of the airport and that airspace extending upward from 1,200 ft. above the surface within a 65 NM radius of airport.

* * * * *

Issued in Anchorage, AK, on August 30, 2005.

**Joseph Rollins,**

*Acting Director, Alaska Flight Services Area Office.*

[FR Doc. 05–17836 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2005–22023; Airspace Docket No. 05–AAL–22]**

## Proposed Revision of Class E Airspace; Egegik, AK

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to revise Class E airspace at Egegik, AK to the size necessary to contain aircraft executing Standard Instrument Approach Procedures (SIAP). Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) above the surface at Egegik, Alaska.

**DATES:** Comments must be received on or before October 24, 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–2005–22023/ Airspace Docket No. 05–AAL–22, 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 the office of the Manager, Safety, Alaska Flight Services Operations,

Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or argument as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–22023/Airspace Docket No. 05–AAL–22.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of Notice of Proposed Rulemaking's (NPRM's)**

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Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), by revising Class E airspace at Egegik, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 feet (ft.) above the surface to a 6.5 nautical mile (NM) radius of the Egegik Airport.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two SIAPs for the Egegik Airport. The two approaches are: (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 12, Amendment (AMDT) 1, original, and (2) RNAV (GPS) RWY 30, AMDT 1, original. Revision of Class E controlled airspace extending upward from 700 ft above the surface is needed to provide air traffic control services and would be created by this action. The proposed airspace is sufficient to contain aircraft executing the SIAPs for the Egegik Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority, because it proposes to revise Class E airspace sufficient to contain aircraft executing instrument procedures at Egegik Airport and represents the FAA's continuing effort to safely and efficiently manage the navigable airspace.

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

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, 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 Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, is to be amended as follows:

* * * * *

*Paragraph 6005 Class E airspace extending upward from 700 or more above the surface of the earth.*

* * * * *

**AAL AK E5 Egegik, AK [Revised]**

Egegik Airport, AK

(Lat. 58°11′08″ N., long. 157°22′32″ W.)

That airspace extending upward from 700 feet (ft.) above the surface within a 6.5 nautical mile (NM) radius of the Egegik Airport.

* * * * *

Issued in Anchorage, AK, on August 30, 2005.

**Joseph Rollins,**

*Acting Director, Alaska Flight Services Area Office.*

[FR Doc. 05–17837 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2005–22022; Airspace Docket No. 05–AAL–21]**

## Proposed Revision of Class E Airspace; Nenana, AK

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to revise Class E airspace at Nenana Municipal Airport, AK to the size necessary to contain aircraft executing Standard Instrument Approach Procedures (SIAP) and a Departure Procedure (DP). This action is needed as a result of runway renumbering due to changes in magnetic variation. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) above the surface at Nenana Municipal Airport, Alaska.

**DATES:** Comments must be received on or before October 24, 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–2005–22022/ Airspace Docket No. 05–AAL–21, 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 the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or argument as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–22022/Airspace Docket No. 05–AAL–21.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of Notice of Proposed Rulemaking's (NPRM's)

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### The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), by revising Class E airspace at the Nenana Municipal Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 feet (ft.) above the surface within a 6.5 nautical mile (NM) radius of the Nenana Municipal Airport and within 3 NM each side of the 239° bearing of the Ice Pool NDB extending from the 6.5 NM radius to 10.3 NM West of the airport.

This action is proposed as a result of runway renumbering due to changes in magnetic variation. Revision of Class E controlled airspace extending upward from 700 ft above the surface is needed to provide air traffic control services. The proposed airspace is sufficient to contain aircraft executing the SIAPs and DP for the Nenana Municipal Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as

the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority, because it proposes to revise Class E airspace sufficient to contain aircraft executing instrument procedures at Nenana Municipal Airport and represents the FAA's continuing effort to safely and efficiently manage the navigable airspace.

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

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, 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 Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, is to be amended as follows:

* * * * *

*Paragraph 6005 Class E airspace extending upward from 700 or more above the surface of the earth.*

* * * * *

**AAL AK E5 Nenana, AK [Revised]**

Nenana Municipal Airport, AK
(Lat. 64°32′50″ N., long. 149°04′26″ W.)

That airspace extending upward from 700 feet (ft.) above the surface within a 6.5 nautical mile (NM) radius of the Nenana Municipal Airport and within 3 NM each side of the 239° bearing of the Ice Pool NDB extending from the 6.5 NM radius to 10.3 NM West of the airport.

* * * * *

Issued in Anchorage, AK, on August 30, 2005.

**Joseph Rollins,**

*Acting Director, Alaska Flight Services Area Office.*

[FR Doc. 05–17838 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2005–22094; Airspace Docket No. 05–AAL–28]**

## Proposed Establishment of Class E Airspace; Nikolai, AK

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to establish Class E airspace at Nikolai, AK to the size necessary to contain aircraft executing Standard Instrument Approach Procedures (SIAP). This action is proposed as a result of the development of two new SIAPs. Adoption of this proposal would result in establishing Class E airspace upward from 700 feet (ft.) above the surface at Nikolai, Alaska.

**DATES:** Comments must be received on or before October 24, 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–2005–22094/ Airspace Docket No. 05–AAL–28, 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 the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or argument as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–22094/Airspace Docket No. 05–AAL–28.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of Notice of Proposed Rulemaking's (NPRM's)**

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), by establishing Class E airspace at Nikolai, AK. The intended effect of this proposal is to establish new Class E airspace upward from 700 feet (ft.) above the surface within a 6.4 nautical mile (NM) radius of the Nikolai Airport.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two SIAPs for the Nikolai Airport. The two approaches are: (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 04, original, and (2) RNAV (GPS) RWY 20, original. Class E controlled airspace extending upward from 700 ft above the surface is needed to provide air traffic control services and would be established by this action. The proposed airspace is sufficient to contain aircraft executing the instrument procedures for the Nikolai Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority, because it proposes to establish Class E airspace sufficient to contain aircraft executing instrument procedures at Nikolai Airport and represents the FAA's continuing effort to safely and efficiently manage the navigable airspace.

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

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, 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 Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, is to be amended as follows:

* * * * *

*Paragraph 6005 Class E airspace extending upward from 700 or more feet above the surface of the earth.*

* * * * *

**AAL AK E5 Nikolai, AK [New]**

Nikolai Airport, AK
(Lat. 63°01′07″ N., long. 154°21′30″ W.)

That airspace extending upward from 700 feet (ft.) above the surface within a 6.4 nautical mile (NM) radius of the Nikolai Airport.

* * * * *

Issued in Anchorage, AK, on August 30, 2005.

**Joseph Rollins,**

*Acting Director, Alaska Flight Services Area Office.*

[FR Doc. 05–17839 Filed 9–8–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts 1 and 53

**[REG–111257–05]**

**RIN 1545–BE37**

## Standards for Recognition of Tax-Exempt Status if Private Benefit Exists or If an Applicable Tax-Exempt Organization Has Engaged in Excess Benefit Transaction(s)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations that clarify the substantive requirements for tax exemption under section 501(c)(3) of the Internal Revenue Code (Code). This document also contains provisions that clarify the relationship between the substantive requirements for tax exemption under section 501(c)(3) and the imposition of section 4958 excise taxes.

**DATES:** Written comments and requests for a public hearing must be received by December 8, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–111257–05), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–111257–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the IRS Internet site at *http://www.irs.gov/regs* or the Federal

eRulemaking Portal at *http://www.regulations.gov* (IRS–REG–111257–05). A public hearing may be scheduled if requested.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Galina Kolomietz, (202) 622–4441; Concerning submission of comments and requests for a public hearing, Richard Hurst, (202) 622–7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

## Background

### *A. Section 501(c)(3) and the Regulations Thereunder*

To be described in section 501(c)(3), an organization must be organized and operated exclusively for religious, charitable, scientific, or educational purposes. In addition, no part of the net earnings of the organization may inure to the benefit of any private shareholder or individual, no substantial part of the organization's activities may include attempts to influence legislation, and the organization may not intervene in political campaigns.

Existing regulations under section 501(c)(3) were adopted in substantially their present form in 1959. In explaining and clarifying the statutory requirements, these regulations provide that, to be described in section 501(c)(3), an organization must be both organized and operated for exempt purposes. An organization is not operated exclusively for exempt purposes and, thus, is not described in section 501(c)(3), if any of its net earnings inure to the benefit of a private shareholder or individual. § 1.501(c)(3)–1(c)(2). The regulations define private shareholder or individual as referring to persons having a personal and private interest in the activities of the organization. § 1.501(a)–1(c).

In addition, an organization is not organized or operated for one or more of the exempt purposes enumerated in § 1.501(c)(3)–1(d)(1)(i) and, thus, is not described in section 501(c)(3), if it is organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such interests. § 1.501(c)(3)–1(d)(1)(ii).

These proposed regulations amend the regulations under section 501(c)(3), adding several examples to illustrate the requirement in § 1.501(c)(3)–1(d)(1)(ii) that an organization serve a public rather than a private interest. The examples illustrate that prohibited private benefits may involve non-economic benefits as well as economic benefits. In addition, prohibited private benefit may arise regardless of whether payments made to private interests are reasonable or excessive. The examples reflect current law.

### *B. Section 4958 and the Regulations Thereunder*

Section 4958 was added to the Code by the Taxpayer Bill of Rights 2, Public Law 104–168 (110 Stat. 1452, July 30, 1996). Section 4958 imposes certain excise taxes on transactions that provide excess economic benefits to disqualified persons with respect to public charities and social welfare organizations described in sections 501(c)(3) and 501(c)(4), respectively. These organizations are collectively referred to as *applicable tax-exempt organizations.* Section 4958(e). An excess benefit is the amount by which the value of an economic benefit provided by an applicable tax-exempt organization directly or indirectly to or for the use of a disqualified person exceeds the value of the consideration (including the performance of services) received for providing such benefit. § 53.4958–1(b). A disqualified person is defined as a person who is in a position to exercise substantial influence over the affairs of an applicable tax-exempt organization. Section 4958(f)(1). Section 4958(a) imposes the liability for excise taxes on *disqualified persons* who receive an excess benefit from, and on *certain organization managers* who knowingly participate in, an excess benefit transaction. Section 4958 imposes no corresponding sanctions on *exempt organizations.* The section 4958 excise taxes generally apply to excess benefit transactions occurring on or after September 14, 1995.

On August 4, 1998, a notice of proposed rulemaking (REG–246256–96) clarifying certain definitions and rules contained in section 4958 was published in the **Federal Register** (63 FR 41486). Those 1998 proposed regulations were revised in response to written and oral comments and replaced by temporary and proposed regulations on January 10, 2001 (TD 8920, 66 FR 2144, and REG–246256–96, 66 FR 2173). Final regulations under section 4958 were published on January 23, 2002 (TD 8978, 67 FR 3076).

### *C. History of the Relationship Between Section 4958 Taxes and Tax-Exempt Status*

Section 501(c)(3) and the longstanding regulations thereunder establish certain tests that an organization must meet to qualify for tax-exempt status. § 1.501(c)(3)–1(a)(1). Section 4958, by its terms, does not address the tax-exempt status of applicable tax-exempt organizations, but instead imposes excise tax liability on disqualified persons and certain organization managers.

In the 1996 House Report on section 4958, Congress briefly addressed the relationship between section 4958 and tax-exempt status. Specifically, the Report stated that these ''intermediate sanctions for excess benefit transactions may be imposed by the IRS in lieu of (*or in addition to*) revocation of the organization's tax-exempt status.'' H. Rep. No. 104–506, 104th Cong., 2d Sess., at 59 (1996) (emphasis added). The Report also stated, in a footnote, that, in general, revocation of tax-exempt status, with or without the imposition of excise taxes, would occur only if an organization no longer operates as a charitable organization. H. Rep. No. 104–506, 104th Cong., 2d Sess., at 59, note 15.

In keeping with the differences between section 501(c)(3) and section 4958, the Treasury Department and the IRS consistently have taken the position that the imposition of excise taxes under section 4958 does not foreclose revocation of tax-exempt status in appropriate cases. The 1998 proposed regulations under section 4958 stated that ''[t]he excise taxes imposed by section 4958 do not affect the substantive statutory standards for tax exemption under section 501(c)(3) or (4).'' Proposed § 53.4958–7(a), (63 FR 41,505). Both the 2001 temporary and the 2002 final regulations stated that—

> Section 4958 does not affect the substantive standards for tax exemption under section 501(c)(3) or (4), including the requirements that the organization be organized and operated exclusively for exempt purposes, and that no part of its net earnings inure to the benefit of any private shareholder or individual. Thus, regardless of whether a particular transaction is subject to excise taxes under section 4958, existing principles and rules may be implicated, such as the limitation on private benefit. (26 CFR 53.4958–8(a)).

The preamble to the 1998 proposed regulations under section 4958 stated that the IRS will exercise its administrative discretion in enforcing the requirements of sections 4958, 501(c)(3), and 501(c)(4). The preamble to the 1998 proposed regulations listed the following four factors the IRS will consider in determining whether an applicable tax-exempt organization described in section 501(c)(3) continues to be described in section 501(c)(3) in cases in which section 4958 excise taxes are also imposed: (1) Whether the organization has been involved in repeated excess benefit transactions; (2) the size and the scope of the excess

benefit transactions; (3) whether, after concluding that it has been party to an excess benefit transaction, the organization has implemented safeguards to prevent future recurrences; and (4) whether there was compliance with other applicable laws. (63 FR 41,488 through 41,489).

The preamble to the 2001 temporary regulations stated that the IRS intends to publish guidance regarding the factors it will consider as it gains more experience in administering section 4958. The preamble to the 2002 final regulations stated that, until such guidance is published, the IRS will consider all relevant facts and circumstances in the administration of section 4958 cases. These proposed regulations amend the regulations under section 501(c)(3) to provide guidance on certain factors that the IRS will consider in determining whether an applicable tax-exempt organization described in section 501(c)(3) that engages in one or more excess benefit transactions continues to be described in section 501(c)(3).

*D. Section 4958 and Application for Recognition of Tax-Exempt Status Under Section 501(c)(3)*

Section 4958 and the regulations thereunder do not apply to organizations that are not applicable tax-exempt organizations as defined therein. These proposed regulations amend the regulations under section 4958 to clarify that the IRS has discretion to refuse to issue a ruling recognizing exemption under section 501(c)(3) to any applicant whose purpose or activities violate any provision of section 501(c)(3), including the inurement prohibition and the limitation on private benefit, even though such violation could serve as grounds for imposing section 4958 excise taxes if the applicant's tax-exempt status were recognized.

*E. Proposed Effective Date*

These regulations are proposed to be applicable on the date of publication in the **Federal Register** of a Treasury Decision adopting them as final regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this notice of proposed rulemaking, and because this notice of proposed rulemaking does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place will be published in the **Federal Register**.

**Drafting Information**

The principal authors of these regulations are Galina Kolomietz and Phyllis Haney, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects**

*26 CFR Part 1*

Income taxes, Reporting and recordkeeping requirements.

*26 CFR Part 53*

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR parts 1 and 53 are proposed to be amended as follows:

## PART 1—INCOME TAXES

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

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

**Par. 2.** In § 1.501(c)(3)–1, paragraph (d)(1)(iii) is redesignated as paragraph (d)(1)(iv).

**Par. 3.** In § 1.501(c)(3)–1, paragraphs (d)(1)(iii) and (g) are added to read as follows:

**§ 1.501(c)(3)–(1) Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.**

* * * * *

(d) * * *

(1) * * *

(iii) *Examples.* The following examples illustrate the requirement of paragraph (d)(1)(ii) of this section that an organization serve a public rather than a private interest:

*Example 1.* (i) O is an educational organization the purpose of which is to study history and immigration. The focus of O's historical studies is the genealogy of one family, tracing the descent of its present members. O actively solicits for membership only individuals who are members of that one family. O's research is directed toward publishing a history of that family that will document the pedigrees of family members. A major objective of O's research is to identify and locate living descendants of that family to enable those descendants to become acquainted with each other.

(ii) O's educational activities primarily serve the private interests of members of a single family rather than a public interest. Therefore, O is operated for the benefit of private interests in violation of the restriction on private benefit in § 1.501(c)(3)–1(d)(1)(ii). Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

*Example 2.* (i) O is an art museum. O's sole activity is exhibiting art created by a group of unknown but promising local artists. O is governed by a board of trustees unrelated to the artists whose work O exhibits. All of the art exhibited is offered for sale at prices set by the artist. Each artist whose work is exhibited has a consignment arrangement with O. Under this arrangement, when art is sold, the museum retains 10 percent of the selling price to cover the costs of operating the museum and gives the artist 90 percent.

(ii) The artists in this situation directly benefit from the exhibition and sale of their art. As a result, the sole activity of O serves the private interests of these artists. Because O gives 90 percent of the proceeds from its sole activity to the individual artists, the direct benefits to the artists are substantial and O's provision of these benefits to the artists is more than incidental to its other purposes and activities. This arrangement causes O to be operated for the benefit of private interests in violation of the restriction on private benefit in § 1.501(c)(3)–1(d)(1)(ii). Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

*Example 3.* (i) O is an educational organization the purpose of which is to train individuals in a program developed by P, O's president. All of the rights to the program are owned by Company K, a for-profit corporation owned by P. Prior to the existence of O, the teaching of the program was conducted by Company K. O licenses, from Company K, the right to use a reference

to the program in O's name and the right to teach the program, in exchange for specified royalty payments. Under the license agreement, Company K provides O with the services of trainers and with course materials on the program. O may develop and copyright new course materials on the program but all such materials must be assigned to Company K without consideration if the license agreement is terminated. Company K sets the tuition for the seminars and lectures on the program conducted by O. O has agreed not to become involved in any activity resembling the program or its implementation for 2 years after the termination of O's license agreement.

(ii) O's sole activity is conducting seminars and lectures on the program. This arrangement causes O to be operated for the benefit of P and Company K in violation of the restriction on private benefit in § 1.501(c)(3)–1(d)(1)(ii), regardless of whether the royalty payments from O to Company K for the right to teach the program are reasonable. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

* * * * *

(g) *Interaction with section 4958*—(1) *Application process.* An organization that applies for recognition of exemption under section 501(a) as an organization described in section 501(c)(3) must establish its eligibility under this section. The Commissioner may deny an application for exemption for failure to establish any of this section's requirements for exemption. Section 4958 does not apply to transactions with an organization that has failed to establish that it satisfies all of the requirements for exemption under section 501(c)(3). See § 53.4958–2 of this chapter.

(2) *Substantive requirements for exemption still apply to applicable tax-exempt organizations described in section 501(c)(3)*—(i) *In general.* Regardless of whether a particular transaction is subject to excise taxes under section 4958, the substantive requirements for tax exemption under section 501(c)(3) still apply to an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2 of this chapter) described in section 501(c)(3) whose disqualified persons or organization managers are subject to excise taxes under section 4958. Accordingly, an organization may no longer meet the requirements for tax-exempt status under section 501(c)(3) because the organization fails to satisfy the requirements of paragraph (b), (c) or (d) of this section. See § 53.4958–8(a) of this chapter.

(ii) *Determining whether revocation of tax-exempt status is appropriate when section 4958 excise taxes also apply.* In determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2 of this chapter) described in section 501(c)(3) that engages in one or more excess benefit transactions (as defined in section 4958(c) and § 53.4958–4 of this chapter) that violate the prohibition on inurement under this section, the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following—

(A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;

(B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;

(C) Whether the organization has been involved in repeated excess benefit transactions;

(D) Whether the organization has implemented safeguards that are reasonably calculated to prevent future violations; and

(E) Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) and § 53.4958–7 of this chapter), or the organization has made good faith efforts to seek correction from the disqualified persons who benefited from the excess benefit transaction.

(iii) All factors will be considered in combination with each other. Depending on the particular situation, the Commissioner may assign greater or lesser weight to some factors than to others. The factors listed in paragraphs (g)(2)(ii)(D) and (E) of this section will weigh more strongly in favor of continuing to recognize exemption where the organization discovers the excess benefit transaction or transactions and takes action before the Commissioner discovers the excess benefit transaction or transactions. Further, with respect to the factor listed in paragraph (g)(2)(ii)(E) of this section, correction after the excess benefit transaction or transactions are discovered by the Commissioner, by itself, is never a sufficient basis for continuing to recognize exemption.

(iv) *Examples.* The following examples illustrate the principles of paragraph (g)(2)(ii) of this section. For purposes of each example, assume that O is an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2 of this chapter) described in section 501(c)(3) for all relevant periods. The examples are as follows:

*Example 1.* (i) O was created as a museum for the purpose of exhibiting art to the general public. In Years 1 and 2, O engages in fundraising and in selecting, leasing, and preparing an appropriate facility for a museum. In Year 3, a new board of trustees is elected. All of the new trustees are local art dealers. Beginning in Year 3 and continuing to the present, O uses almost all of its revenues to purchase art solely from its trustees at prices that exceed fair market value. O exhibits and offers for sale all of the art it purchases. O's Form 1023, ''Application for Recognition of Exemption,'' did not disclose the possibility that O's trustees would be selling art to O.

(ii) O's purchases of art from its trustees at more than fair market value constitute excess benefit transactions between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, these transactions are subject to the appropriate excise taxes provided in that section. In addition, O's purchases of art from its trustees at more than fair market value violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2).

(iii) The application of the factors in § 1.501(c)(3)–1(g)(2)(ii) to these facts is as follows. Beginning in Year 3, O does not engage in any regular and ongoing activities that further exempt purposes because almost all of O's activities consist of purchasing art from its trustees and exhibiting and offering for sale all of the art it purchases. The size and scope of the excess benefit transactions collectively are significant in relation to the size and scope of any of O's ongoing activities that further exempt purposes. O has been involved in repeated excess benefit transactions, namely, purchases of art from its trustees at more than fair market value. O has not implemented safeguards that are reasonably calculated to prevent such improper purchases in the future. The excess benefit transactions have not been corrected, nor has O made good faith efforts to seek correction from the disqualified persons who benefited from the excess benefit transactions (the trustees). The trustees continue to control O's Board. Based on the application of the factors to these facts, O is no longer described in section 501(c)(3) effective in Year 3.

*Example 2.* (i) The facts are the same as in *Example 1,* except that in Year 4, O's entire board of trustees resigns, and O no longer offers all exhibited art for sale. The former board is replaced with members of the community who are not in the business of buying or selling art and who have skills and experience running educational programs and institutions. O promptly discontinues the practice of purchasing art from current or former trustees, adopts a written conflicts of interest policy, adopts written art valuation guidelines, hires legal counsel to recover the excess amounts O had paid its former trustees, and implements a new program of educational activities.

(ii) O's purchases of art from its former trustees at more than fair market value constitute excess benefit transactions

between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, these transactions are subject to the appropriate excise taxes provided in that section. In addition, O's purchases of art from its trustees at more than fair market value violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2).

(iii) The application of the factors in § 1.501(c)(3)–1(g)(2)(ii) to these facts is as follows. In Year 3, O does not engage in any regular and ongoing activities that further exempt purposes. However, in Year 4, O elects a new board of trustees comprised of individuals who have skills and experience running educational programs and implements a new program of educational activities. As a result of these actions, beginning in Year 4, O engages in regular and ongoing activities that further exempt purposes. The size and scope of the excess benefit transactions that occurred in Year 3, taken collectively, are significant in relation to the size and scope of O's regular and ongoing exempt function activities that were conducted in Year 3. Beginning in Year 4, however, as O's exempt function activities are established and grow, the size and scope of the excess benefit transactions that occurred in Year 3 become less and less significant as compared to the size and extent of O's regular and ongoing exempt function activities that began in Year 4 and continued thereafter. O was involved in repeated excess benefit transactions in Year 3. However, by discontinuing its practice of purchasing art from its current and former trustees, by replacing its former board with independent members of the community, and by adopting a conflicts of interest policy and art valuation guidelines, O has implemented safeguards that are reasonably calculated to prevent future violations. In addition, O has made a good faith effort to seek correction from the disqualified persons who benefited from the excess benefit transactions (its former trustees). Based on the application of the factors to these facts, O continues to meet the requirements for tax exemption under section 501(c)(3).

*Example 3.* (i) O conducts educational programs for the benefit of the general public. Since its formation, O has employed its founder, C, as its Chief Executive Officer. Beginning in Year 5 of O's operations and continuing to the present, C caused O to divert significant portions of O's funds to pay C's personal expenses. The diversions by C significantly reduced the funds available to conduct O's ongoing educational programs. The board of trustees never authorized C to cause O to pay C's personal expenses from O's funds. Certain members of the board were aware that O was paying C's personal expenses. However, the board did not terminate C's employment and did not take any action to seek repayment from C or to prevent C from continuing to divert O's funds to pay C's personal expenses. C claimed that O's payments of C's personal expenses represented loans from O to C. However, no contemporaneous loan documentation exists, and C never made any payments of principal or interest.

(ii) The diversions of O's funds to pay C's personal expenses constituted excess benefit transactions between an applicable tax-exempt organization and a disqualified person under section 4958. Therefore, these transactions are subject to the appropriate excise taxes provided in that section. In addition, these transactions violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2).

(iii) The application of the factors in § 1.501(c)(3)–1(g)(2)(ii) to these facts is as follows. O has engaged in regular and ongoing activities that further exempt purposes both before and after the excess benefit transactions occurred. However, the size and scope of the excess benefit transactions engaged in by O beginning in Year 5, collectively, are significant in relation to the size and scope of O's activities that further exempt purposes. Moreover, O has been involved in repeated excess benefit transactions. O has not implemented any safeguards that are reasonably calculated to prevent future diversions. The excess benefit transactions have not been corrected, nor has O made good faith efforts to seek correction from C, the disqualified person who benefited from the excess benefit transactions. Based on the application of the factors to these facts, O is no longer described in section 501(c)(3) effective in Year 5.

*Example 4.* (i) O conducts activities that further exempt purposes. O employs C as its Chief Executive Officer. C, on behalf of O, entered into a contract with Company K to construct an addition to O's existing building. The addition to O's building is a significant undertaking in relation to O's other activities. C owns all of the voting stock of Company K. Under the contract, O paid Company K an amount that substantially exceeded the fair market value of the services Company K provided. When O's board of trustees approved the contract with Company K, the board did not perform due diligence that could have made it aware that the contract price for Company K's services was excessive. Subsequently, but before the IRS commences an examination of O, O's board of trustees determines that the contract price was excessive. Thus, O concludes that an excess benefit transaction has occurred. After the board makes this determination, it promptly removes C as Chief Executive Officer, terminates C's employment with O, and hires legal counsel to recover the excess payments to Company K. In addition, O promptly adopts a conflicts of interest policy and significant new contract review procedures designed to prevent future recurrences of this problem.

(ii) The purchase of services by O from Company K at more than fair market value constitutes an excess benefit transaction between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, this transaction is subject to the appropriate excise taxes provided in that section. In addition, this transaction violates the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2).

(iii) The application of the factors in § 1.501(c)(3)–1(g)(2)(ii) to these facts is as follows. O has engaged in regular and ongoing activities that further exempt purposes both before and after the excess benefit transaction occurred. Although the size and scope of the excess benefit transaction were significant in relation to the size and scope of O's activities that further exempt purposes, the transaction with Company K was a one-time occurrence. By adopting a conflicts of interest policy and significant new contract review procedures and by terminating C, O has implemented safeguards that are reasonably calculated to prevent future violations. Moreover, O took corrective actions before the IRS commenced an examination of O. In addition, O has made a good faith effort to seek correction from Company K, the disqualified person who benefited from the excess benefit transaction. Based on the application of the factors to these facts, O continues to be described in section 501(c)(3).

*Example 5.* (i) O is a large organization with substantial assets and revenues. O conducts activities that further exempt purposes. O employs C as its Chief Financial Officer. During Year 1, O pays $2,500 of C's personal expenses. O does not make these payments under an accountable plan under § 53.4958–4(a)(4) of this chapter. In addition, O does not report any of these payments on C's Form W–2, ''Wage and Tax Statement,'' or on a Form 1099–MISC, ''Miscellaneous Income,'' for C for Year 1, and O does not report these payments as compensation on its Form 990, ''Return of Organization Exempt From Income Tax,'' for Year 1. Moreover, none of these payments can be disregarded under section 4958 as nontaxable fringe benefits and none consisted of fixed payments under an initial contract under § 53.4958–4(a)(3) of this chapter. C does not report the $2,500 of payments as income on his individual federal income tax return for Year 1. O does not repeat this reporting omission in subsequent years and, instead, reports all payments of C's personal expenses not made under an accountable plan as income to C.

(ii) O's payment in Year 1 of $2,500 of C's personal expenses constitutes an excess benefit transaction between an applicable tax-exempt organization and a disqualified person under section 4958. Therefore, this transaction is subject to the appropriate excise taxes provided in that section. In addition, this transaction violates the proscription against inurement in section 501(c)(3) and § 1.501(c)(3)–1(c)(2).

(iii) The application of the factors in § 1.501(c)(3)–1(g)(2)(ii) to these facts is as follows. O engages in regular and ongoing activities that further exempt purposes. The payment of $2,500 of C's personal expenses represented only a *de minimis* portion of O's assets and revenues; thus, the size and scope of the excess benefit transaction were not significant in relation to the size and scope of O's activities that further exempt purposes. The reporting omission that resulted in the excess benefit transaction in Year 1 is not repeated in subsequent years. Based on the application of the factors to these facts, O continues to be described in section 501(c)(3).

(3) *Effective date.* The rules in paragraph (g) of this section will apply with respect to excess benefit

transactions occurring after the date of publication in the **Federal Register** of a Treasury Decision adopting these rules as final regulations.

## PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

**Par. 3.** The authority citation for part 53 continues to read, in part, as follows:

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

**Par. 4.** In § 53.4958–2, paragraph (a)(6) is added to read as follows:

**§ 53.4958–2 Definition of applicable tax-exempt organization.**

(a) * * *

(6) *Examples.* The following examples illustrate the principles of this section, which defines an applicable tax-exempt organization for purposes of section 4958:

*Example 1.* O is a nonprofit corporation formed under state law. O filed its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). In its application, O described its plans for purchasing property from some of its directors at prices that would exceed fair market value. After reviewing the application, the IRS determined that because of the proposed property purchase transactions, O failed to establish that it met the requirements for an organization described in section 501(c)(3). Accordingly, the IRS denied O's application. While O's application was pending, O engaged in the purchase transactions described in its application at prices that exceeded the fair market value of the property. Although these transactions would constitute excess benefit transactions under section 4958, because the IRS never recognized O as an organization described in section 501(c)(3), O was never an applicable tax-exempt organization under section 4958. Therefore, these transactions are not subject to the excise taxes provided in section 4958.

*Example 2.* O is a nonprofit corporation formed under state law. O files its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). The IRS issues a favorable determination letter in Year 1 that recognizes O as an organization described in section 501(c)(3). Subsequently, in Year 5 of O's operations, O engages in certain transactions that constitute excess benefit transactions under section 4958 and violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2). The IRS examines the Form 990, ''Return of Organization Exempt From Income Tax'', that O filed for Year 5. After considering all the relevant facts and circumstances in accordance with § 1.501(c)(3)–1(g), the IRS concludes that O is no longer described in section 501(c)(3) effective in Year 5. The IRS does not examine the Forms 990 that O filed for its first four years of operations and, accordingly, does not revoke O's exempt status for those years. Although O's tax-exempt status is revoked effective in Year 5, under the *lookback* rules in § 53.4958–2(a)(1) and § 53.4958–3(a)(1) of this chapter, for a period of five years prior to the excess benefit transactions that occurred in Year 5, O was an applicable tax-exempt organization and O's directors were disqualified persons as to O. Therefore, the transactions between O and its directors during Year 5 are subject to the appropriate excise taxes provided in section 4958.

* * * * *

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05–17858 Filed 9–8–05; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[USCG–2005–22362; Formerly CGD08–05–046]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; Gulf Intracoastal Waterway, West Larose, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; change of address and docket number for comments.

**SUMMARY:** On September 2, 2005, the Coast Guard published a notice and requested comments on a proposed change to regulations governing the operation of the SR 1 (West Larose) vertical lift bridge across the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, at Larose, Louisiana. The proposed rule would change the bridge's schedule so that it would remain closed to navigation at various times on weekdays during the school year to facilitate the safe, efficient movement of staff, students and other residents within the parish. That notice was issued August 26, 2005, before Hurricane Katrina struck New Orleans and caused that city to be flooded. We have changed the address and docket number where comments on the proposed rule should be sent because of flood conditions in New Orleans.

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

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2005–22362 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

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

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

(3) Fax: 202–493–2251.

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

(5) Federal eRulemaking Portal: *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Roger Wiebusch, Bridge Administration Branch, telephone 314 539–3900, ext. 2378.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2005–22362), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Change of Address and Docket

The notice of proposed rulemaking published September 2, 2005 (70 FR 52343) entitled, ''Drawbridge Operation Regulation; Gulf Intracoastal Waterway, West Larose, LA'', listed an address in New Orleans, LA, as the place to send your comments on the proposed rule. That rulemaking notice was issued August 26, 2005, before Hurricane Katrina struck New Orleans and flooded that city. We have changed the location for receiving comments because of flood conditions in New Orleans. If you wish to comment on the proposed rule, send your comment to the Docket Management Facility in Washington, DC, by one of the means indicated in the **ADDRESSES** section above in this notice.

With this change of address, we have also changed the docket number to USCG–2005–22362. Please use this new docket number.

Dated: September 2, 2005.

**Stefan G. Venckus,**

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

[FR Doc. 05–17831 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[R05–OAR–2005–IN–0006; FRL–7965–7]**

### Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Evansville Area to Attainment of the 8-Hour Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** On June 2, 2005, the State of Indiana, through the Indiana Department of Environmental Management (IDEM), submitted: A request for the EPA to redesignate the area of Evansville (Vanderburgh and Warrick Counties) from nonattainment to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS); and a request for EPA approval of an Indiana State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the Evansville area. EPA is proposing to approve the State's request to redesignate the Evansville area to attainment of the 8-hour ozone NAAQS. EPA's proposed approval of the redesignation request is based on the determination that the Evansville area and the State of Indiana have met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the Evansville area has attained the 8-hour ozone standard. In conjunction with the proposed approval of the redesignation request for the Evansville area, EPA is proposing to approve the State's plan to maintain the attainment of the 8-hour ozone NAAQS through 2015 in this area as a revision to the Indiana SIP. EPA is also proposing to approve 2015 Volatile Organic Compounds (VOC) and Oxides of Nitrogen ($NO_X$) Motor Vehicle Emissions Budgets (MVEBs), which are supported by and consistent with the 10-year maintenance plan for this area, for purposes of transportation conformity.

**DATES:** Comments must be received on or before October 11, 2005.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2005–IN–0006, by one of the following methods:

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

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

E-mail: *mooney.john@epa.gov.*

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to RME ID No. R05–OAR–2005–IN–0006. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, and may be made available online at *http://docket.epa.gov/rmepub/,* unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

*Docket:* All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057, before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. EPA's Proposed Actions
  A. What Actions Is EPA Proposing to Take?
  B. Do These Actions Apply to Me?
  C. What Is the Background for These Proposed Actions?
II. What Are the Criteria for Redesignation to Attainment?
III. What Is the Effect of EPA's Actions?
IV. What Is EPA's Analysis of the State's Request?
V. Has Indiana Adopted Acceptable Motor Vehicle Emissions Budgets for the End of the 10-Year Maintenance Plan (for 2015) Which Can Be Used to Support Conformity Determinations?
  A. How Are the MVEBs Developed and What Are the MVEBs for the Evansville Area?
  B. What Is a Safety Margin?
  C. Are the MVEBs Approvable?
VI. Statutory and Executive Order Reviews

## I. EPA's Proposed Actions

### *A. What Actions Is EPA Proposing to Take?*

EPA is proposing to take two related actions. First, EPA is proposing to determine that the Evansville, Indiana ozone nonattainment area (Vanderburgh and Warrick Counties) has attained the 8-hour ozone NAAQS, and that it has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is, therefore, proposing to approve a request from the State of Indiana to change the designation of the Evansville area from nonattainment to attainment for the 8-hour ozone NAAQS.

Second, EPA is proposing to approve Indiana's ozone maintenance plan, as a requested SIP revision, for this area. The maintenance plan is designed to keep the Evansville area in attainment of the 8-hour ozone NAAQS for the next 10 years, through 2015. As supported by and consistent with the ozone maintenance plan, EPA is proposing to approve the 2015 VOC and $NO_X$ MVEBs for the Evansville area for conformity purposes.

### *B. Do These Actions Apply to Me?*

These proposed actions pertain to the designation of the Evansville area for the 8-hour ozone NAAQS and to the emission controls in this area and in its upwind environs related to attainment and maintenance of the 8-hour ozone NAAQS. The emissions of concern are VOC and $NO_X$. If you own or operate a VOC or $NO_X$ emissions source in the Evansville area or live in this area, this proposed rule may impact or apply to you. It may also impact you if you are involved in transportation planning or implementation of emission controls in the Evansville area.

### *C. What Is the Background for These Proposed Actions?*

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, the EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)).[1] This 8-hour ozone standard replaces a prior 1-hour ozone NAAQS, which had been promulgated on February 8, 1979 (44 FR 8202), and which was revoked on June 15, 2005. Ground-level ozone is not emitted directly by sources. Rather, emitted $NO_X$ and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. $NO_X$ and VOC are referred to as ''ozone precursors.''

The CAA required EPA to designate as nonattainment any area that violated the 8-hour ozone NAAQS based on the three most recent years of air quality data (2001–2003 ozone data were considered for the initial 8-hour ozone designations). The **Federal Register** notice making these designations was signed on April 15, 2004, and was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. (Both are found in title I, part D of the CAA.) Subpart 1 contains general, less prescriptive requirements for nonattainment areas for any pollutant, including ozone, governed by any NAAQS, and applies to all nonattainment areas. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA. Subpart 1 nonattainment areas, those areas not classified under section 181 of the CAA, are subject only to the provisions of subpart 1. Subpart 2 nonattainment areas, however, are subject to the provisions of subpart 2, as well as to provisions of subpart 1 (many of the requirements in subpart 1 are superseded by the more stringent requirements of subpart 2).

In the April 30, 2004 designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment and subpart 2 nonattainment based on their 8-hour ozone design values (*i.e.*, the three-year average annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the designated areas) and their 1-hour ozone design values (*i.e.*, the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas).[2] 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 121 ppb were designated as classified nonattainment areas (as nonattainment areas required to meet the requirements of subpart 2 of the CAA). All other 8-hour nonattainment areas were designated as basic nonattainment areas (as ozone nonattainment areas required to meet the requirements of subpart 1 only).

In the April 30, 2004 designation/classification rulemaking, the Evansville area was designated as nonattainment for the 8-hour ozone standard, and was identified as a subpart 1 nonattainment area.[3] This designation was based on ozone data collected in the Evansville area during the 2001–2003 period.

On June 2, 2005, the State of Indiana requested redesignation of the Evansville area to attainment for the 8-hour ozone NAAQS based on ozone data collected during the 2002–2004 period. Today's proposed rule addresses this redesignation request.

## II. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emissions reductions resulting from implementation of the applicable SIP, applicable Federal air pollution control regulations, and other permanent and enforceable emissions reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and, (5) the state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA provided further guidance on processing redesignation requests in the following documents:

''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June 18, 1990;

''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide

[1] This standard is violated in an area when any ozone monitor in the area (or in its impacted downwind environs) records 8-hour ozone concentrations with an average of the annual fourth-highest daily maximum 8-hour ozone concentrations over a three-year period equaling or exceeding 85 ppb.

[2] The 8-hour ozone design value and 1-hour ozone design value for each area were not necessarily recorded at the same monitoring site. The worst-case monitoring site for each concentration averaging time was considered for each area.

[3] Because this area was not violating the 1-hour ozone NAAQS, with a 1-hour ozone design value below the 121 ppb cutoff, at the time of the promulgation of the 8-hour ozone designations and classifications, EPA determined that this area should be addressed through the less prescriptive requirements of subpart 1 of the Clean Air Act rather than through the more prescriptive requirements of subpart 2 of the Clean Air Act.

Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;

''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

''Technical Support Documents (TSD's) for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

''Part D New Soure Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and,

''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

## III. What Is the Effect of EPA's Actions?

Approval of this redesignation request would change the official designation of the Evansville area for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Indiana SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2015. The maintenance plan includes contingency measures to remedy possible future violations of the 8-hour ozone NAAQS, and establishes MVEB's of 4.20 tons per day (tpd) for VOC, and 5.40 tpd for $NO_X$.

## IV. What Is EPA's Analysis of the State's Request?

EPA is proposing to: (1) Determine that the Evansville area has attained the 8-hour ozone standard and approve the redesignation of the Evansville area to attainment of the 8-hour ozone NAAQS; and, (2) approve the ozone maintenance plan for this area. The bases for our proposed determination and approvals are as follows:

*1. The Evansville Area Has Attained the 8-Hour Ozone NAAQS*

EPA is proposing to determine that the Evansville area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations of the NAAQS, as determined in accordance with 40 CFR 50.10 and Appendix I, based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at any monitoring site in the area. To attain this standard, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations measured at each monitor (the monitoring site's ozone design value) within the area (or in its downwind environs) over the 3-year period must not exceed the ozone standard. Based on the rounding convention described in 40 CFR part 50, appendix I, the 8-hour ozone standard is attained if the area's ozone design value is 0.084 ppm or lower. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA's Aerometric Information Retrieval System (AIRS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required for demonstrating attainment (for three years or more).

As part of the June 2, 2005 ozone redesignation request, IDEM submitted summarized ozone monitoring data indicating the top four daily maximum 8-hour ozone concentrations for each monitoring site for each year during the 2002–2004 period. These summarized worst-case ozone concentrations are part of the quality-assured ozone data collected in the Evansville area. These data have been entered into EPA's AIRS. The fourth high 8-hour daily maximum concentrations, along with their three-year averages are summarized in Table 1.

TABLE 1.—FOURTH-HIGH 8-HOUR OZONE CONCENTRATIONS IN PARTS PER BILLION (PPB)

| County | Monitoring site | 2002 | 2003 | 2004 | Average fourth-high concentration |
|---|---|---|---|---|---|
| Vanderburgh | Evansville | 95 | 81 | 72 | 82 |
| Vanderburgh | Inglefield | 86 | 75 | 57 | 73 |
| Warrick | Yankeetown | 94 | 82 | 74 | 83 |
| Warrick | Boonville | 91 | 76 | 72 | 79 |
| Warrick | Lynville | 90 | 78 | 64 | 77 |

These data show that the ozone design values (averaged fourth-high daily maximum 8-hour concentrations) for the monitoring sites are all below the 84 ppb ozone standard violation cut-off. These data support the conclusion that the Evansville area did not experience a monitored violation of the 8-hour ozone standard during the 2002–2004 period. Preliminary data through July of the 2005 ozone season show that the area continues to attain the 8-hour ozone standard.

As discussed below with respect to the ozone maintenance plan, Indiana has committed to continue ozone monitoring in this area. IDEM commits to consult with the EPA prior to making any changes to the existing monitoring network.

EPA believes that the data submitted by Indiana provide an adequate demonstration that the Evansville area has attained the 8-hour ozone NAAQS. Therefore, we propose to find that the Evansville area has attained the 8-hour ozone standard.

*2. The Evansville Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and the Area Has a Fully Approved SIP Under Section 110(k) of the CAA*

EPA has determined that Indiana has met all currently applicable SIP requirements for the Evansville area under section 110 of the CAA (general SIP requirements). EPA has also determined that the Indiana SIP meets currently applicable SIP requirements under part D of title I of the CAA (requirements specific to subpart 1 nonattainment areas). See section 107(d)(3)(E)(v) of the CAA. In addition, EPA has determined that the SIP is fully approved with respect to all applicable requirements. See section 107(d)(3)(E)(ii) of the CAA. In making these determinations, EPA ascertained what requirements are applicable to the area, and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

a. *The Evansville area has met all applicable requirements under section 110 and part D of the CAA.* The September 4, 1992 Calcagni memorandum (see ''Procedures for Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, to qualify for redesignation of an area to attainment, the state and the area must meet the relevant CAA requirements that come due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993 Shapiro memorandum and 66 FR 12459, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete redesignation request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

*General SIP requirements:* Section 110(a) of title I of the CAA contains the general requirements for a SIP, which include: enforceable emission limitations and other control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the emission limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements and SIP elements include, but are not limited to, the following: (a) Submittal of a SIP that has been adopted by the state after reasonable public notice and a hearing; (b) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (c) implementation of a source permit program; (d) provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and part D requirements (New Source Review (NSR)) for new sources or major source modifications; (e) criteria for stationary source emission control measures, monitoring, and reporting; (f) provisions for air quality modeling; and (g) provisions for public and local agency participation.

SIP requirements and SIP elements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993. See also other guidance documents listed above.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants ($NO_X$ SIP call, Clean Air Interstate Rule (CAIR)). EPA has also found, generally, that states have not submitted SIPs under section 110(a)(1) to meet the interstate transport requirements of section 110(a)(2)(D)(i) (70 FR 21147, April 25, 2005). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

We believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh ozone redesignation (66 FR 50399, October 19, 2001). Finally, Indiana's submission under the CAIR rule is not due until September 2006.

We believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Nonetheless, we also note that EPA has previously approved provisions in the Indiana SIP addressing section 110 elements under the 1-hour standard. See 40 CFR part 52, subpart P. We believe that the section 110 SIP approved for the 1-hour standard may likely be sufficient to meet requirements under the 8-hour ozone standard, as well. EPA is in the process of further evaluating this question, and will, in the future if necessary, announce whether any additional section 110 SIP

provisions are needed for the Evansville area under the 8-hour ozone standard.

*Part D SIP requirements.* EPA has determined that the Indiana SIP meets applicable SIP requirements under part D of the CAA since no such requirements became due for the 8-hour ozone standard prior to submission of the area's redesignation request. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment area plan requirements applicable to all nonattainment areas. Because the Evansville area is a subpart 1 8-hour ozone nonattainment area and is not classified under subpart 2 of part D of the CAA for the 8-hour ozone standard, subpart 2 of part D of the CAA does not apply to this area.

*Section 172(c) requirements.* For purposes of evaluating this ozone redesignation request, the applicable part D, subpart 1 SIP requirements for the Evansville area are contained in section 172 of the CAA. A thorough discussion of the requirements of section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

No requirements under part D became due prior to submission of the redesignation request, and, therefore, none is applicable to the area for purposes of redesignation. For example, the requirement for an ozone attainment demonstration to meet the requirement of section 172(c)(1) is not yet applicable, nor are the requirements for Reasonably Available Control Measures (RACM) and Reasonably Available Control Technology (RACT) (section 172(c)(1)), Reasonable Further Progress (RFP) (section 172(c)(2)), and contingency measures (section 172(c)(9)).

Since the State of Indiana has submitted a complete ozone redesignation request for the Evansville area prior to the deadline for any submissions, we are proposing to determine that the part D requirements do not apply to the Evansville area for purposes of redesignation.

*Section 176 conformity requirements.* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). State conformity SIP revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate.

In addition to the fact that part D requirements did not become due prior to Indiana's submission of the redesignation request and, therefore, are not applicable, EPA believes that it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the ozone redesignation request under section 107(d) of the CAA because state conformity rules are still required after redesignation of an area to attainment of a NAAQS and Federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida).

EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR, since PSD requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Indiana has demonstrated that the area will be able to maintain the standard without part D NSR in effect, and therefore, EPA concludes that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in the Evansville area upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Thus, the area has satisfied all applicable requirements under section 110 and part D of the CAA.

b. *The Evansville area has a fully approved applicable SIP under section 110(k) of the CAA.* EPA has fully approved the Indiana SIP for the Evansville area under section 110(k) of the CAA for all applicable requirements. EPA may rely on prior SIP approvals in approving a redesignation request (See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001)) plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003). Since the passage of the CAA of 1970, Indiana has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to the Evansville area for purposes of redesignation. No Evansville area SIP provisions are currently disapproved, conditionally approved, or partially approved. As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has also noted that it may well conclude that the section 110 SIP submission approved under the 1-hour standard will be adequate for purposes of the 8-hour standard. EPA also believes that since the part D requirements did not become due prior to submission of the redesignation request, they also are, therefore, not applicable requirements for purposes of redesignation.

*3. The Air Quality Improvement in the Evansville Area Is Due to Permanent and Enforceable Reductions in Emissions From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Emission Reductions*

EPA believes that the State of Indiana has demonstrated that the observed air quality improvement in the Evansville area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures.

In making this demonstration, the State has documented the changes in VOC and $NO_X$ emissions for both the Evansville ozone nonattainment area and for five additional counties [4] (Dubois, Gibson, Pike, Posey, and Spencer) in the Southwestern Indiana

[4] IDEM documented the VOC and $NO_X$ emissions in these five counties at the request of the EPA. Although no analyses or modeling exist demonstrating that these specific emissions significantly contributed to the peak ozone levels in the Evansville area, it is recognized, based on available ozone analyses and modeling for the Midwest, that regional emissions outside of the Evansville area are likely to have significantly contributed to the peak ozone concentrations in the Evansville area. The documentation of the VOC and $NO_X$ emissions for these neighboring counties characterizes the relative magnitude of regional versus local emissions, and, through emission projections (documented in subsequent tables in this proposed rule), the directionality of regional emissions that may also impact future ozone concentrations.

area between 1996, when the Evansville area was monitored with a violation of the 8-hour ozone NAAQS, and 2002, one of the years during the three-year period when the Evansville area monitored attainment of the 8-hour ozone NAAQS. The VOC emissions and $NO_X$ emissions for the Southwestern Indiana area (with the Evansville area emissions given as a sub-portion of the summarized emissions) are given in Tables 2 and 3. The VOC and $NO_X$ emissions for the Evansville ozone nonattainment area and for the remainder of the Southwestern Indiana area have shown significant downward trends between 1996 and 2002. IDEM notes that the emissions in this area are decreasing substantially in response to national emission reduction programs affecting all Electric Generating Units (EGUs), including the acid rain control program and the $NO_X$ SIP Call. A significant number of EGUs exist in the Southwestern Indiana area. Therefore, the national emission control requirements for the EGUs have likely had a significant impact on the $NO_X$ emissions in this area and on the ozone concentrations monitored in the Evansville area. To some extent, these emission controls have also resulted in reductions in VOC emissions from these sources.

TABLE 2.—VOC EMISSIONS IN THE EVANSVILLE AND SOUTHWESTERN INDIANA AREAS—1996–2002 IN TONS PER SUMMER DAY [5]

| County | 1996 | 1999 | 2002 |
|---|---|---|---|
| Vanderburgh/Warrick | 55.54 | 58.28 | 41.13 |
| Dubois | 24.84 | 23.23 | 18.83 |
| Gibson | 11.49 | 11.57 | 13.29 |
| Pike | 4.36 | 4.22 | 4.66 |
| Posey | 14.87 | 13.80 | 10.57 |
| Spencer | 7.38 | 8.68 | 7.39 |
| Southwest Indiana Total | 118.48 | 119.77 | 95.87 |

TABLE 3.—$NO_X$ EMISSIONS IN THE EVANSVILLE AND SOUTHWESTERN INDIANA AREAS—1996–2002 IN TONS PER SUMMER DAY

| County | 1996 | 1999 | 2002 |
|---|---|---|---|
| Vanderburgh/Warrick | 119.72 | 130.40 | 95.42 |
| Dubois | 19.21 | 17.02 | 8.32 |
| Gibson | 143.52 | 163.00 | 140.12 |
| Pike | 81.73 | 66.08 | 64.65 |
| Posey | 36.84 | 48.77 | 38.43 |
| Spencer | 102.75 | 116.44 | 99.27 |
| Southwest Indiana Total | 503.78 | 541.71 | 446.21 |

Other emission controls have also been implemented in Southwestern Indiana. IDEM notes that statewide VOC RACT rules were adopted for a limited set of existing sources in the mid-1990s, and have been implemented by new sources located in Indiana since that time. The following Indiana VOC RACT rules have been adopted and implemented on a statewide basis: 326 Indiana Administrative Code (IAC) 8–2 (Surface Coating Emission Limitations); 326 IAC 8–3 (Organic Solvent Degreasing Operations); 326 IAC 8–4 (Petroleum Sources); 326 IAC 8–5 (Miscellaneous Operations); 326 IAC 8–6 (Organic Solvent Emission Limitations); and, 326 IAC 8–10 (Auto Body Refinishing). Compliance with these rules have reduced VOC emissions in the Southwestern Indiana area.

Since the Evansville area was previously classified as a marginal nonattainment area for the 1-hour ozone standard, and was not required to demonstrate attainment of the 1-hour ozone standard, no ozone precursor emission controls were specifically required for the Evansville area. Therefore, the statewide and national emission control requirements have provided the majority of the emission reductions in this area.

Besides the statewide VOC RACT rules and national $NO_X$ emission control requirements, other Federal emission reduction requirements have resulted in decreased ozone precursor emissions in the Southwestern Indiana area and/or will produce future emission reductions leading to maintenance of the ozone standard in the Evansville area. These emission reduction requirements include the following:

*Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards.* These emission control requirements result in lower emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules are being phased in between 2004 and 2009. Mobile source $NO_X$ emissions are expected to be decreased by 65 to 90 percent, depending on vehicle type. Mobile source VOC emissions are expected to be decreased by 12 to 18 percent depending on vehicle type.

*Heavy-Duty Diesel Engines.* The Heavy-Duty Diesel Engine rule applies to new heavy-duty gasoline and diesel trucks and buses, and is expected to reduce $NO_X$ emissions from new vehicles by up to 40 percent. The rule is being phased in from 2004 through 2007.

*Non-Road Diesel Rule.* This rule generally applies to new stationary diesel engines used in certain industries, including construction, agriculture, and mining. In addition to affecting engine design, this rule includes requirements for cleaner fuels.

[5] See Footnote 4 above. The most relevant emissions in this table and in subsequent emissions tables are the VOC and $NO_X$ emissions in Vanderburgh and Warrick Counties. The emissions in the remaining counties serve only to demonstrate the relative magnitude of regional versus local emissions and the directionality over time of regional emissions in general that, along with local emissions, impact the Evansville area's peak ozone levels.

It is expected to reduce $NO_X$ emissions from these engines by up to 90 percent, and to significantly reduce particulate matter and sulfur emissions from these engines. This rule will limit emissions from new engines beginning in 2008. The rule has not impacted current emissions from these engines, but is expected to have a significant impact during the maintenance period for the Evansville area.

IDEM notes that some emission reductions have resulted from permanent source closures in the Evansville area, and that these emission reductions have contributed to the downward trend in emissions in the Evansville area and toward attainment of the 8-hour ozone standard. In its June 2, 2005 submittal, IDEM has listed the source closures that have occurred between 1996 and 2002. IDEM confirms that the emissions reductions resulting from the source closures are permanent and will be maintained in the future. To prevent these emission reductions from being totally consumed by unconstrained source growth, IDEM states that any reopening of the closed facilities will require review under Indiana's new source review program after the redesignation of the Evansville area to attainment of the 8-hour ozone NAAQS and the implementation of appropriate emission controls for new sources.

Indiana commits to maintain all existing emission control measures that affect the Evansville area after this area is redesignated to attainment. All changes in existing rules affecting the Evansville area and new rules subsequently needed for continued maintenance of the 8-hour ozone NAAQS in the Evansville area will be submitted to the EPA for approval as SIP revisions.

*4. The Evansville Area Has a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA*

In conjunction with its request to redesignate the Evansville area to attainment of the ozone NAAQS, Indiana submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in the Evansville area for at least 10 years after the redesignation of this area to attainment of the NAAQS.

a. What Is Required in an Ozone Maintenance Plan?

Section 175A of the CAA sets forth the required elements of maintenance plans for areas seeking redesignation from nonattainment to attainment. Under section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves the redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the 8-hour ozone maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary, to assure prompt correction of any future 8-hour ozone standard violations. The September 4, 1992 John Calcagni memorandum provides additional guidance on the content of maintenance plans. An ozone maintenance plan should, at minimum, address the following items: The attainment VOC and $NO_X$ emissions inventories; a maintenance demonstration showing maintenance for the first ten years of the maintenance period; a commitment to maintain the existing monitoring network; factors and procedures to be used for verification of continued attainment; and, a contingency plan to prevent and/or correct any future violation of the NAAQS.

b. Attainment Emissions Inventories

IDEM prepared comprehensive VOC and $NO_X$ emissions inventories for Vanderburgh and Warrick Counties, including point (significant stationary sources), area (smaller stationary sources and widely-distributed sources), mobile on-road, and mobile non-road sources for a base year/attainment year of 2002. IDEM has documented the VOC and $NO_X$ emissions by major source categories for Vanderburgh and Warrick Counties, along with the VOC and $NO_X$ emissions for other counties in the Southwestern Indiana area for 1996, 1999, and 2002, which were years EPA required states to prepare and submit periodic emission inventory updates.

To develop the base year emissions inventories, IDEM used the following approaches and sources of data:

*Area Sources*—Area source VOC and $NO_X$ emissions were taken from the Indiana 2002 periodic emissions inventory, which was previously submitted to the EPA. The area source emission estimates were derived using United States Department of Commerce Bureau of Economic Analysis (BEA) growth factors to project emissions derived for 1996 and 1999. The area source estimates also involved the use of current local source surrogate data, including area populations and employment data by source type.

*Mobile On-Road Sources*—Mobile source emissions were calculated using MOBILE6 emission factors. Traffic data (vehicle miles traveled, vehicle speeds, and vehicle type and age distributions) for 2002 were calculated using the travel demand model and post-processor provided by the Evansville Urban Transportation Study (EUTS). IDEM has provided detailed data summaries to document the calculation of mobile on-road VOC and $NO_X$ emissions for 2002, as well as for the projection years of 2010 and 2015 (further discussed below).

*Point Source Emissions*—2002 point source emissions were compiled from IDEM's 2002 annual emissions statement database and the 2002 EPA Air Markets acid rain emissions inventory database.

*Mobile Non-Road Emissions*—Non-road mobile source emissions were generated by the EPA and documented in the 2002 National Emissions Inventory (NEI). In addition to the data taken from the NEI, IDEM also considered emissions for commercial marine vessels and railroads, obtained from the Lake Michigan Air Directors Consortium (LADCO). The NEI emissions data for recreational motorboats and construction equipment were significantly revised based on local data. The NEI emissions from recreational motorboats were revised to account for local motorboat population data and local spatial surrogates. The NEI construction equipment emissions were reviewed and updated based on surveys completed in the Midwest. IDEM also updated the temporal allocation of agricultural emissions.

The 2002 attainment year VOC and $NO_X$ emissions for Vanderburgh and Warrick Counties are summarized along with the 2010 and 2015 projected emissions for these Counties in Tables 4 below, which covers the demonstration of maintenance for this area. It is our conclusion that the State has adequately derived and documented the attainment year VOC and $NO_X$ emissions for this area.

c. Demonstration of Maintenance

As part of its June 2, 2005 ozone redesignation request submittal, IDEM included a requested revision of the SIP to include a 10-year ozone maintenance plan as required by section 175A of the CAA. This demonstration shows maintenance of the 8-hour ozone NAAQS by assuring that current and future emissions of VOC and $NO_X$ remain at or below the attainment year

emission levels.[6] Note that a maintenance demonstration need not be based on modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001) and 68 FR 25430–25432 (May 12, 2003).

Table 4 specifies the VOC and $NO_X$ emissions for Venderburgh and Warrick Counties combined for 2002, 2010, and 2015. IDEM chose 2010 as an interim year in the 10-year maintenance demonstration period to demonstrate that the VOC and $NO_X$ emissions are not projected to increase above the attainment levels in the middle of the 10-year period.

TABLE 4.—ATTAINMENT YEAR (2002) AND PROJECTED VOC AND $NO_X$ EMISSIONS IN VANDERBURGH AND WARRICK COUNTIES (TPSD)

| Source sector | VOC | | | $NO_X$ | | |
|---|---|---|---|---|---|---|
| | 2002 | 2010 | 2015 | 2002 | 2010 | 2015 |
| Point | 5.16 | 6.77 | 8.09 | 70.19 | 30.18 | 31.43 |
| Area | 18.60 | 21.36 | 23.46 | 2.95 | 3.20 | 3.27 |
| On-Road | 11.21 | 6.02 | 4.12 | 16.40 | 9.30 | 5.01 |
| Non-Road | 6.16 | 4.42 | 3.80 | 5.88 | 4.52 | 3.23 |
| Total | 41.13 | 38.56 | 39.47 | 95.42 | 47.19 | 42.94 |

IDEM also considered regional emissions from other counties in the Southwestern Indiana area. IDEM concluded, based on analyses by LADCO,[7] that regional $NO_X$ emissions changes may significantly impact the ozone levels in the Evansville area, whereas regional VOC emissions outside of the nonattainment area were less of a concern. IDEM determined the attainment year and projected year $NO_X$ emissions for Dubois, Gibson, Pike, Posey, and Spencer Counties, which are the other counties in the Southwestern Indiana area as noted above. Table 5 summarizes the $NO_X$ emissions totals for these counties by major source sector. It can be seen that the $NO_X$ emissions totals in these counties are projected to decrease after 2002, which indicates that the transport of $NO_X$ into the Evansville area will also decrease during the 10-year maintenance period.

TABLE 5.—ATTAINMENT YEAR AND PROJECTED $NO_X$ EMISSIONS IN COUNTIES IN THE VICINITY OF THE EVANSVILLE AREA (TPSD)

| Source sector | $NO_X$ | | |
|---|---|---|---|
| | 2002 | 2010 | 2015 |
| Point | 318.03 | 134.22 | 134.71 |
| Area | 2.37 | 2.53 | 2.61 |
| On-Road Mobile | 18.63 | 10.68 | 6.70 |
| Non-Road Mobile | 11.76 | 9.72 | 7.73 |
| Total | 350.79 | 157.15 | 151.76 |

The emission projections show that the ozone precursor emissions in the Evansville area in addition to the $NO_X$ emissions in other counties in its vicinity are not expected to exceed the levels of the 2002 attainment year during the 10-year maintenance period. The decreases in local and regional $NO_X$ emissions indicate that peak ozone levels in the Evansville area may actually be expected to further decline during the 10-year maintenance period.

IDEM has documented the procedures used to project emissions. On-road mobile source emissions were projected using the MOBILE6 emission factor model and projected traffic data obtained from the Evansville Urban Transportation Study's Travel Demand Model, the same procedure used to determine the attainment year on-road mobile source emissions. Emissions for the other major source sectors were determined using source activity/growth data provided by LADCO. LADCO has developed source growth and emission control data for sources in the upper Midwest for use in 8-hour ozone and fine particulate ($PM_{2.5}$) modeling analyses. Therefore, IDEM's emission projections for the Evansville area and its vicinity are consistent with the planning analyses being conducted to attain the 8-hour ozone and $PM_{2.5}$ standards in the upper Midwest urban areas and region. It should also be noted that the $NO_X$ emission estimates are also consistent with the Indiana state-wide $NO_X$ emission budget established in Indiana's EGU $NO_X$ rule.

Based on the comparison of the projected emissions and the attainment year emissions, we conclude that IDEM has successfully demonstrated that the 8-hour ozone standard should be maintained in the Evansville area. We believe that this is especially likely given the projected decrease in the

[6] The attainment year can be any of the three consecutive years where the area has clean air quality data (2002, 2003, or 2004 for the Evansville area). 2002 is the recommended base year for ozone attainment and rate-of-progress demonstrations, as discussed in a November 18, 2002 memorandum, ''2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5}$ and Regional Haze Programs,'' from Lydia N. Wegman, Director, Air Quality Strategies and Standards Division. As noted here, Indiana chose to use 2002 as the attainment year because the State was already preparing emissions for this year to prepare the base year emissions inventory.

[7] Analyses conducted by LADCO to support the development of 1-hour ozone attainment demonstrations showed that peak ozone concentrations in the Chicago and Milwaukee areas were sensitive to changes in local VOC emissions and to changes in regional $NO_X$ emissions outside of the urban areas. Changes in regional VOC emissions upwind of these urban areas produced minimal changes in the peak ozone concentrations in these urban areas. Modeling for the 8-hour ozone standard being conducted by LADCO and its member states suggests that the same principle also applies in other major urban areas in the region.

region's $NO_X$ emissions.[8] As noted by IDEM, this conclusion is further supported by the fact that other states in the eastern portion of the United States are expected to further reduce regional $NO_X$ emissions through the implementation of their $NO_X$ rules for EGUs and other major $NO_X$ emission sources. In addition, further regional emission reductions are expected to occur as the result of the implementation of EPA rules for Tier 2 motor vehicle standards, gasoline sulfur content restrictions, highway heavy-duty diesel engines, and non-road diesel engines, all of which will be implemented during the next few years. The implementation of CAIR should also provide additional reductions in regional $NO_X$ emissions.

d. Monitoring Network

As noted elsewhere in this proposed rule, IDEM commits to continue operating and maintaining an approved ozone monitoring network in the Evansville area in accordance with 40 CFR part 58 through the 10-year maintenance period. This will allow the confirmation of the maintenance of the 8-hour ozone standard in this area.

e. Verification of Continued Attainment

Continued attainment of the 8-hour ozone NAAQS in the Evansville area depends, in part, on the State's efforts toward tracking applicable indicators during the maintenance period. The State's plan for verifying continued attainment of the 8-hour standard in the Evansville area consists of plans to continue ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. In addition, IDEM will periodically revise and review the VOC and $NO_X$ emissions inventories for the Evansville area to assure that emissions growth is not threatening the continued attainment of the 8-hour ozone standard in the Evansville area. Emissions inventories will be revised for 2005, 2008, and 2011, as necessary to comply with the emissions inventory reporting requirements of the CAA. The updated emissions inventories will be compared to the 2002 emissions inventories to assess emission trends and assure continued attainment of the 8-hour ozone standard.

[8] As noted above, the emissions from the ''neighboring counties'' (those counties outside of the Evansville area) are indicative of the emission changes expected in the region as a whole. Therefore, since emissions are projected to decline in the neighboring counties, we can assume that emissions upwind of the Evansville area will also decline over the subject period.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment of the NAAQS. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that might occur after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of an area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan to address a possible future ozone air quality problem. The contingency plan adopted by Indiana has two levels of responses, depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level) or is imminent (Action Level).

A Warning Level response will occur when an annual (1-year) fourth-high monitored daily peak 8-hour ozone concentration of 88 ppb or higher is monitored in a single ozone season at any monitor within the ozone maintenance area. A Warning Level response will consist of Indiana performing a study to determine whether the high ozone concentration indicates a trend toward high ozone levels or whether emissions are increasing. If a trend toward higher ozone concentrations exists and is likely to continue, the emissions control measures necessary to reverse the trend will be determined taking into consideration ease and timing of implementation, as well as economic and social considerations. The study, including applicable recommended next steps, will be completed within 12 months from the close of the ozone season with the recorded high ozone concentration. If emission controls are needed to reverse the adverse ozone trend, the procedures for emission control selection under the Action Level response will be followed.

An Action Level response will occur when a two-year average annual fourth-high monitored daily peak 8-hour ozone concentration of 85 ppb occurs at any monitor in the ozone maintenance area. In this situation, IDEM will determine the additional emission control measures needed to assure future attainment of the 8-hour ozone NAAQS. IDEM will focus on emission control measures that can be implemented in a short time, and selected emission control measures will be adopted and implemented within 18 months from the close of the ozone season with ozone monitoring data that prompted the Action Level Response. Adoption of any additional emission control measures will be subject to the necessary administrative and legal procedures, including publication of notices and the opportunity for public comment and response. If a new emission control measure is adopted by the State (independent of the ozone contingency needs) or is adopted at a Federal level and is scheduled for implementation in a time frame that will mitigate an ozone air quality problem, IDEM will determine whether this emission control measure is sufficient to address the ozone air quality problem. If IDEM determines that existing or soon-to-be-implemented emissions control measures should be adequate to correct the ozone standard violation problem, IDEM may determine that additional emission control measures at the State level may be unnecessary. Regardless, IDEM will submit to the EPA an analysis to demonstrate that proposed emission control measures are adequate to provide for future attainment of the 8-hour ozone NAAQS in a timely manner.

Contingency measures contained in the maintenance plan are those emission controls or other measures that Indiana may choose to adopt and implement to correct possible air quality problems. These include, but are not limited to, the following:

i. Lower Reid vapor pressure gasoline requirements;

ii. Broader geographic applicability of existing emission control measures;

iii. Tightened RACT requirements on existing sources covered by EPA Control Technique Guidelines (CTGs) issued in response to the 1990 CAA amendments;

iv. Application of RACT to smaller existing sources;

v. Vehicle Inspection and Maintenance (I/M);

vi. One or more Transportation Control Measure (TCM) sufficient to achieve at least a 0.5 percent reduction in actual area wide VOC emissions, to be selected from the following:

A. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area wide rideshare programs, work schedule changes, and telecommuting;

B. Transit improvements;

C. Traffic flow improvements; and

D. Other new or innovative transportation measures not yet in widespread use that affect State and local governments as deemed appropriate;

vii. Alternative fuel and diesel retrofit programs for fleet vehicle operations;

viii. Controls on consumer products consistent with those adopted elsewhere in the United States;

ix. VOC or $NO_X$ emission offsets for new or modified major sources;

x. VOC or $NO_X$ emission offsets for new or modified minor sources;

xi. Increased ratio of emission offset required for new sources; and,

xii. VOC or $NO_X$ emission controls on new minor sources (with VOC or $NO_X$ emissions less than 100 tons per year).

g. Provisions for Future Updates of the Ozone Maintenance Plan

As required by section 175A(b) of the CAA, Indiana commits to submit to the EPA an update of the ozone maintenance plan eight years after redesignation of the Evansville area to cover an additional 10-year period beyond the initial 10-year maintenance period.

**V. Has Indiana Adopted Acceptable Motor Vehicle Emissions Budgets for the End of the 10-Year Maintenance Plan (for 2015) Which Can Be Used To Support Conformity Determinations?**

*A. How Are the MVEBs Developed and What Are the MVEBs for the Evansville Area?*

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard). These emission control strategy SIP revisions (*e.g.*, reasonable further progress and attainment demonstration SIP revisions) and ozone maintenance plans must create MVEBs based on on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portions of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993 transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB if needed.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (*i.e.*, be consistent with) the part of the SIP that addresses emissions from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS. If a transportation plan does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA's policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are used by state and federal agencies in determining whether proposed transportation projects conform to the SIPs as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submissions; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) EPA's finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 199, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas: Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The Evansville area's 10-year maintenance plan contains VOC and $NO_X$ MVEBs for 2015. The availability of the SIP submission with these 2015 MVEBs was announced for public comment on EPA's adequacy Web page on April 12, 2005, at: *http://www.epa.gov/otaq/transp/conform/currsips.htm*. The EPA public comment period on the adequacy of the 2015 MVEBs for the Evansville area closed on May 12, 2005. EPA did not receive any adverse comments. On June 30, 2005 (70 FR 37856), EPA published a notice of adequacy to notify the public that we had found the 2015 MVEBs to be adequate for use in transportation conformity analyses.

EPA, through this rulemaking, is proposing to approve the MVEBs for use to determine transportation conformity in the Evansville area because EPA has determined that the budgets are consistent with the control measures in the SIP and that the Evansville area can maintain attainment of the 8-hour ozone NAAQS for the relevant 10-year period with mobile source emissions at the levels of the MVEBs. IDEM has determined the 2015 MVEBs for the Evansville area (for Vanderburgh and Warrick Counties combined) to be 4.20 tpd for VOC and 5.40 tpd day for $NO_X$. It should be noted that these MVEBs exceed the on-road mobile source VOC and $NO_X$ emissions projected by IDEM for 2015, as summarized in Table 4, above (''On-Road'' source sector). Through discussions with all organizations involved in transportation planning for the Evansville area, IDEM decided to include safety margins of 0.08 tpd of VOC and 0.39 tpd of $NO_X$ in the MVEBs to provide for mobile source growth. Indiana has demonstrated that the Evansville area can maintain the 8-hour ozone NAAQS with mobile source emissions of 4.20 tpd of VOC and 5.40 tpd of $NO_X$ in 2015, since emissions will still remain under the attainment year levels.

*B. What Is a Safety Margin?*

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 4, the Evansville area VOC and $NO_X$ emissions are projected to have safety margins of 1.66 tons per day for VOC and 52.48 tons per day for $NO_X$ in 2015 (the difference between the attainment year, 2002, emissions and the 2015 emissions for all sources in

Vanderburgh and Warrick Counties combined).

The MVEBs requested by IDEM contain safety margins (selected by the State) significantly smaller than the safety margins reflected in the total emissions for the Evansville area. The State is not requesting allocation of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the on-road mobile source emissions for 2015 contained in the demonstration of maintenance, the increase in on-road mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration.

*C. Are the MVEBs Approvable?*

The VOC and $NO_X$ MVEBs for the Evansville area are approvable because they maintain the total emissions for Vanderburgh and Warrick Counties at or below the attainment year inventory levels, as required by the transportation conformity regulations.

**VI. Statutory and Executive Order Reviews**

*Executive Order 12866; Regulatory Planning and Review*

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.

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' 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).

*Regulatory Flexibility Act*

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.*).

*Unfunded Mandates Reform Act*

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).

*Executive Order 13175 Consultation and Coordination With Indian Tribal Governments*

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).

*Executive Order 13132 Federalism*

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.

*Executive Order 13045 Protection of Children From Environmental Health and Safety Risks*

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.

*National Technology Transfer Advancement Act*

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.

*Paperwork Reduction Act*

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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Transportation conformity, Volatile organic compounds.

*40 CFR Part 81*

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

Dated: August 29, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 05–17819 Filed 9–8–05; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[RO3–OAR–2005–MD–0008; FRL–7996–8]**

## Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Control of Emissions From Commercial and Industrial Solid Waste Incineration (CISWI) Units

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the May 12, 2005 negative declaration letter submitted by the Maryland Department of the Environment (MDE). The negative declaration certifies that existing CISWI units, subject to Clean Air Act (the Act) requirements of sections 111(d) and 129 and the related emissions guidelines (EG), have been permanently shut down and have been dismantled in the State of Maryland.

In the Final Rules section of this **Federal Register**, EPA is approving the MDE certification as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA

receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by October 11, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–MD–0008 by one of the following methods:

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

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *http://wilkie.walter@epa.gov*.

D. Mail: R03–OAR–2005–MD–0008, Walter Wilkie, Chief, Air Quality Analysis, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. R03–OAR–2005–MD–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 1, 2005.

**Richard J. Kampf,**

*Acting Regional Administrator, EPA Region III.*

[FR Doc. 05–17930 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–M**

# Notices

Federal Register
Vol. 70, No. 174
Friday, September 9, 2005

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Docket Number TM–05–10]**

### National Organic Program (NOP)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is publishing this notice to inform certified organic producers and handlers of AMS' intention to release the names and addresses of certified operations to the general public. AMS has determined that the Organic Foods Production Act of 1990, as amended, 7 U.S.C. 6501 *et seq.* (OFPA), authorizes the release of the names and addresses of certified organic producers and handlers under the broad category of information characterized by the OFPA as ''certification documents.'' Therefore, AMS intends to release the names and addresses of certified producers and handlers to the general public in response to requests for such information.

**FOR FURTHER INFORMATION CONTACT:** Keith Jones, Director, Program Development, National Organic Program, 1400 Independence Ave., SW., Room 4008–S, Ag Stop 0268, Washington, DC 20250–0268; Telephone: (202) 720–3252; Fax: (202) 205–7808; e-mail: *keith.jones@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Statutory Authority

This notice is issued under the authority of the OFPA of 1990, as amended, 7 U.S.C. 6501 *et seq.*

#### II. Background

Over the past few months, AMS has received a number of requests from private citizens and non-profit organizations for a list of names and addresses of production and handling operations certified in compliance with the NOP regulations. The OFPA requires public access to ''certification documents'' and laboratory analyses pertaining to certification (7 U.S.C. 6506(a)(9)). The OFPA's implementing regulations at 7 CFR 205.504(b)(5) requires the release of those documents cited in section 6506(a)(9) of the OFPA.

AMS collects the names and addresses of certified organic producers and handlers through requirements outlined at 7 CFR 205.501(a)(15)(ii). This information is collected pursuant to information collection requirements overseen by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The collection number assigned to the NOP is OMB number 0581–0191.

#### III. Action

The OFPA authorizes the release of the names and addresses of certified organic producers and handlers under the broad category of information characterized by the OFPA as ''certification documents.'' The OFPA (7 U.S.C. 6506(a)(9)) requires public access to certification documents and laboratory analyses pertaining to certification. Names and addresses of certified organic producers and handlers are collected by AMS under the requirements of 7 CFR 205.501(a)(15)(ii). These names and addresses are part of a larger information submission and can be reasonably viewed as ''certification documents.''

The release of the names and addresses of certified organic producers and handlers is compatible with the notions of transparency and public access embodied in the OFPA. Further, the names and addresses of certified organic producers and handlers intended to be released are identical to those already contained on the certificate of compliance required under 7 CFR 205.404(b). Under 7 CFR 205.404(b), an accredited certifying agent must issue a certificate of organic operations which specifies the: (1) Name and address of the certified operation; (2) Effective date of certification; (3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and (4) Name, address, and telephone number of the certifying agent. These certificates enjoy wide public circulation throughout the supply chain due to their use as *prima facie* evidence of compliance with NOP regulations.

Therefore, AMS intends to release the names and addresses of certified producers and handlers to the general public in response to requests for such information.

Dated: September 2, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05–17859 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. 05–028N]**

### Public Meeting on the Food Safety Institute of the Americas

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing that it will hold a public meeting on September 29–30, 2005, in Miami, Florida, to review and discuss the progress made by the Food Safety Institute of the Americas (FSIA). The FSIA was created as an innovative approach for integrating scientific food safety education, information, communication, and outreach in the Americas. During the public meeting, the following issues relating to the FSIA will be discussed: (1) Presentation of assessment and analysis of educational and informational needs identified through a survey administered by FSIA's partners, the University of Florida and Miami Dade College; (2) presentation of FSIA's 3–5 year Strategic Plan; (3) establishing strategies and best practices for developing and delivering programs identified through the needs survey; and (4) planning next steps for the FSIA in fostering collaboration and partnership development of the proposed FSIA colleges.

The public meeting will be an interactive session. Discussions will be

conducted in plenary sessions for each of the above four issues.

**DATES:** The public meeting is scheduled for Thursday, September 29, 2005, from 9 a.m. to 6 p.m. and Friday, September 30, 2005, from 9 a.m. to 3 p.m. Comments on this notice must be received on or before September 19, 2005.

**ADDRESSES:** All FSIA meetings will take place at the Renaissance Eden Roc Hotel, 4525 Collins Avenue, Miami Beach, Florida 33140. Telephone number (305) 531–0000. In addition, a block of rooms has been held for participants at the Renaissance Eden Roc Hotel, 4525 Collins Avenue, Miami Beach, Florida 33140. Telephone number 1–800–327–8337. Participants in the FSIA meeting will receive a special rate of $99.00 (plus tax) per night. Reservations must be confirmed with the necessary credit card or payment information no later than September 14, 2005. Please reference the USDA-FSIA meeting when making reservations.

A meeting agenda is available on the Internet at *http://www.fsis.usda.gov/News_&_Events/Meetings_&_Events* which is a sub-Web site of the FSIS home page, at *http://www.fsis.usda.gov/*. The official transcript of the meeting, when it becomes available, will be available in FSIS Docket Room, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700.

FSIS welcomes comments on the topics to be discussed at the public meeting. Comments on these topics may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Food Safety Institute of the Americas, U.S. Department of Agriculture, Food Safety and Inspection Service, Claude Pepper Federal Building, 51 SW First Avenue, Suite 1321, Miami, Florida 33130.
- Electronic mail: *FSInstituteoftheAmericas@fsis.usda.gov*.

Comments on the meeting notice may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.
- Electronic mail: *fsis.regulationscomments@fsis.usda.gov*.

All submissions received must include the Agency name and docket number 05–028N.

All comments on this notice and comments on the topics to be discussed at the public meeting will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations_&_policies/2005_Notices_Index/index.asp*.

Limited shared exhibit space will be available for participants to display applicable food safety, food security and defense-related educational and training material. Exhibitors are encouraged to notify FSIA, as early as possible, by calling the toll-free registration number listed below.

**FOR FURTHER INFORMATION CONTACT:** Linda Swacina, The Food Safety Institute of the Americas office at (305) 347–5552, *linda.swacina@fsis.usda.gov* or Stephen Hawkins, The Food Safety Institute of the Americas office at (305) 347–5552, *stephen.hawkins@fsis.usda.gov* or Richard Van Blargan, The Food Safety Institute of the Americas office at (305) 347–5552, *richard.vanblargan@fsis.usda.gov* for technical information.

All meeting participants will be required to register before entering the meeting. A pre-registration form is located at: *http://www.fsis.usda.gov/News_&_Events/Meetings_&_Events*.

You may also call in your registration using a special toll free number that has been established for the public meeting. To phone in registration, please call (Domestically (202) 205–0329 and TOLL FREE 1–877–239–2455).

Limited participant registration will be available the morning of September 29, 2005. Persons requiring a sign language interpreter or other special accommodations should notify the FSIA office no later than September 23, 2005, at the (305) 347–5552 or by e-mail *FSInstituteoftheAmericas@fsis.usda.gov*. English and Spanish translation services will be provided during meeting hours.

**SUPPLEMENTARY INFORMATION:**

## Background

The explosive growth of the international food market has brought a variety of foods never before available to the consumer's table throughout the Americas. People can consume new products from different regions and enjoy traditional seasonal favorites throughout the year. Countries are now more dependent on each other's safeguards to guarantee their citizens a wholesome food supply and to protect the public health of their country and the region. The nations of the Americas make up a community committed to meeting the many challenges of ensuring food safety and security. One approach to these complex problems is for our countries to develop and effectively exchange scientific information and education on food safety and defense risks and on how to manage them.

The FSIA was formally established at an organizational meeting in October 2004, and is an innovative approach for harmonizing, developing, and distributing food safety and security information and education throughout the Americas; coordinating programs so that we concentrate on areas where our needs are the greatest; sharing resources on programs that already exist within our community; promoting the development of international food safety standards; and protecting ourselves as a region from food security threats. To accomplish these missions, the FSIA is in the process of developing and enlisting the support of existing networks among researchers, public health officials, regulatory officials, and food and animal producers and distributors. There are many academic, governmental and nongovernmental organizations with wide-ranging expertise that would make them potential partners in FSIA's endeavors.

## FSIA Subject Areas or Colleges

In one scenario, the FSIA would establish the following nine colleges and include development and implementation of training, education, and information materials in these areas: (1) Codex Alimentarius; (2) Regulatory Foundation Studies; (3) Public Health Studies; (4) Food Security; (5) Manufactured Foods; (6) Animal and Food Production Studies; (7) Retail Programs; (8) Laboratory Studies; and (9) Consumer Education and Information Programs.

## FSIA Benefits

The major goal of the FSIA is to improve and harmonize food safety education, information, and communication throughout the Americas in order to improve public health within each and among the countries of the region. It will provide major outreach activities to identify, develop, and coordinate educational programs and to promote the development of international food safety standards and common food protection and defense.

FSIA will provide the regions of the Americas with greater access to food safety information and the technical assistance necessary to ensure the safety

of food products. In addition, FSIA will promote the activities of the Codex Alimentarius Commission to bring about standardization of food safety requirements and become a forum for scientific discussion relevant to food safety standards in the Americas. In this way, it will encourage and support development of science-based agreements that strengthen national and local economies.

**Conclusion**

The FSIA will help establish working relationships among collaborating countries through regular interaction of academic researchers and educators, government regulators, and food safety professionals. Enhancing and fostering these contacts are critically important in addressing regional food safety concerns and improving understanding about requirements for imported and exported products.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/Index.asp.* FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS web page. Through Listserv and the web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an electronic mail subscription service that provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options in eight categories. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Done at Washington, DC, on September 7, 2005.

**Barbara J. Masters,**

*Administrator.*

[FR Doc. 05–18030 Filed 9–7–05; 2:19 pm]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Siskiyou County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Siskiyou County Resource Advisory Committee will meet in Yreka, California, September 19, 2005. The meeting will include routine business and the review, discussion, and possible recommendation of submitted large projects.

**DATES:** The meeting will be held September 19, 2005, from 4 p.m. until 7 p.m.

**ADDRESSES:** The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

**FOR FURTHER INFORMATION CONTACT:** Don Hall, RAC Coordinator, Klamath National Forest, (530) 841–4468 or electronically at *donaldhall@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: September 2, 2005.

**Margaret J. Boland,**

*Designated Federal official.*

[FR Doc. 05–17895 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Hood/Willamette Resource Advisory Committee (RAC)

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Hood/Willamette Resource Advisory Committee (RAC) will meet on Thursday, September 29, 2005. The meeting and field trip is scheduled to begin at 9 a.m. and will conclude at approximately 4:30 p.m. The meeting will be held at the Sweet Home Ranger Station; 3225 Highway 20; Sweet Home, Oregon; (541) 367–5168. The tentative agenda includes: (1) Finalizing Recommendations on 2006 Projects: (2) Public Forum; and (3) Field Trip to Title II Projects.

The Public Forum is tentatively scheduled to begin at 9:15 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the September 29th meeting by sending them to Designated Federal Official Donna Short at the address given below.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: September 1, 2005.

**Dallas J. Emch,**

*Forest Supervisor.*

[FR Doc. 05–17898 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Notice of Resource Advisory Committee Meeting

**AGENCY:** North Central Idaho Resource Advisory Committee, Kamiah, Idaho, USDA, Forest Service.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Nez Perce and Clearwater National Forests' North Central Idaho Resource Advisory Committee will meet Friday, September 30, 2005 in Potlatch, Idaho for a business meeting. The meeting is open to the public.

**SUPPLEMENTARY INFORMATION:** The business meeting on September 30, at the Potlatch Ranger Station, 1700 Highway 6, Potlatch, Idaho, beginning at 10 a.m. (PST). agenda topics will include discussion of potential projects. A public forum will begin at 2:30 p.m. (PST).

**FOR FURTHER INFORMATION CONTACT:** Ihor Mereszczak, Staff Officer and Designated Federal Officer, at (208) 935–2513.

Dated: September 1, 2005.

**Ihor Mereszczak,**

*Acting Forest Supervisor.*

[FR Doc. 05–17904 Filed 9–8–05; 8:45 am]

**BILLING CODE 3410–11–M**

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### Performance Review Board Membership

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice.

**SUMMARY:** Notice is given of the appointment of members to a Performance Review Board for Architectural and Transportation Barriers Compliance Board.

**FOR FURTHER INFORMATION CONTACT:** Lawrence W. Roffee, Executive Director, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111. Telephone (202) 272–0001.

**SUPPLEMENTARY INFORMATION:** Section 4314(c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service (SES) performance review boards. The function of the boards is to review and evaluate the initial appraisal of senior executives' performance and make recommendations to the appointing authority relative to the performance of these executives. Because of its small size, the Architectural and Transportation Barriers Compliance Board has appointed SES career appointees from other Federal boards to serve on its performance review board. The members of the Performance Review Board for the Architectural and Transportation Barriers Compliance Board are:

- Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board.
- Mary L. Johnson, General Counsel, National Mediation Board.
- Elizabeth S. Woodruff, General Counsel, Federal Retirement Thrift Investment Board.

**Lawrence W. Roffee,**

*Executive Director, Architectural and Transportation Barriers Compliance Board.*

[FR Doc. 05–17857 Filed 9–8–05; 8:45 am]

**BILLING CODE 8150–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions

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

**ACTION:** Additions to Procurement List.

**SUMMARY:** This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** October 9, 2005.

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

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

**SUPPLEMENTARY INFORMATION:** On July 8, and July 15, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 39484, and 40978) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

**End of Certification**

Accordingly, the following products and services are added to the Procurement List:

*Products*

Bag, Urine Collection

NSN: 6530–00–NSH–0028—Large, Enhanced Bag, No options
NSN: 6530–00–NSH–0029—Medium, Enhanced Bag, No options
NSN: 6530–00–NSH–0030—Large, w/moleskin backing option
NSN: 6530–00–NSH–0031—Large, w/inlet extension option
NSN: 6530–00–NSH–0032—Large, w/drain extension
NSN: 6530–00–NSH–0033—Large, w/moleskin & inlet extension
NSN: 6530–00–NSH–0034—Large, w/moleskin & drain extension
NSN: 6530–00–NSH–0035—Large, w/inlet & drain extension
NSN: 6530–00–NSH–0036—Large, w/inlet, drain extension & moleskin
NSN: 6530–00–NSH–0037—Medium, w/moleskin option
NSN: 6530–00–NSH–0038—Medium, w/inlet extension
NSN: 6530–00–NSH–0039—Medium, w/drain extension
NSN: 6530–00–NSH–0040—Medium, w/moleskin & inlet extension
NSN: 6530–00–NSH–0041—Medium, w/moleskin & drain extension
NSN: 6530–00–NSH–0042—Medium, w/inlet & drain extension
NSN: 6530–00–NSH–0043—Medium, w/inlet, drain extension & moleskin

NPA: Work, Incorporated, North Quincy, Massachusetts Contracting Activity: Veterans Affairs National Acquisition Center, Hines, Illinois

*Services*

*Service Type/Location:* Custodial Services, Alderson Plant Materials Center, 24910 Old Prison Farm Road, Alderson, West Virginia.
*NPA:* Gateway Industries, Inc., Ronceverte, West Virginia.
*Contracting Activity:* U.S. Department of Agriculture, Natural Resources Conversation Service, Morgantown, West Virginia.

*Service Type/Location:* Document Destruction, NARA, Denver Federal Record Center, Rocky Mountain Region, Building 48, 6th and Kipling, Denver, Colorado.
*NPA:* Bayaud Industries, Inc., Denver, Colorado.
*Contracting Activity:* National Archives & Records Administration, College Park, Maryland.

*Service Type/Location:* Document Destruction, NARA, Laguna Niguel Federal Record Center, 24000 Avila Road, Laguna Niguel, California.
*NPA:* Landmark Services, Inc., Santa Ana, California.
*Contracting Activity:* National Archives & Records Administration, College Park, Maryland.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**G. John Heyer,**

*General Counsel.*

[FR Doc. E5–4900 Filed 9–8–05; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Notice

**AGENCY:** U.S. Commission on Civil Rights.

**DATE AND TIME:** Friday, September 16, 2005, 9:30 a.m., Commission Meeting.

**PLACE:** U.S. Commission on Civil Rights, 624 9th Street, NW., Room 540, Washington, DC 20425.

**STATUS:**

**Agenda**

I. Approval of Agenda

II. Approval of Minutes of Meeting Held Friday, July 22 and Continued on Friday, August 26, 2005

III. Commission Briefing: The PATRIOT Act as it Relates to Anti-Arab and Anti-Muslim Intolerance

- Introductory Remarks by Chairman
- Speakers' Presentations
- Questions by Commissioners and Staff Director to Speakers

IV. Announcements

V. Staff Director's Report

VI. State Advisory Committee Issues

- State Advisory Committee Reports
- Other State Advisory Committee Issues

VII. Program Planning

- Elementary and Secondary School Desegregation

VIII. Discussion of Commission Briefings

- Stagnation of the Black Middle Class Briefing Report
- Future Briefing

IX. Future Agenda Items

**FOR FURTHER INFORMATION CONTACT:** Terri Dickerson, Press and Communications (202) 376–8582.

**Kenneth L. Marcus,**

*Staff Director, Acting General Counsel.*

[FR Doc. 05–17968 Filed 9–7–05; 8:49 am]

**BILLING CODE 6335–01–M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–122–822]**

### Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** In response to timely requests, the U.S. Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products (CORE) from Canada for the period August 1, 2003, through July 31, 2004. The review covers two respondents, Dofasco Inc. and Sorevco and Company, Ltd. (collectively Dofasco), and Stelco Inc. (Stelco).

The Department preliminarily determines that Dofasco made sales to the United States at less than normal value (NV). If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of Dofasco's merchandise during the period of review. The Department also preliminarily determines that Stelco did not make sales to the United States at less than NV. If these preliminary results are adopted in our final results of this administrative review, we will instruct CBP to liquidate without regard to antidumping duties entries of Stelco's merchandise during the period of review. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kyle Lamborn or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–3586 and 202–482–3782, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department published the antidumping duty order on CORE from Canada on August 19, 1993. *See Antidumping Duty Orders: Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–to-Length Carbon Steel Plate From Canada*, 58 FR 44162, as amended by *Amended Final Determinations of Sales at Less Than Fair Value and Antidumping Orders: Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–to-Length Carbon Steel Plate From Canada*, 60 FR 49582 (September 26, 1995) (*Amended Final and Order*). On August 3, 2004, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on CORE from Canada for the period August 1, 2003, through July 31, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 46496. Based on timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department initiated an administrative review of the antidumping duty order on CORE from Canada, covering the period August 1, 2003, through July 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004). This administrative review covers the following exporters: Dofasco, Impact Steel Canada, Ltd. (Impact Steel), and Stelco. On April 1, 2005, the Department rescinded the administrative review of Impact Steel because Impact Steel timely withdrew its request, and no other party requested an administrative review of Impact Steel. *See Notice of Rescission, in Part, of Antidumping Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products From Canada*, 70 FR 17648 (April 7, 2005).

On April 15, 2005, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from May 3, 2005, to August 31, 2005. *Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products From Canada*, 70 FR 20863 (April 22, 2005).

**Period of Review**

The period of review (POR) is August 1, 2003, through July 31, 2004.

**Scope of the Order**

The product covered by the order is certain corrosion–resistant steel, and includes flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances

in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the U.S. Harmonized Tariff Schedule (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Although the HTSUS subheadings are provided for convenience and customs' purposes, the Department's written description of the merchandise under the order is dispositive.

Included in the order are corrosion–resistant flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges. Excluded from the order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from the order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

## ANALYSIS

### Affiliation and Collapsing

For purposes of this review, we have collapsed Dofasco, Sorevco, and Do Sol Galva Ltd. (DSG) and treated them as a single respondent, as we have done in prior segments of the proceeding. There have been no changes to the pertinent facts such as, for example, ownership structure, that warrant reconsideration of our decisions to collapse these companies. As noted on page A–8 of Dofasco's Section A questionnaire response dated December 22, 2004, Sorevco still operates as a 50–50 joint venture between Dofasco and Ispat Sidbec. *See Final Determinations of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate From Canada*, 58 FR 37099, 37107 (July 9, 1993), for our analysis regarding collapsing Sorevco.

Do Sol Galva Ltd. (DSG) is a galvanizing line operated as a limited partnership between Dofasco and Arcelor. As in the prior review; 1) DSG remains a partnership between Dofasco (80% ownership interest), and the European steel producer Arcelor (20% ownership interest); 2) Dofasco continues to operate DSG, which is located at the Dofasco Hamilton plant, and to treat this line as its number five galvanizing line; and 3) all of the DSG production workers are still employed by Dofasco. *See* pages A–5 and A–8 of Dofasco's Section A questionnaire response dated December 22, 2004. For all intents and purposes, DSG is still considered another production line run on Dofasco's property. *See Certain Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 55138, 55139 (September 13, 2004), unchanged in *Certain Corrosion–Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 70 FR 13458 (March 21, 2005) (*Final Results of 10th Review*), for our analysis regarding collapsing DSG. As we are collapsing Dofasco, Sorevco, and DSG for purposes of the preliminary results, we will instruct CBP to apply Dofasco's rate to merchandise produced, exported, or processed by Sorevco or DSG.

Consistent with our determination in past segments of this proceeding, in these preliminary results, we have not collapsed Dofasco and its toll producer DJ Galvanizing Ltd. Partnership (DJG) (formerly DNN Galvanizing Ltd. Partnership (DNN)). Therefore, for CORE that is processed by DJG before it is exported to the United States, we will, for assessment and cash deposit purposes, instruct CBP to: (1) Apply Dofasco's rate on merchandise supplied by Dofasco or DSG; (2) apply the company specific rate on merchandise supplied by other previously reviewed companies; and, (3) apply the ''all others'' rate for merchandise supplied by companies which have not been reviewed in the past.

### Model–Match Criteria

In its questionnaire response, Dofasco reported ''surface type'' as a physical characteristic, and argued that it should be incorporated as a model–match criterion in order to capture the different applications and uses of the products based on that criterion. *See* Dofasco's section B questionnaire response dated January 12, 2005, at pages B–7 to B–9. Dofasco claims that the higher cost of CORE for exposed, as opposed to unexposed, applications also justifies the inclusion of a new model–match criterion.

For purposes of the preliminary results, we have not changed the model–match criteria to account for ''surface type.'' We excluded this field in the prior administrative review because: (1) Dofasco has not defined its proposed new product characteristic in sufficiently precise terms for the Department to consider integrating this characteristic into its model match hierarchy; (2) Dofasco has not demonstrated that any industry–wide, commercially accepted standards exist that recognize the material characteristics of exposed products made only from the hot–dipped galvanized process; (3) we do not find significant cost differences between exposed and unexposed galvanized steels; (4) we continue to find a degree of interchangeability of use for Dofasco's Extragal products that can reasonably be attributed to the subjective preferences of the customer rather than commercially significant differences in the physical characteristics of the product; and, (5) the record evidence demonstrates that there have been no new technological advancements in this field since the original investigation. *See Final Results of 10th Review*, and accompanying Issues and Decision Memorandum at Comment 1. Dofasco has provided the same information on the record of this administrative review. Therefore, because no new information has been provided to warrant our reconsideration in the instant review, we continue to find that it is

inappropriate to incorporate ''surface type'' as a physical characteristic into our model match hierarchy.

**Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description in the ''Scope of the Order'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's November 9, 2004, antidumping questionnaires.

**Normal Value Comparisons**

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the export price (EP) or the constructed export price (CEP) to NV, as described in the ''Export Price and Constructed Export Price,'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transaction prices.

**Export Price and Constructed Export Price**

*A. Classification of U.S. Sales*

In accordance with section 772(a) of the Act, we used EP when the subject merchandise was sold, directly or indirectly, to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted by facts on the record. In accordance with section 772(b) of the Act, CEP is the price at which subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter. As discussed below, based on evidence on the record, we conclude that certain sales are made by Dofasco's U.S. affiliate, Dofasco U.S.A. (DUSA), and should thus be classified as CEP sales. Also, as discussed below, we conclude that Dofasco's other sales are EP, and that all Stelco's sales are EP.

Dofasco's sales in the United States through its affiliate, DUSA, were reported as channel 2 (shipped directly to the U.S. customer) or channel 3 (shipped indirectly to the U.S. customer) sales. We find that for these sales, both parties to the transaction (DUSA and the unaffiliated customer) were located in the United States, and that the transfer of ownership was executed in the United States. *See* Dofasco's section A questionnaire response at A–26. Therefore, consistent with our determination in prior reviews, we are classifying Dofasco's Channels 2 and 3 sales as CEP sales. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 69 FR 2566 (January 16, 2004), and accompanying Issues and Decision Memorandum (*Final Results of 9th Review*) at Comment 1, and *Final Results of 10th Review* at Comment 5.

We have classified Dofasco's Channel 1 (direct shipments) and 4 (direct through commission agents) sales, and all of Stelco's U.S. sales, as EP sales. As in prior reviews, we find these to be direct sales made in Canada without the involvement of any affiliated party in the United States. *Id.* Accordingly, we are treating these respective sales as EP sales for both Dofasco and Stelco.

The Department calculated EP or CEP based on packed prices to customers in the United States. We made deductions from the starting price (net of discounts and rebates) for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and post–sale warehousing) in accordance with section 772(c)(2) of the Act and section 351.401(e) of the Department's regulations. In addition, for CEP sales, in accordance with sections 772(d)(1) and (2) of the Act, we deducted from the starting price credit expenses, indirect selling expenses, including inventory carrying costs, commissions, royalties, and warranty expenses incurred in the United States and Canada associated with economic activities in the United States. As in prior reviews, certain Dofasco sales have undergone minor further processing in the United States as a condition of sale. The Department has deducted the price charged to Dofasco by the unaffiliated contractor for this minor further processing from gross unit price to determine U.S. price, consistent with section 772(d)(2) of the Act. *See Certain Corrosion Resistant Carbon Steel Flat Products From Canada: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 53105, 53106 (September, 9, 2003), for a discussion of this adjustment, finalized in *Final Results of 9th Review* at 69 FR 2566, 2567.

**Date of Sale**

As provided in section 351.401(i) of the Department's regulations, we determined the date of sale based on the date on which the exporter or producer established the material terms of sale. *See Allied Tube and Conduit Corp. v. United States*, 127 F. Supp. 2d 207, 219 (CIT 2000). Dofasco reported, as in the prior review, that except for long–term contracts and sales of secondary products, the date on which all material terms of sale are established is the final order acknowledgment or re–acknowledgment date, where prices and quantity are binding upon buyer and seller. *See* page A–23 of Dofasco's Section A questionnaire response dated December 22, 2004. Therefore, for these sales, we used this reported date as the date of sale. For Dofasco's sales made pursuant to long–term contracts, we used the date of the contract as date of sale, which is when prices are fixed and the customer agrees to purchase one hundred percent of its requirements for a particular part from Dofasco. *Id.* page A–24. For Dofasco's sales of secondary products for which there is no order acknowledgment date, we preliminarily determine that date of shipment best reflects the date on which the material terms of sale are established since date of shipment is almost always the day before the invoice is produced. *Id.* page A–23. Accordingly, for these sales, we have relied on the date of shipment as the date of sale. *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (Sept. 5, 2003) and accompanying Issues and Decision Memorandum at Comment 3 (*Wheat from Canada*). Dofasco did not have sales of secondary products to the United States during the POR.

Stelco reported that, generally, the quantity and product specifications are not set until the date of shipment, which is the date on which the invoice is issued. Therefore, for Stelco's sales, we determined that the date of invoice reflects the date of sale since this is when the material terms of the sale are fixed. In those instances when the date of shipment occurred prior to the date of invoice (when Stelco ships directly from a processor to a customer and the paperwork necessary to invoice the customer is delayed), Stelco reported, and we used, the date of shipment as the date of sale. *See* Stelco Section B questionnaire response, dated December 23, 2004, at B–2; *see*, *e.g.*, *Wheat from Canada* at Comment 3.

*B. Universe of Sales in Margin Calculation*

Section 751(a)(2)(A) of the Act states that a dumping calculation should be performed for each entry during the

POR. Our standard practice for EP sales is to use entry date to determine the universe of U.S. sales in the margin calculation. *See Circular Welded Non–Alloy Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 63 FR 32833, 32836 (June 6, 1998), and accompanying Issues and Decision Memorandum at Comment 2. Accordingly, we have included in our analysis for these final results all entries of EP sales made during the POR.

The Department's normal practice for CEP sales is to review each transaction that has a date of sale within the POR. *See* section 351.212 of the Department's regulations and the preamble to that section in *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27314–15 (May 19, 1997). However, in *Notice of Final Results of Antidumping Duty Administrative Review of Circular Welded Non–alloy Steel Pipe from the Republic of Korea*, 66 FR 18747 (April 11, 2001), at Comment 2, the Department recognized unique circumstances that could lead us to base the margin for CEP sales on the sales of merchandise entered, rather than sold during the POR. In that case, there was no dispute that the respondents could tie their sales to specific entries during the POR because their U.S. sales were made to order, the date of sale occurred prior to the date of entry, the merchandise was shipped directly from the factory to the final customer, and the respondents were generally the importer of record.

We find that Dofasco's Channel 2 and 3 CEP sales follow a similar fact pattern and therefore, we consider the date of entry to be the appropriate date for establishing the universe of sales for purposes of calculating a margin. First, we are able to tie almost all these sales to entries since Dofasco, in the instant review, provided exact entry dates for the vast majority of its U.S. sales. As was done in the previous review, for the few CEP transactions where the entry date was not obtained from its customs broker, Dofasco reasonably reported shipment date as the entry date because entry into the United States normally occurs the same day as shipment from its factory. *See* Dofasco's January 12, 2005, section C questionnaire response at page C–71. Second, the merchandise was shipped directly from the factory to the location specified by the customer. *See* Dofasco's December 22, 2004, section A questionnaire response at page A–14 and A–15. Third, since the vast majority of these sales were made pursuant to long–term contracts, and the date of the long–term contract was used as the date of sale, the dates of sale occurred prior to the dates of entry. *See* Dofasco's December 22, 2004, section A questionnaire response at page A–28. Therefore, for these reasons, we have performed a margin calculation on each Channel 2 and 3 CEP sale, entered during the POR. The date of sale for these entries is primarily the date of contract. Also included is a limited number of entries of ''spot'' sales for which the date of sale is based on date of order acknowledgment. *See* page A–26 of Dofasco's section A questionnaire response dated December 22, 2004. This is consistent with our finding in the *Final Results of 10th Review* at Comment 5.

**Normal Value**

*A. Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise. Based on this comparison, we determined for both Dofasco and Stelco, that the quantity of sales in their home market exceeded five percent of their sales of CORE to the United States. *See* section 351.404(b) of the Department's regulations. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent practicable, at the same level of trade (LOT) as the EP or CEP. *See* ''Level of Trade'' section below.

*B. Affiliated Party Transactions and Arm's–Length Test*

We used sales to affiliated customers in the home market only where we determined such sales were made at arm's–length prices (*i.e.*, at prices comparable to the prices at which the respondent sold identical merchandise to unaffiliated customers). To test whether the sales to affiliates were made at arm's–length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's–length prices. *See* section 351.403(c) of the Department's regulations. Where the affiliated party transactions did not pass the arm's–length test, all sales to that affiliated party have been excluded from the NV calculation. Because the aggregate volume of sales to these affiliates is less than 5 percent of total home market sales, we did not request downstream sales. *See* section 351.403(d) of the Department's regulations; *see also Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

*C. Cost of Production Analysis*

The Department disregarded certain Dofasco and Stelco sales that failed the cost test in the prior review. We, therefore, have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the cost of production (COP). Thus, pursuant to section 773(b)(1) of the Act, we examined whether Dofasco's and Stelco's sales in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model–specific COP figures in the POR. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, and all costs and expenses incidental to placing the foreign like product in a packed condition and ready for shipment. In our sales–below-cost analysis, we used home market sales and COP information provided by Dofasco and Stelco in their questionnaire responses.

We compared the weighted–average COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b)(1)(A) and (B) of the Act. On a product–specific basis, we compared

the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than the COP, we did not disregard any below–cost sales of that model because the below–cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to average costs in the POR, we also determined that the below–cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

*D. Constructed Value*

In accordance with section 773(a)(4) of the Act, we used constructed value (CV) as the basis for NV when there were no above–cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted–average home market selling expenses.

For those product comparisons for which there were sales at prices above the COP, we based NV on home market prices to affiliated (when made at prices determined to be arms–length) or unaffiliated parties, in accordance with section 773(a)(1)(A) and (B) of the Act. We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for circumstance–of-sales (COS) differences, in accordance with 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

Home market starting prices were based on packed prices net of discounts and rebates. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. For comparisons to EP, we made COS adjustments to NV by deducting home market packing, movement, and direct selling expenses (*e.g.*, credit, warranties, and royalties), and adding U.S. packing, movement, and direct selling expenses. For comparison to CEP, we made COS adjustments by deducting home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We offset commissions paid on sales to the United States by the lesser of U.S. commissions or comparison (home) market indirect selling expenses.

**Level of Trade**

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* section 351.412(c)(2) of the Department's regulations. Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*South African Plate Final*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution),[1] including selling functions,[2] class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See South African Plate Final* at 62 FR 61731, 61732–33 (November 19, 1997).

*A. Dofasco LOT Analysis*

We obtained information from Dofasco regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. In the current review, as in the previous review, Dofasco claimed that sales in both the home market and the United States market were made at different LOTs. In the previous review, we concluded that Dofasco did sell at different LOTs. *See Final Results of 10th Review*.

We examined the chain of distribution and the selling activities associated with sales reported by Dofasco to three distinct customer categories (automotive, construction, and service centers) in its single channel of distribution in the home market. *See Memorandum from Kyle Lamborn (AD/CVD Financial Analyst) through Sean Carey (Acting Program Manager) to the*

[1] The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

*File; Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Analysis of Dofasco Inc. (Dofasco) and Sorevco for the Preliminary Results*, (August 31, 2005) (Dofasco Analysis Memo, on file in the Central Record Unit (CRU), room B–099 of the main Commerce building. We found that sales to the construction and service center customer categories, were similar with respect to technical service, freight services, and warehouse/inventory maintenance, and that they differed only slightly with respect to sales process. Therefore, we found that these customer categories constituted a distinct level of trade (LOTH2). We found that sales to automotive customer category differed significantly from LOTH2 with respect to sales process and technical service and therefore, constitute a distinct level of trade (LOTH1). Thus, based upon our analysis of the home market, we found that LOTH1 and LOTH2 constitute two different levels of trade.

Dofasco reported EP sales through two channels of distribution: Channel 1 including sales to automotive, service centers, and construction, and Channel 4 sales to construction. We examined the chain of distribution and the selling activities associated with sales to construction and service center categories through these channels and found them to be similar with respect to technical service, freight services, and warehouse/inventory maintenance; they differed only slight with respect to the sales process. Therefore, we found that these two channels of distribution to these customer categories constituted a distinct level of trade (LOTU2). We found that sales to the automotive customer category differed significantly from LOTU2 with respect to sales process and technical service, but were similar with respect to freight service and warehouse/inventory maintenance. Since the sales process and technical service functions comprise significant selling activities, we find that these factors are determinative in finding that sales to this automotive customer category constitute a separate level of trade (LOTU1). Thus, based upon our analysis of Dofasco's EP sales, we find that LOTU1 and LOTU2 constitute two different levels of trade.

We then compared the two EP levels of trade to the two home market LOTs. We found that LOTU2 differed considerably from LOTH1 with respect to sales process, technical services and freight services. However, LOTU2 was similar to LOTH2 with respect to sales process, technical service, and warehouse/inventory maintenance. We also found that LOTU1 differed considerably from LOTH2 with respect to sales process, technical services, and freight services. However, LOTU1 was similar to LOTH1 with respect to sales process, technical service, and warehouse/inventory maintenance. Consequently, we matched LOTU2 sales to sales at the same level of trade in the home market (LOTH2), and LOTU1 sales to sales at the same level of trade in the home market (LOTH1). Where we did not match products at the same LOT, and there was a pattern of consistent prices differences between different LOTs, we made a LOT adjustment. *See* section 773(a)(7)(A) of the Act; *see, also Dofasco Analysis Memo* at page 2.

Dofasco had two channels of distribution related to its CEP sales to automotive customers through Dofasco USA. These channels of distribution had the same selling functions and thus constitute a single level of trade (LOTU3). We compared LOTU3 to our two home market LOTs. We found that LOTU3 differed considerably from LOTH2 with respect to sales process, technical services and freight services. However, the LOTU3 was similar to LOTH1 with respect to sales process, technical service, and warehouse/inventory maintenance. Consequently, we matched LOTU3 sales to sales at the same LOT in the home market (LOTH1) and, where possible, we matched CEP sales to NV based on home market sales in LOTH1 and made no CEP offset adjustment. Where we did not match products at the same LOT, and there was a pattern of consistent prices differences between different LOTs, we made a LOT adjustment. *See* section 773(a)(7)(A) of the Act. Where we are unable to make a LOT adjustment, we considered granting a CEP offset as provided for in section 773(a)(7)(B) of the Act. After comparing the CEP LOT (LOTU3) with the LOTH1, we have preliminarily determined that the LOTH1 is not more remote from the factory than the LOTU3. As indicated by Exhibit I.A.8 of Dofasco's Section A response, dated December 22, 2004, as well as elsewhere in Dofasco's response, the vast majority of selling functions for both U.S. and home market sales are performed by Dofasco in Canada. Therefore, a CEP offset is not warranted under section 773(a)(7)(B) of the Act.

*B. Stelco LOT Analysis*

Stelco stated in its response that it was not claiming a LOT adjustment. However, Stelco did provide a chart of its selling functions, which we analyzed. In the home market, Stelco sold directly to end–users and service centers. Stelco performed a variety of distinct selling functions in both home market channels of distribution, including research and development, engineering services, personnel training, and technical advice. All of Stelco's U.S. sales are EP sales to end–users.

We examined Stelco's chain of distribution and the selling activities in the home market, and categorized its channel of sales under two customer categories, sales to end–users and service centers. *See Memorandum to the File, From Douglas Kirby Through Sean Carey, re: Analysis of Stelco for the Preliminary Results*, dated August 31, 2004 (*Stelco Preliminary Analysis Memorandum*), on file in the CRU. We found that sales to end–users (LOTH1) differed significantly from sales to service centers (LOTH2) with respect to sales process and technical service, and slightly with regard to freight services. Therefore, we found that these customer categories in the home market constitute two distinct levels of trade in the home market.

Stelco reported only EP sales through one channel of distribution to just one customer category in the United States, end–users (LOTU3). Therefore, Stelco has only a single LOT in the United States. We compared the EP LOT to the two home market LOTs. We found that LOTU3 differed significantly from LOTH1 with respect to sales process and slightly with regard to technical services. Even though both LOTU3 and LOTH1 comprise end–users, Stelco noted in its response that its selling activities for its U.S. sales were made at a lesser intensity than for its home market sales, and that they included sales of samples at ''small quantities of non–repeat business that is directed to a die developer rather than to the customer's stamping facility.'' *See* Stelco's Sections A, B and C supplemental questionnaire response, dated May 20, 2005 at 4. We then compared LOTU3 to LOTH2 and found that they differed with respect to technical support and freight services.

Our comparisons of the EP LOT to the two NV LOTs noted above, taken in conjunction with the narrative description that characterizes some types of U.S. customers as being distinct from typical end–users or service centers, leads us to conclude that the EP LOT is significantly different from those found in the home market. Therefore, we disregarded level of trade and we compared LOTU3 EP sales to all home market LOTs.

**Currency Conversion**

For purposes of the preliminary results, in accordance with section 773(a) of the Act, we made currency

conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

**Preliminary Results of Review**

As a result of this review, we preliminarily find that the following weighted–average dumping margins exist:

| Producer/Manufacturer/Exporter | Weighted–Average Margin |
|---|---|
| Dofasco Inc., Sorevco Inc., Do Sol Galva Ltd. | 11.08 % |
| Stelco Inc. | De minimis |

**Cash Deposit Requirements**

If the preliminary results are adopted in the final results of review, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for Dofasco, Sorevco, and DSG will be that established in the final results of this review for Dofasco (and entities collapsed with Dofasco); (2) the cash deposit rate for Stelco will be that established in the final results of this review (currently *de minimis*); (3) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (4) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (5) if neither the exporter nor the manufacturer is a firm covered in this or any previous proceeding conducted by the Department, the cash deposit rate will continue to be the ''all others'' rate established in the LTFV investigation, which is 18.71 percent. *See Amended Final and Order*. For shipments processed by DJG we will, (1) apply Dofasco's rate on merchandise supplied by Dofasco or DSG; (2) apply the company specific rate on merchandise supplied by other previously reviewed companies; and, (3) apply the ''all others'' rate for merchandise supplied by companies which have not been reviewed in the past. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Duty Assessment**

Upon publication of the final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to CBP on the 41st day after the date of publication of the final results of review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. For duty assessment purposes, we calculate an importer–specific assessment rate by dividing the total dumping margins calculated for the U.S. sales of each importer by the respective total entered value of these sales. If the preliminary results are adopted in the final results of review, this rate will be used for the assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

The Department clarified its ''automatic assessment'' regulation on April 30, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''all others'' rate if there is no rate for the intermediate company(ies) involved in the transaction.

**Public Comment**

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results, within five days after the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit case briefs in response to these preliminary results no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than 5 days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the Department requests that parties submitting briefs provide the Department with an additional copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will normally be held two days after the date for submission of rebuttal briefs. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice, unless extended. *See* section 351.213(h) of the Department's regulations.

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2005.

**Barbara E. Tillman,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–4947 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–807]**

### Polyethylene Terephthalate Film from Korea; Five-year (Sunset) Reviews of Antidumping Duty Order; Final Results

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

**SUMMARY:** On February 2, 2005, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on polyethylene terephthalate (PET) film

from Korea, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of the notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and no response from respondent interested parties, the Department conducted an expedited sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order on PET film from Korea would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of Review.''

**EFFECTIVE DATE:** September 9, 2005.

**FOR INFORMATION CONTACT:** Dana Mermelstein 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) 482–1391 or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On February 2, 2005, the Department initiated a sunset review of the antidumping duty order on PET film from Korea pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 5415 (February 2, 2005). The Department received a notice of intent to participate from two domestic interested parties, DuPont Teijin Films (DTF) and Mitsubishi Polyester Film LLC (Mitsubishi), within the deadline specified in 19 C.F.R. § 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as a U.S. producer of a domestic like product. We received a complete substantive response from domestic interested parties within the 30-day deadline specified in 19 C.F.R. § 351.218(d)(3)(i). However, we did not receive any response from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 C.F.R. § 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of the order.

On May 26, 2005, the Department extended the time limit for the final results of this sunset review to not later than August 31, 2005. *See Polyethylene Terephthalate Film from South Korea; Extension of Time Limit for Final Results of Sunset Review of Antidumping Duty Order*, 70 FR 30416 (May 26, 2005).

## Scope of the Order

The antidumping duty order on PET film from Korea covers shipments of all gauges of raw, pre–treated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or co–extruded. The films excluded from this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance–enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00.[1] While the HTS subheading is provided for convenience and for customs purposes, the written description remains dispositive as to the scope of the product coverage.

This sunset review covers imports from all producers and exporters of PET film from Korea, other than imports by Toray Saehan, Inc.[2] and Kolon Industries, for which the order was revoked.

## Analysis of Comments Received

All issues raised in this case are addressed in the ''Issues and Decision Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 30, 2005 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendation in this public memorandum, which is on file in room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov,* under the heading ''September 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

## Final Results of Review

We determine that revocation of the antidumping duty order on PET Film from Korea would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

| Manufacturers/Exporters/Producers | Weighted–Average Margin (Percent) |
|---|---|
| SKC Limited and SKC America, Inc. | 13.92 |
| All Others | 21.50 |

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. § 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–4942 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

[1] Effective July 1, 2003, the HTS subheading 3920.62.00.00 was divided into 3920.62.00.10 (metallized PET film) and 3920.62.00.90 (non-metallized PET film).

[2] In a changed circumstances review, the Department determined that Toray Saehan, Inc. was the successor-in-interest to Saehan Industries, Inc. (Saehan). *See Polyethylene Terephthalate Film, Sheet and Strip from Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 65 FR 34661 (May 31, 2000). Prior to that, in another changed circumstances review, the Department determined that Saehan was the successor-in-interest to Cheil Synthetics, Inc. (Cheil). *See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 3703 (January 26, 1998). The Department calculated margins for Cheil in the investigation of PET film from Korea and in subsequent reviews.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–351–824]**

### Silicomanganese From Brazil: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on silicomanganese from Brazil

manufactured and exported by Rio Doce Manganês S.A. (RDM), Companhia Paulista de Ferro–Ligas (CPFL), and Urucum Mineração S.A. (Urucum) (collectively RDM/CPFL) in response to a request from Eramet Marietta Inc., a domestic manufacturer of silicomanganese. This review covers the period December 1, 2003, through November 30, 2004.

We have preliminarily determined that RDM/CPFL did not make sales of the subject merchandise to the United States at prices below normal value during the period of review. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Yang Jin Chun at (202) 482–5760 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

## Background

On December 22, 1994, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on silicomanganese from Brazil. See *Notice of Antidumping Duty Order: Silicomanganese from Brazil*, 59 FR 66003 (December 22, 1994). On December 1, 2004, we published in the **Federal Register** a notice of opportunity to request an administrative review of this order covering the period December 1, 2003, through November 30, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 69889 (December 1, 2004). On December 30, 2004, Eramet Marietta Inc. requested that the Department conduct an administrative review of RDM/CPFL's sales. On January 31, 2005, the Department published in the **Federal Register** a notice of initiation of this administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005). The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

## Scope of Order

The merchandise covered by this order is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. This order covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the order remains dispositive.

## Collapsing

The Department's regulations outline the criteria for collapsing (*i.e.*, treating as a single entity) affiliated producers for purposes of calculating a dumping margin. The regulations state that we will treat two or more affiliated producers as a single entity where those producers have production facilities for identical or similar products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and we conclude that there is a significant potential for manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the Department may consider the following factors: (i) the level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See 19 CFR 351.401(f).

Because RDM and Urucum are entities wholly owned by Companhia Vale de Rio Doce (CVRD) and CPFL is a subsidiary of RDM, CVRD is affiliated with RDM and Urucum, and RDM is affiliated with CPFL. Furthermore, based on CVRD's investment interest in both companies, we find that CVRD is in the position legally and/or operationally to exercise direction or restraint over RDM, CPFL, and Urucum and, thus, has direct or indirect control within the meaning of section 771(33)(F) of the Act. As such, we determine that RDM, CPFL, and Urucum are affiliated pursuant to section 771(33)(F) of the Act.

With respect to the first criterion of 19 CFR 351.401(f), the information currently on the record indicates that RDM, CPFL, and Urucum use similar production facilities, in terms of production capacities and type of machinery, and employ virtually identical production processes to produce identical or similar silicomanganese products. See RDM/CPFL's April 11, 2005, questionnaire response at pages D–3 through D–5. Based on this information, we find that the companies could shift the production requirements from one facility to the other without requiring substantial retooling in order to restructure manufacturing priorities.

We also find that a significant potential for manipulation of prices, production costs, and production priorities exists pursuant to 19 CFR 351.401(f)(2). Specifically, the information on the record indicates the following: CVRD has a direct involvement in RDM's, CPFL's, and Urucum's activities associated with the production and sales, as well as the transportation of raw materials; all three companies share the expertise of an executive officer; all three companies have heavily intertwined operations with respect to their purchases of manganese ore from each other's mines. Therefore, for the purposes of this administrative review, we find that RDM, CPFL, and Urucum are affiliated and have collapsed them into one entity pursuant to section 771(33) of the Act and 19 CFR 351.401(f). For a more complete discussion of this issue, see the September 2, 2005, Memorandum from Yang Jin Chun to Laurie Parkhill, ''Administrative Review of the Antidumping Duty Order on Silicomanganese from Brazil: Collapsing of Affiliated Producers Rio Doce Manganês S.A., Companhia Paulista de Ferro–Ligas, and Urucum Mineraçã S.A. for Purposes of Calculating a Dumping Margin,'' which is on file in the Central Records Unit (CRU) at the main Department building.

## Affiliation of Parties

Pursuant to sections 771(33)(E) and (F) of the Act, the Department has preliminarily determined that certain customers to which RDM/CPFL sold silicomanganese during the period of

review and whom RDM/CPFL identified as unaffiliated parties are, in fact, affiliated with RDM/CPFL. Specifically, the Department has determined that RDM/CPFL and some of its home–market customers are under the common control of CVRD, RDM/CPFL's parent company. According to section 771(33)(F) of the Act, two or more persons under common control with any other person shall be considered affiliated. Thus, we have preliminarily found these companies to be affiliated with RDM/CPFL. For a complete discussion of this issue, see the September 2, 2005, Memorandum to the File, ''Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Silicomanganese from Brazil: Rio Doce Manganês S.A. (RDM), Companhia Paulista de Ferro–Ligas (CPFL), and Urucum Mineraçã S.A. (Urucum) (collectively, RDM/CPFL),'' which is on file in the CRU.

**Comparisons to Normal Value**

To determine whether sales of silicomanganese from Brazil were made in the United States at less than normal value, we compared the export price to the normal value. When making comparisons in accordance with section 771(16) of the Act, we considered all comparable products sold in the home market that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales.

**Export Price**

For the price to the United States, we used export price, as defined in section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to the date of importation. We based export price on the Free–on-Board price to the first unaffiliated purchaser in the United States. We made deductions, where appropriate, consistent with section 772(c)(2)(A) of the Act for movement expenses.

**Normal Value**

*A. Home–Market Viability*

Based on a comparison of the aggregate quantity of home–market and U.S. sales, we determined that the quantity of foreign like product sold by RDM/CPFL in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. RDM/CPFL's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade.

*B. Arm's–Length Sales*

RDM/CPFL made sales in the home market to affiliated and unaffiliated customers. The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's–length prices. See 19 CFR 351.403(c). We excluded sales to affiliated customers for consumption in the home market that we determined were not at arm's–length prices from our analysis. To test whether these sales were made at arm's–length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, when the prices charged to an affiliated party are, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determine that the sales to the affiliated party are at arm's–length prices and include these sales in our calculation of normal value. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002). In this review, however, we determined that no sales to affiliated parties were at arm's–length prices. As such, we did not include these sales in our calculation of normal value.

*C. Cost–of-Production Analysis*

Because the Department disregarded RDM/CPFL's home–market sales that it determined were sold at below–cost prices in the most recently completed administrative review, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by RDM/CPFL in the home market.

Based on the respondent's request, we allowed the cost–reporting period to correspond with RDM/CPFL's 2004 fiscal year. Before making any price comparisons, we conducted the COP analysis. We calculated COP, in accordance with section 773(b)(3) of the Act, based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus amounts for home–market selling, general, and administrative expenses, financial expenses, and packing expenses. For the preliminary results of review, we relied on the COP information submitted by RDM/CPFL in its questionnaire responses.

In accordance with section 773(b)(1) of the Act, we tested whether home–market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether any such prices permitted the recovery of all costs within a reasonable period of time. We compared model–specific COPs to the reported home–market prices less any applicable movement charges.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of the respondent's sales of the foreign like product were at prices less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of the respondent's sales of the foreign like product during the period of review were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time in accordance with sections 773(b)(2)(B) and (C) of the Act and, based on comparisons of prices to weighted–average COPs for the period of review, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below–cost sales for RDM/CPFL.

*D. Calculation of Normal Value*

Because we were able to find contemporaneous home–market sales made in the ordinary course of trade for a comparison to all export–price sales, in accordance with section 773(a)(1)(B) of the Act we based normal value on the prices at which the foreign like product was sold for consumption in the home market. Home–market prices were based on ex–factory or delivered prices to unaffiliated purchasers. When applicable, we made adjustments for

differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.401. Specifically, we made circumstance–of-sale adjustments by deducting home–market direct selling expenses from and adding U.S. direct selling expenses to normal value.

**Preliminary Results of Review**

As a result of our review, we preliminarily determine that a margin of 0.00 percent exists for RDM/CPFL for the period December 1, 2003, through November 30, 2004.

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Department building. We will notify parties of the exact date, time, and place for any such hearing.

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs. Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue and a brief summary of the argument with an electronic version included.

The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in the case briefs, within 120 days from the date of publication of these preliminary results.

**Assessment**

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the CBP.

Further, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of silicomanganese entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash–deposit rate for RDM/CPFL will be the rate established in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, then the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the LTFV investigation, the cash–deposit rate shall be 17.60 percent, the all–others rate established in the LTFV investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from Brazil*, 59 FR 55432 (November 7, 1994). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a primary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: September 2, 2005.

**Barbara E. Tillman,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–4939 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–702, A–580–813, A–583–816]**

### Certain Stainless Steel Butt–Weld Pipe Fittings from Japan, South Korea, and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** On February 2, 2005, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on certain stainless steel butt–weld pipe fittings (pipe fittings) from Japan, South Korea, and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of a notice of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and no response from respondent interested parties, the Department conducted expedited (120–day) sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified below in the ''Final Results of Review'' section of this notice.

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–1391.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 2, 2005, the Department initiated sunset reviews of the antidumping duty orders on pipe fittings from Japan, Korea, and Taiwan pursuant to section 751(c) of the Act. See Initiation of Five–Year (''Sunset'') Reviews, 69 FR 69891 (Feb. 2, 2005). The Department received notices of intent to participate from four domestic interested parties, Flowline Division of Markovitz Enterprises, Inc. (Flowline), Gerlin, Inc. (Gerlin), Shaw Alloy Piping Products, Inc. (formerly Alloy Piping Products, Inc.) (Shaw), and Taylor Forge Stainless, Inc. (Taylor Forge) (collectively, domestic interested parties), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. We received a complete substantive response from the domestic interested party within the 30–day deadline specified in 19 CFR 351.218(d)(3)(i). However, we did not receive any responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

On May 26, 2005, the Department extended the time limit for final results of these sunset reviews to not later than August 31, 2005. *See Stainless Steel Butt–Weld Pipe Fittings from Japan, Korea, and Taiwan: Extension of Time Limit for the Final Results of Sunset Reviews of Antidumping Duty Orders*, 70 FR 30416 (May 26, 2005).

**Scope of the Orders**

*Japan*

The products covered by this order include certain stainless steel butt–weld pipe and tube fittings, or SSPFs. These fittings are used in piping systems for chemical plants, pharmaceutical plants, food processing facilities, waste treatment facilities, semiconductor equipment applications, nuclear power plants and other areas. This merchandise is classifiable under the Harmonized Tariff Schedules of the United States (HTSUS) item number 7307.23.0000. While the HTS item number is provided for convenience and for Customs purposes, the written product description remains dispositive as to the scope of the product coverage.

*South Korea*

The products subject to this order are certain welded stainless steel butt–weld pipe fittings (pipe fittings), whether finished or unfinished, under 14 inches in inside diameter.

Pipe fittings are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise can be used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, and the following five are the most basic: ''elbows,'' ''tees,'' ''reducers,'' ''stub ends,'' and ''caps.'' The edges of finished fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this order are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedules of the United States (HTSUS).

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

*Taiwan*

The products subject to this order are certain stainless steel butt–weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter.

Certain welded stainless steel butt–weld pipe fittings (''pipe fittings'') are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: ''elbows,'' ''tees,'' ''reducers,'' ''stub ends,'' and ''caps.'' The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this order are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedules of the United States (HTSUS).

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

*Analysis of Comments Received*

All issues raised in these cases are addressed in the ''Issues and Decision Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 30, 2005, (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at http://ia.ita.doc.gov, under the heading ''September 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

*Final Results of Reviews*

We determine that revocation of the antidumping duty orders on pipe fittings from Japan, Korea, and Taiwan would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

| Manufacturers/Exporters/Producers | Weighted–Average Margin (Percent) |
|---|---|
| **Japan**. | |
| Mie Horo | 65.08 |
| Nippon Benkan Kogyo, K.K. | 37.24 |
| All Others | 49.31 |
| **South Korea**. | |
| The Asia Bend Co. Ltd. | 21.20 |
| All Others | 21.20 |
| **Taiwan**. | |
| Tachia Yung Ho Machine Industry Co., Ltd. | 76.20 |
| Ta Chen Stainless Pipe Co., Ltd. | 6.42 |
| Tru–Flow Industrial Co., Ltd. | 76.20 |
| All Others | 51.01 |

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–4940 Filed 9–8–05; 8:45 am]

**Billing Code: 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–830]**

### Stainless Steel Plate in Coils from Taiwan; Rescission of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Nichole Zink,

AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874 and (202) 482–0049, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 2, 2005, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping order regarding stainless steel plate in coils from Taiwan for the period May 1, 2004, through April 30, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 22631. On May 31, 2005, in accordance with 19 CFR 351.213(b)(1) of the Department of Commerce's (the Department's) regulations, the petitioners[1] requested a review of the antidumping duty order on stainless steel plate in coils from Taiwan.

In June 2005, the Department initiated an administrative review for the following companies: Chain Chin Industrial Co., Ltd.; Chang Mien Industries Co., Ltd.; Chien Shing Stainless Co., Ltd.; China Steel Corporation; East Tack Enterprise Co., Ltd.; Emerdex Stainless Steel Flat Roll Products, Inc.; Emerdex Stainless Steel, Inc.; Emerdex Group, Goang Jau Shing Enterprise Co., Ltd.; PFP Taiwan Co., Ltd.; Shing Shong Ta Metal Ind. Co., Ltd.; Sinkang Industries, Ltd.; Ta Chen Stainless Pipe Co., Ltd.; Tang Eng Iron Works; Yieh Loong Enterprise Co., Ltd. (also known as Chung Hung Steel Co., Ltd.); Yieh Mau Corporation; Yieh Trading Co.; and Yieh United Steel Corporation, and issued questionnaires to them. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749 (Jun. 30, 2005).

On August 11, 2005, the petitioners withdrew their request for review.

**Rescission of Review**

The petitioners withdrew their request for an administrative review for the above–referenced period within the time limits set forth in 19 CFR 351.213(d)(1). Therefore, because no other interested party requested a review, in accordance with 19 CFR 351.213(d)(1) and consistent with our practice, we are rescinding this review of the antidumping duty order on stainless steel plate in coils from Taiwan for the period of May 1, 2004, through April 30, 2005.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 2, 2005.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary Import Administration.*

[FR Doc. E5–4938 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

[1] The petitioners in this proceeding are Allegheny Ludlum Corp. and United Steelworkers of America.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–852, A–580–841]**

### Structural Steel Beams from Japan and South Korea; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** On May 2, 2005, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty orders on structural steel beams (steel beams) from Japan and South Korea, pursuant to section 751(c) of the Tariff Act of 1930, as amended, (the Tariff Act). On the basis of the notice of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of Reviews.''

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–1391.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 2, 2005, the Department initiated sunset reviews of the antidumping duty orders on steel beams from Japan and South Korea, pursuant to section 751(c) of the Tariff Act. *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 22632 (May 2, 2005). The Department received notices of intent to participate from the domestic interested parties, Committee for Fair Beam Imports, Nucor Corp., Nucor–Yamoto Steel Co., Steel Dynamics, Inc., and TXI–Chaparral Steel, Inc. (collectively, domestic interested parties), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Tariff Act as U.S. producers of a domestic like product. We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, we did not receive responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

**Scope of the Orders**

For purposes of this review, the products covered are doubly–symmetric shapes, whether hot or cold–rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These products (Structural Steel Beams) include, but are not limited to, wide–flange beams (W shapes), bearing piles (HP shapes), standard beams (S or I shapes), and M–shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this review unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this review: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this review is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000,[1] 7216.99.0000,[2] 7228.70.3040,[3] 7228.70.6000. Although

[1] HTSUS subheading 7216.91.0000 was no longer in use as of 2004, and was replaced by 7216.91.0010 and 7216.91.0090 in that year.

[2] HTSUS subheading 7216.99.0000 was no longer in use as of 2004, and was replaced by 7216.99.0010 and 7216.99.0090 in that year.

[3] HTSUS subheading 7228.70.3040 was no longer in use as of 2005. What was previously covered by that number is now covered with in 7228.70.3010 and 7228.70.3041 starting in 2005.

the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the written description of the merchandise under review is dispositive.

**Analysis of Comments Received**

All issues raised in these cases are addressed in the ''Issues and Decision Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 30, 2005 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov, under the heading ''September 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

**Final Results of Reviews**

We determine that revocation of the antidumping duty orders on steel beams from Japan and South Korea would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

| Manufacturers/Exporters/Producers | Weighted–Average Margin (Percent) |
|---|---|
| **Japan**. | |
| Kawasaki Steel Corporation | 65.21 |
| Nippon Steel Corporation | 65.21 |
| NKK Corporation/TOA Steel Co., Ltd. | 65.21 |
| Sumitomo Metals Industries, Ltd. | 65.21 |
| Tokyo Steel Manufacturing Co., Ltd. | 65.21 |
| Topy Industries, Limited | 65.21 |
| All Others | 31.98 |
| **South Korea**. | |
| INI Steel Company | 25.31 |
| All Others | 37.25 |

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Tariff Act.

Dated: August 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–4941 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### Minority Business Development Agency

**[Docket No. 980901228–5236–05]**

### Solicitation of Applications for the Minority Business Opportunity Center (MBOC) Program

**AGENCY:** Minority Business Development Agency, Department of Commerce.

**ACTION:** Notice of funding availability; correction.

**SUMMARY:** The Minority Business Development Agency publishes this notice to make a correction to the Eligibility section in the Solicitation of Applications for the Minority Business Opportunity Center (MBOC) Program originally announced in the **Federal Register** on August 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Please visit MBDA's Minority Business Internet Portal at *http://www.mbda.gov*. Paper applications and Standard Forms may be obtained by contacting the MBDA National Enterprise Center (NEC) for the area in which the Applicant is located (See Agency Contacts section) or visiting MBDA's Portal at *http://www.mbda.gov*. Standard Forms 424, 424A, 424B, and SF–LLL can also be obtained at *http://www.whitehouse.gov/omb/grants*, or *http://Grants.gov*. Forms CD–511, and CD–346 may be obtained at *http://www.doc.gov/forms*.

Responsibility for ensuring that applications are complete and received by MBDA on time is the sole responsibility of the applicant.

**SUPPLEMENTARY INFORMATION:** On August 30, 2005, MBDA published a solicitation of applications for the MBOC Program. 70 FR 51338. In that notice, MBDA inadvertently included federal agencies as an entity eligible for grants under the MBOC program. This notice corrects the eligibility criteria to remove federal agencies as an eligible entity. Federal agencies are not eligible to apply to the MBOC program because financial assistance awards in the form of Cooperative Agreements will be used to fund the MBOC Program and federal agencies are not eligible to receive Cooperative Agreements. The correct eligibility criteria is stated below.

*Eligibility:* For-profit entities (including sole-proprietorships, partnerships, and corporations), non-profit organizations, State and local government entities, American Indian tribes, and Educational institutions are eligible to operate MBOCs.

All other requirements stated in the August 30, 2005 solicitation remain the same.

**Intergovernmental Review**

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

**Limitation of Liability**

Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will MBDA or the department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. Publication of this announcement does not oblige MBDA or the Department of Commerce to award any specific project or to obligate any available funds.

**Universal Identifier**

Applicant should be aware that they may be required to provide a Dun and Bradstreet Data Universal Numbering system (DUNS) number during the application process. See the June 27, 2003 (68 FR 38402) **Federal Register** notice for additional information. Organization can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or on MBDA's Web site at *http://www.mbda.gov*.

**Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements**

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

**Executive Order 12866**

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

**Administrative Procedure Act/ Regulatory Flexibility Act**

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

**Paperwork Reduction Act**

This document contains collection-of information requirements subject to the Paperwork Reduction Act (PRA) the use of standard forms 424, 424A, 424B, CD–346, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0605–0001, and 0348–0046. Notwithstanding any other provisions of 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 Paperwork Reduction Act unless that collection displays a currently valid OMB control Number.

Dated: September 2, 2005.

**Ronald J. Marin,**

*Financial Management Officer, Minority Business Development Agency.*

[FR Doc. 05–17777 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–21–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Announcing a Workshop on Developing an Analysis of Threats to Voting Systems

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of public workshop.

**SUMMARY:** The Help America Vote Act (HAVA) of 2002 has given the National Institute of Standards and Technology (NIST) a key role in helping to realize nationwide improvements in voting systems. NIST research activities authorized by HAVA include the security of computers, computer networks, and computer data storage used in voting systems, methods to detect and prevent fraud, and protection of voter privacy and the role of human factors in the design and application of voting systems.

To assist NIST in its role of developing guidance for the security and related usability of electronic voting systems, NIST plans to solicit the election community's participation in a workshop to develop an analysis of threats to voting systems. The election community members include election directors and officials, voting system researchers, election system vendors, threat experts in related areas, and others in the public and private sector.

It is anticipated that the workshop will result in a published overview and analysis of threats to voting systems, and how in general these threats can be mitigated. The goal of the workshop is to gather further threat analysis material and input to material already developed from participants so that, together, these may be used to drive the creation of appropriate requirements for the security of voting systems.

Participants in the workshop are encouraged to submit a position paper to the conference by September 30, 2005. Position papers and other submitted materials will be made publicly available on the NIST voting Web site. There will be time available for open public comment. The detailed draft agenda and supporting documentation for the workshop will be made available prior to the workshop at the NIST voting Web site *http://vote.nist.gov/threats/*.

**DATES:** The workshop will be held on October 7, 2005, from 9 a.m. to 5 p.m.

**ADDRESSES:** The workshop will be held in Building 820 (NIST North), Room 152, at the National Institute of Standards and Technology, Gaithersburg, MD.

**FOR FURTHER INFORMATION CONTACT:** Additional information, as available may be obtained from the NIST voting Web site at *http://vote.nist.gov/threats/* or by contacting Peter Ketcham, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8910, Gaithersburg, MD 20899–8910; telephone 301–975–5456; or e-mail: *voting@nist.gov*.

**SUPPLEMENTARY INFORMATION:** NIST will lead an outreach effort in coordination with election officials, voting system experts, security threat experts, and the public and private sector to develop and disseminate an analysis of threats to voting systems. Examples of such voting systems include Direct Recording Electronic (DRE) systems, systems using voter verified audit trail technology, optical scan voting systems, and ballot marking devices.

The goal of the workshop is to solicit and gather threat analysis material and to gather critical analysis of the collected threats, their plausibility of various scenarios, assumptions made, and what lessons can be learned as a result of the analysis. Participants in the workshop will be expected to understand the collected materials and participate in the critical analysis and conclusions. In particular, participants will be asked to comment on the ramifications of the threat analysis materials so that this may result in general requirements for the security of voting systems. NIST will use the results of the workshop to develop security and related usability requirements for future iterations of the Voluntary Voting System Guidelines (VVSG). The proceedings of the workshop will be published.

**Workshop Topics Include**

Overview, importance, and goals of a threat analysis

Questions that a threat analysis can answer

Overviews of submitted position papers and threat analysis work

General trends in attacks on information technology systems and ramifications to future voting systems security

General requirements for voting system security

Whether on-going voting systems threat analyses should be supported

State and local election directors and officials, voting systems security experts and researchers, election lawyers, experts in threat analysis, voting systems vendors, and others from the public and private sector are encouraged to present information at the workshop describing their analysis of voting system threats and their conclusions as to how requirements for voting system security should be targeted. Participants wishing to formally present information at the workshop should submit proposals by September 16, 2005, and should submit any related threat analysis material to *voting@nist.gov* by September 30, 2005. Position papers, and other submitted materials will be made publicly available on the NIST voting Web site.

Because of NIST security regulations, advance registration is mandatory; there will be no on-site, same-day registration. To register, please see *http://vote.nist.gov/threats/* or fax the registration form with your name, address, telephone, fax and e-mail address to 301–948–2067 (Attn: Developing an Analysis of Threats to Voting Systems) by September 30, 2005.

The registration fee will be $25. Payment can be made by credit card, check, purchase order, and government training form.

Dated: August 31, 2005.

**William A. Jeffrey,**

*Director.*

[FR Doc. 05–17923 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 090605C]**

### Climate Change Science Program (CCSP) Product Development Committee (CPDC) for Synthesis and Assessment Product 1.1

**AGENCY:** Climate Change Science Program (CCSP), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; establishment of Climate Change Science Program (CCSP) Product Development Committee (CPDC) for Synthesis and Assessment Product 1.1 (CPDC–S&A 1.1).

**SUMMARY:** Establishment of the CPDC–S&A 1.1 will result in advice to the Secretary, through the Under Secretary of Commerce for Oceans and Atmosphere, on CCSP Topic 1.1: ''Temperature trends in the lower atmosphere—steps for understanding and reconciling differences.'' This information will be used by NOAA to develop a final product in accordance with the *Guidelines for Producing the CCSP Synthesis and Assessment Products*.

**ADDRESSES:** Interested persons are invited to submit comments regarding the establishment of this committee to Christopher D. Miller, Program Manager, NOAA/OAR/Office of Global Programs Climate Change Data and Detection Program Element, 1100 Wayne Avenue, Suite 1210, Silver Spring, Maryland 20910; telephone 301–427–2376, e-mail: *Christopher.D.Miller@noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mary M. Glackin; telephone 301/713–1632.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the General Services Administration (GSA) rule of Federal Advisory Committee Management, 41 CFR part 102–3, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the National Oceanic and Atmospheric Administration (NOAA) Climate Change Science Program (CCSP) Product Development Committee (CPDC) for Synthesis and Assessment Product 1.1 (CPDC–S&A 1.1) is in the public interest, in connection with the performance of duties imposed on the Department by law. The CPDC–S&A 1.1 will consist of no more than 30 members to be appointed by the Under Secretary to assure a balanced representation among preeminent scientists, educators, and experts reflecting the full scope of the scientific issues addressed in CCSP Synthesis and Assessment Product 1.1. The CPDC–S&A 1.1 will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of publication of this notice in the **Federal Register**.

Dated: September 6, 2005.

**Mary M. Glackin,**

*Assistant Administrator for Program Planning and Integration.*

[FR Doc. 05–17942 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–NW–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 090105B]**

### Fisheries of the Northeastern United States; Essential Fish Habitat Components of Certain Fishery Management Plans 5-year Review; Supplemental Scoping Process

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

**ACTION:** Supplemental Notice of Intent (NOI) to prepare a Programmatic Environmental Impact Statement (EIS); notice of supplemental scoping process; request for comments.

**SUMMARY:** On February 24, 2004, the New England Fishery Management Council (Council) in cooperation with NMFS announced its intent to prepare a programmatic EIS and Omnibus Amendment 2 to the Fishery Management Plans (FMPs) for Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Skates, Atlantic Salmon, and Red Crab. The purpose of this notification is to alert the interested public of the Council's intent to complete Omnibus Amendment 2 in a two-phased approach. Phase 1 (Volume 1 of the EIS) would include a review and update of Essential Fish Habitat (EFH) designations and consideration of Habitat Areas of Particular Concern (HAPCs) (not including consideration of management measures or restrictions), an update of the prey species list, an update of non-fishing impacts, and an update of research and information needs. Phase 2 (Volume 2 of the EIS) would include reviewing and updating a gear effects evaluation and optimizing management measures for minimizing the adverse effects of fishing on EFH across all FMPs, including the potential consideration of management measures for HAPCs designated in Phase 1. During this scoping period, the Council and NMFS are seeking comments on the phased approach only.

**DATES:** Written scoping comments must be received on or before 5 pm EST, October 11, 2005.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- E-mail: *comments@nefmc.org*
- Mail, Disk, or CD-Rom: Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950
- Fax: (978) 465–3116

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, New England Council, (978) 465–0492; Lou Chiarella, NMFS, (978) 281–9277.

**SUPPLEMENTARY INFORMATION:** Issues scoped under the NOI published February 24, 2004 (69 FR 8367) included: (1) the review and update of the description and identification of EFH; (2) the review and development of analytical tools used to analyze alternatives to minimize adverse effects of fishing on EFH; (3) the review and update of non-Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) fishery council management actions and fishing activities that may adversely affect EFH; (4) the review and update of non-fishing related activities that may adversely affect EFH; (5) the review and update of the cumulative impact analysis; (6) the review and update of conservation and enhancement recommendations; (7) the review and update of prey species information; the identification of new HAPCs; (8) the review and update of research and information needs including the consideration of Dedicated Habitat Research Areas (DHRA); and (9) the integration of alternatives to minimize any adverse effects of fishing on EFH across all FMPs principally managed by the

Council by developing a comprehensive EFH Management Plan. A complete description of the background and need for the Omnibus Amendment and a list of scoping hearings can be found in the original February 24, 2004, NOI and are not repeated here.

Due largely to public clarity and issues of complexity, the Council intends to complete the EFH Omnibus Amendment 2 action in two phases or volumes with one accompanying EIS and Magnuson-Stevens Act document. Separation of this large action into two phases (volumes) will allow for the continued sequential development of the Omnibus Amendment but avoids the creation of an extremely large and complex action that may not be decipherable from the public's perspective. Further, in order to meet the Sustainable Fisheries Act intention of the EFH mandate, it is prudent to take a step-wise approach. For instance, it is necessary to determine what is EFH prior to conducting an evaluation of the potential effects of fishing gear on EFH and to develop a range of alternatives to minimize, mitigate or avoid any impacts that are more than minimal and less than temporary in nature. As such, the Council would complete the Omnibus Amendment 2 in two phases. Phase 1 (Volume 1 of the EIS) would include a review and update of EFH designations and consideration of HAPCs (not including consideration of management measures or restrictions), an update of prey species list, an update of non-fishing impacts, and an update of research and information needs. Phase 2 (Volume 2 of the EIS) would include reviewing and updating a gear effects evaluation and optimizing management measures for minimizing the adverse effects of fishing on EFH across all FMPs, including the potential consideration of management measures for HAPCs designated in Phase 1. The proposed sequence of events is described in Table 1.

TABLE 1. EVENTS OR MILESTONES OF PHASED APPROACH.

| Step | Event/Milestone |
|---|---|
| 1 | Council files modified Notice of Intent to clearly explain to the public the new course of action. |
| 2 | Council considers topics outlined in Phase 1 and develops a range of alternatives. |
| 3 | Council prepares Draft Volume 1 of preliminary EIS to include components in Step 2. |
| 4 | Public Hearings/Public Comment Period on Volume 1. |
| 5 | Council considers public comments and makes final decisions on Phase 1 topics. |
| 6 | Council completes Final Volume 1 containing analysis of Phase 1 topics. |
| 7 | Council considers topics outlined in Phase 2 and develops a range of alternatives. |
| 8 | Council prepares Draft Volume 2 of EIS to include components in Step 7. |
| 9 | Public Hearings / Public Comment Period on combined Volume 1 and Volume 2. |
| 10 | Council considers public comments and makes final decisions on Phase 2 topics. |
| 11 | Council completes Final Volume 2 containing analysis of Phase 2 topics. |
| 12 | Council prepares and submits merged Volume 1 and Volume 2 to NMFS as complete EIS/Magnuson-Stevens Act FMP Amendment documents. |
| 13 | NMFS reviews EIS and issues a record of decision. |

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

Dated: September 2, 2005.

**Emily Menashes**

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

[FR Doc. 05–17943 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 082305D]**

### Gulf of Mexico Fishery Management Council; Public Meetings; Correction

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

**ACTION:** Notice of cancellation of public meetings.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) has cancelled the public meetings that were scheduled for September 12–16, 2005, in New Orleans, LA.

**SUPPLEMENTARY INFORMATION:** The initial notice was published in the **Federal Register** on August 30, 2005, in FR Doc. E5–4719, beginning on page 51347. The meetings will be rescheduled at a later date and announced in the **Federal Register**.

Dated: September 6, 2005.

**Emily Menashes,**

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

[FR Doc. E5–4932 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Hydrographic Services Review Panel Meeting

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

**ACTION:** Notice of public meeting (via conference call).

**SUMMARY:** The Hydrographic Services Review Panel (HSRP) was established by the Secretary of Commerce to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, its amendments, and such other appropriate matters that the Under Secretary refers to the Panel for review and advice. The purpose of the conference call is to allow Panel members to vote on final recommendations initiated during a public meeting in Durham, New Hampshire, on August 18–19, 2005. Written public comments should be

submitted to the DFO by September 26, 2005.

*Date and Time:* The conference call will convene at 2 p.m. eastern time, September 28, 2005, and end at about 3:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Captain Roger L. Parsons, NOAA, Designated Federal Officer (DFO), Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, Maryland 20910; Telephone: 301–713–2770, Fax: 301–713–4019; e-mail: *Hydroservices.panel@noaa.gov* or visit the NOAA HSRP Web site at *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.*

**SUPPLEMENTARY INFORMATION:** This conference call is available to the public through the following, toll free call-in number: (888) 323–2712, participant passcode 9738110. Interested members of the public may call this number and listen to the meeting. Persons with hearing impairments may follow the proceedings by calling the Federal Relay Service [TTY (800) 877–8339, Voice (866) 377–8642 or Voice Carry-Over (877) 877–6280] and provide the Service with the conference call number and participant passcode. Be sure to notify the operator that it is a ''Conference Call'' before you provide call number and participant passcode. To ensure an appropriate number of phone lines for the public, persons are asked to register by visiting *https://www.mymeetings.com* (choose ''web rsvp'' and enter Conference ID 4907175, Conference Passcode 9738110) by September 23, 2005.

*Matters To Be Considered:* A quorum vote is required for recommendations related to NOAA Hydrographic Services Role in the Integrated Ocean Observing System (IOOS), The National Ocean Service Mapping and Charting Contracting Policy and Expansion Strategy and NOAA's Core Capability. The recommendations will be posted before the conference call; please visit *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.*

Dated: September 8, 2005.

**Mitchell Luxenberg,**

*Acting Chief Financial Officer, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

[FR Doc. 05–17891 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–JE–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China

September 2, 2005.

**AGENCY:** The Committee for the Implementation of Textile Agreements (the Committee).

**ACTION:** Notice.

**SUMMARY:** The Committee is extending through October 1, 2005, the period for making a determination on whether to request consultations with China regarding imports of knit fabric (Category 222).

**FOR FURTHER INFORMATION CONTACT:** Jay Dowling, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

### Background

On November 19, 2004, the Committee received a request from the American Manufacturing Trade Action Coalition, the National Council of Textile Organizations, the National Textile Association, and UNITE HERE requesting that the Committee limit imports from China of knit fabric (Category 222) due to the threat of market disruption.

The Committee determined that this request provided the information necessary for the Committee to consider the request and solicited public comments for a period of 30 days. See **Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, 69 FR 75516 (Dec. 17, 2004).

On December 30, 2004, the Court of International Trade preliminarily enjoined 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 U.S. Court of Appeals for the Federal Circuit granted the U.S. government's motion for a stay and reversed the lower Court on June 28, 2005. *U.S. Association of Importers of Textiles and Apparel v. United States*, 413 F. 3d 1344 (Fed. Cir. 2005). Thus, CITA resumed consideration of this case.

The public comment period for this request had not yet closed when the injunction took effect on December 30, 2004. The number of calendar days remaining in the public comment period beginning with and including December 30, 2004 was 20 days. On May 9, 2005, therefore, the Committee published a notice in the **Federal Register** re-opening the comment period and inviting public comments to be received not later than May 31, 2005. See **Rescheduling of Consideration of Request for Textile and Apparel Safeguard Action on Imports from China and Solicitations of Public Comments**, 70 FR 24397 (May 9, 2005).

The Committee's Procedures, 68 FR 27787 (May 21, 2003) state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination.

The 60 day determination period for this case expired on August 12, 2005. However, the Committee decided to extend until August 31, 2005, the period for making a determination on this case in order to consult with the domestic textile and apparel industry and members of Congress about whether to pursue a broader agreement with China on imports of Chinese textile and apparel products to the United States. Because of these consultations, the Committee was unable to make a determination within 60 days of the close of the public comment period. See **Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 45705 (August 8, 2005). The Committee is unable to make a determination within the extended period because it is continuing to evaluate conditions in the market for knit fabric. Therefore, the Committee is further extending the determination period to October 1, 2005.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.E5–4943 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China

September 2, 2005.

**AGENCY:** The Committee for the Implementation of Textile Agreements (the Committee).

**ACTION:** Notice.

**SUMMARY:** The Committee is extending through October 1, 2005, the period for making a determination on whether to request consultations with China regarding imports of cotton and man-made fiber sweaters (Category 345/645/646).

**FOR FURTHER INFORMATION CONTACT:** Jay Dowling, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

**Background**

On April 6, 2005, the Committee received a request from the American Manufacturing Trade Action Coalition, the National Council of Textile Organizations, the National Textile Association, and UNITE HERE requesting that the Committee limit imports from China of cotton and man-made fiber sweaters (Category 345/645/646) due to market disruption. The Committee determined that this request provided the information necessary for the Committee to consider the request and solicited public comments for a period of 30 days. See **Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 23107 (May 4, 2005).

The Committee's Procedures, 68 FR 27787 (May 21, 2003) state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination.

The 60 day determination period for this case expired on August 2, 2005. However, the Committee decided to extend until August 31, 2005, the period for making a determination on this case in order to consult with the domestic textile and apparel industry and members of Congress about whether to pursue a broader agreement with China on imports of Chinese textile and apparel products to the United States. Because of these consultations, the Committee was unable to make a determination within 60 days of the close of the public comment period. See **Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 45704 (August 8, 2005). The Committee is unable to make a determination within the extended period because it is continuing to evaluate conditions in the market for cotton and man-made fiber sweaters. Therefore, the Committee is further extending the determination period to October 1, 2005.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.E5–4944 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China

September 2, 2005.

**AGENCY:** The Committee for the Implementation of Textile Agreements (the Committee).

**ACTION:** Notice.

**SUMMARY:** The Committee is extending through October 1, 2005, the period for making a determination on whether to request consultations with China regarding imports of cotton and man-made fiber dressing gowns and robes (Category 350/650).

**FOR FURTHER INFORMATION CONTACT:** Jay Dowling, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

**Background**

On November 24, 2004, the Committee received a request from the American Manufacturing Trade Action Coalition, the National Council of Textile Organizations, the National Textile Association, SEAMS and UNITE HERE requesting that the Committee limit imports from China of cotton and man-made fiber dressing gowns and robes (Category 350/650) due to the threat of market disruption (''threat case'').

The Committee determined that this request provided the information necessary for the Committee to consider the request and solicited public comments for a period of 30 days. **See Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, 69 FR 77232 (Dec. 27, 2004).

On December 30, 2004, the Court of International Trade preliminarily enjoined 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 Court of Appeals for the Federal Circuit granted the U.S. government's motion for a stay and reversed the lower Court on June 28, 2005. *U.S. Association of Importers of Textiles and Apparel v. United States*, 413 F. 3d 1344 (Fed. Cir. 2005). Thus, CITA resumed consideration of this case.

The public comment period for this request had not yet closed when the injunction took effect on December 30, 2004. The number of calendar days remaining in the public comment period beginning with and including December 30, 2004 was 28 days. On May 9, 2005, therefore, the Committee published a notice in the **Federal Register** re-opening the comment period and inviting public comments to be received not later than June 6, 2005. See **Rescheduling of Consideration of Request for Textile and Apparel Safeguard Action on Imports from China and Solicitations of Public Comments**, 70 FR 24397 (May 9, 2005).

On April 6, 2005, the Committee received a request from the American Manufacturing Trade Action Coalition, the National Council of Textile Organizations, the National Textile Association, and UNITE HERE requesting that the Committee limit imports from China of cotton and man-made fiber dressing gowns and robes (Category 350/650) due to market disruption (''market disruption case''). The Committee determined that this request provided the information necessary for the Committee to consider the request and solicited public comments for a period of 30 days. See **Solicitation of Public Comment on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 23117 (May 4, 2005).

The Committee's Procedures, 68 FR 27787 (May 21, 2003) state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination.

The 60 day determination period for the market disruption case expired on August 2, 2005 and the determination period for the threat case expired on August 5, 2005. However, the Committee decided to extend until August 31, 2005, the period for making determinations on these cases in order to consult with the domestic textile and apparel industry and members of Congress about whether to pursue a broader agreement with China on imports of Chinese textile and apparel products to the United States. Because of these consultations, the Committee was unable to make a determination within 60 days of the close of the public comment period. See **Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 45702 (August 8, 2005). The Committee is unable to make a determination within the extended period because it is continuing to evaluate conditions in the market for cotton and man-made fiber dressing gowns and robes. Therefore, the Committee is further extending the determination period to October 1, 2005.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. E5–4945 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China

September 2, 2005.

**AGENCY:** The Committee for the Implementation of Textile Agreements (the Committee).

**ACTION:** Notice.

**SUMMARY:** The Committee is extending through October 1, 2005, the period for making a determination on whether to request consultations with China regarding imports of men's and boys' wool trousers (Category 447).

**FOR FURTHER INFORMATION CONTACT:** Jay Dowling, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

**Background**

On November 12, 2004, the Committee received a request from the American Manufacturing Trade Action Coalition, the National Council of Textile Organizations, the National Textile Association, SEAMS, and UNITE HERE requesting that the Committee limit imports from China of men's and boys' wool trousers (Category 447) due to the threat of market disruption. The Committee determined that this request provided the information necessary for the Committee to consider the request and solicited public comments for a period of 30 days. See **Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China**, 69 FR 71781 (Dec. 10, 2004).

On December 30, 2004, the Court of International Trade preliminarily enjoined 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 Court of Appeals for the Federal Circuit granted the U.S. government's motion for a stay and reversed the lower court on June 28, 2005. *U.S. Association of Importers of Textiles and Apparel v. United States*, 413 F. 3d 1344 (Fed. Cir. 2005). Thus, CITA resumed consideration of this case.

The public comment period for this request had not yet closed when the injunction took effect on December 30, 2004. The number of calendar days remaining in the public comment period beginning with and including December 30, 2004 was 12 days. On May 9, 2005, therefore, the Committee published a notice in the **Federal Register** re-opening the comment period and inviting public comments to be received not later than May 23, 2005. See **Rescheduling of Consideration of Request for Textile and Apparel Safeguard Action on Imports from China and Solicitations of Public Comments**, 70 FR 24397 (May 9, 2005).

The Committee's Procedures, 68 FR 27787 (May 21, 2003) state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination.

The 60 day determination period for this case expired on July 22, 2005. However, the Committee was unable to make a determination at that time and extended the determination period to July 31, 2005. See **Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 43397 (July 27, 2005). The Committee decided to further extend until August 31, 2005, the period for making a determination on this case in order to consult with the domestic textile and apparel industry and members of Congress about whether to pursue a broader agreement with China on imports of Chinese textile and apparel products to the United States. Because of these consultations, the Committee was unable to make a determination within 60 days of the close of the public comment period. See **Extension of Period of Determination on Request for Textile and Apparel Safeguard Action on Imports from China**, 70 FR 45703 (August 8, 2005). The Committee is unable to make a determination within the extended period because it is continuing to evaluate conditions in the market for men's and boys' wool trousers. Therefore, the Committee is further extending the determination period to October 1, 2005.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. E5–4946 Filed 9–8–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF EDUCATION

### Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, William D. Ford Federal Direct Loan, Federal Pell Grant, and Leveraging Educational Assistance Partnership Programs

**AGENCY:** Department of Education.

**ACTION:** Notice extending institutional and applicant filing and reporting deadlines.

**SUMMARY:** The Secretary announces an extension of the deadline dates for specific filing and reporting activities, including those published in the **Federal Register** on March 22, 2005 (70 FR 14450), April 13, 2005 (70 FR 19423), and June 7, 2005 (70 FR 33134). The Secretary takes this action as a result of the extensive damage and disruption in the southern United States caused by Hurricane Katrina. The new dates apply only to (1) institutions or third-party servicers that are located in a federally-declared disaster area and that were adversely affected by Hurricane Katrina, and (2) applicants that are adversely affected by the hurricane.

In addition, the Secretary reminds affected parties that additional guidance and regulatory relief are provided in Dear Colleague Letter GEN–04–04, available at: *http://www.ifap.ed.gov/dpcletters/GEN0404.html.*

**SUPPLEMENTARY INFORMATION:** The Secretary announces new deadlines, as described below.

**Activities Related to Institutional Reporting**

*FISAP Filing Deadline:* For an affected institution or third-party servicer that is unable to meet the previously published deadline of September 30, 2005, the Secretary extends to December 1, 2005, the date by which the institution's FISAP (Fiscal Operations Report for 2004–2005 and Application to Participate for 2006–2007) must be submitted. If the institution or servicer cannot meet the extended deadline, it must contact the Campus-Based Call Center at 1–877–801–7168, or by e-mail at *CBFOB@ed.gov.* An institution or servicer that submits a FISAP after September 30, 2005, must maintain documentation of the hurricane-related reason why it did so.

*Audit Submission Deadline:* For an affected institution or third-party servicer that is unable to submit its annual compliance audit and/or audited financial statements, the Secretary extends by 90 days the date by which the institution or servicer must otherwise submit those audits as provided in 34 CFR 668.23. If the institution or servicer cannot meet the extended deadline, it must contact the appropriate School Participation Team. Institutions or servicers in Alabama and Mississippi should contact Charles Engstrom at (404) 562–6309, or by e-mail at *charles.engstrom@ed.gov.* Institutions or servicers in Louisiana should contact the Department of Education's Dallas Regional Office at (214) 661–9490, or by e-mail at *jackie.shipman@ed.gov.* An institution or servicer that submits its annual audit after the deadline in 34 CFR 668.23 must maintain documentation of the hurricane-related reason why it did so.

*2004–2005 Federal Pell Grant Reporting Deadline:* For an affected institution or third-party servicer that is unable to meet the previously published deadline of September 30, 2005, the Secretary grants administrative relief and extends to December 1, 2005, the date by which the institution or servicer must report Federal Pell Grant payments (and adjustments) for the 2004–2005 award year to the Common Origination and Disbursement (COD) System. If the institution or servicer cannot submit the records by the extended deadline, it must contact the COD School Relations Center at 1–800–4PGRANT (1–800–474–7268), or by e-mail at *CODSupport@acs-inc.com.* An institution or servicer that submits Pell Grant payment information for the 2004–2005 award year after September 30, 2005, must maintain documentation of the hurricane-related reason why it did so.

*Submission of Federal Pell Grant Disbursement Records:* For the 2004–2005 and 2005–2006 award years, the Secretary will not enforce the current 30-day reporting requirement against an affected institution or third-party servicer that is unable to submit Federal Pell Grant disbursement records to the Common Origination and Disbursement (COD) System. Instead, the institution or servicer has until December 1, 2005, to submit these records. If the institution or servicer cannot submit the records by the extended deadline, it must contact the COD School Relations Center at 1–800–4PGRANT (1–800–474–7268), or by e-mail at *CODSupport@acs-inc.com.* An affected institution or servicer that does not submit Pell Grant payment information within the 30-day timeframe must maintain documentation of the hurricane-related reason why it did so.

*Submission of Federal Direct Loan Records:* The Secretary will not enforce the current 30-day requirement against an affected institution or third-party servicer that is unable to submit William D. Ford Federal Direct Loan (Direct Loan) promissory notes, loan origination records, and disbursement records (including adjustments) to the Common Origination and Disbursement (COD) System. Instead, the institution or servicer has until December 1, 2005, to submit these records. If an institution or servicer cannot submit the records by the extended deadline, it must contact the COD School Relations Center at 1–800–848–0978, or by e-mail at *CODSupport@acs-inc.com.* An affected institution or servicer that does not submit Direct Loan information within the current 30-day timeframe must maintain documentation of the hurricane-related reason why it did so.

**Activities Related to Applicant Filing**

*FAFSA Correction Deadline:* For an affected applicant for the 2004–2005 award year, the Secretary extends from September 15, 2005, to December 1, 2005, the date by which the Department's Central Processing System (CPS) must have received the following items:

- Paper corrections (including address changes and changes of institutions) made using a SAR;
- Electronic corrections (including address changes and changes of institutions) made from FAFSA on the Web, FAA Access to CPS Online, or EDE;
- Changes to mailing or e-mail addresses, changes of institutions, and requests for a duplicate SAR made by phone to the Federal Student Aid Information Center; and
- Paper signature pages and electronic signatures.

**Activities Related to Documents Received by an Institution**

*Receipt of SARs and ISIRs:* For an affected applicant, institution, or third-party servicer, the Secretary extends from September 23, 2005, to December 1, 2005, the date by which the institution or servicer must have received a SAR from a student, or an ISIR from the Department, for the student to be considered for a Federal Pell Grant for the 2004–2005 award year. An institution or servicer that pays Federal Student Aid on a SAR or ISIR that was received after September 23, 2005, must maintain documentation of the hurricane-related reason why the SAR or ISIR was not received by that date.

*Receipt of Verification Documents:* The Secretary extends from September 23, 2005, to December 1, 2005, the date by which an institution or third-party servicer must have received all requested verification documents to consider an applicant for Federal Student Aid for the 2004–2005 award year. An institution or servicer that pays Federal Student Aid based on verification documents received after September 23, 2005, must maintain documentation of the hurricane-related reason why those documents were not received by that date.

**FOR FURTHER INFORMATION CONTACT:** For general questions, John Kolotos, U.S. Department of Education, 400 Maryland Avenue, SW., UCP, room 113F2, Washington, DC 20202. Telephone: (202) 377–4027, Fax: (202) 275–4552, or by e-mail: *john.kolotos@ed.gov.*

For other questions or requests for extensions, contact the appropriate call center as noted elsewhere in this notice or the Customer Service Call Center at 1–800–433–7327.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

**Program Authority:** 20 U.S.C. 1070a, 1070b–1070b–4, 1070c–1070c–4, 1071–1087–2, 1087a–1087j, 1087aa–1087ii, 1094, and 1099c; 42 U.S.C. 2751–2756b.

(Catalog of Federal Domestic Assistance numbers: 84.007 Federal Supplemental Educational Opportunity Grant (FSEOG) Program; 84.032 Federal Family Education Loan (FFEL) Programs; 84.033 Federal Work-Study (FWS) Program; 84.038 Federal Perkins (Perkins) Loans; 84.063 Federal Pell Grant (Pell) Program; 84.069 Leveraging Educational Assistance Partnership (LEAP) Programs; and 84.268 William D. Ford Federal Direct Loan (Direct Loan) Programs)

Dated: September 7, 2005.

**Theresa S. Shaw,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. 05–18034 Filed 9–8–05; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Office of Environmental Management; Environmental Management Advisory Board Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, September 29, 2005, 9 a.m.–5 p.m.; Friday, September 30, 2005, 9 a.m.–2 p.m.

**ADDRESSES:** U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E–245, Forrestal Building, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Terri Lamb, Executive Director of the Environmental Management Advisory Board (EM—30.1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone (202) 586–9007; Fax (202) 586–0293 or e-mail: *terri.lamb@em.doe.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose of the Meeting:* To provide the Assistant Secretary for Environmental Management with advice and recommendations on corporate issues confronting the Environmental Management Program. The Board will contribute to the effective operation of the Environmental Management Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing the Office of Environmental Management and by helping to secure consensus recommendations on those issues.

**Tentative Agenda**

*Thursday, September 29, 2005*

9 a.m.—Public Meeting Open, Welcome, Opening Remarks, Review of End States Issues, Roundtable Discussion.
12 p.m.—Lunch. Review of Project Management and Oversight Issues, Review of Contract Strategy and Management Issues, Roundtable Discussion.
5 p.m.—Public Comment Period and Adjournment.

*Friday, September 30, 2005*

9 a.m.—Opening Remarks, Board Discussion Board Business.
12 p.m.—Lunch. New Business and Set Date for Next Board Meeting.
2 p.m.—Public Comment Period and Adjournment.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Terri Lamb at the address or telephone number above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. Those who call in and register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Board Chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

*Minutes:* The minutes of the meeting will be available for viewing and copying at the U.S. Department of Energy Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by calling Terri Lamb at (202) 586–9007.

Issued in Washington, DC, on September 2, 2005.

**Carol Matthews,**

*Acting Committee Management Officer.*

[FR Doc. 05–17917 Filed 9–8–05; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### International Energy Agency Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of meeting.

**SUMMARY:** The Industry Advisory Board to the International Energy Agency (IEA) will meet on September 14, 2005, at the headquarters of the IEA in Paris, France in connection with a meeting of the IEA's Standing Group on Emergency Questions.

**FOR FURTHER INFORMATION CONTACT:** Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6738.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on September 14, 2005, beginning at 8:30 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at an Ad Hoc Emergency Session of the IEA's Standing Group on Emergency

Questions (SEQ), which is scheduled to be held September 14, 2005, at the same location beginning at 10 a.m., including a preparatory encounter among company representatives from approximately 8:30 a.m. to 9 a.m.

The agenda for the preparatory encounter among company representatives is a review of the SEQ's meeting agenda. The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda of the Ad Hoc Emergency Session.
2. Introduction by the Executive Director.
3. Hurricane Katrina—Update of the Situation by the United States.
4. Update of the Oil Market Situation.
5. Report of the Industry Advisory Board.
6. Review of the IEA Initial Response Activities.

—Review of recent IEA emergency activities.
—Member country updates on the implementation of the Initial Emergency Response Plan.
—Recommendations from the SEQ to the IEA Governing Board.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel; representatives of members of the SEQ; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA. DOE has determined that the IEA's scheduling requirements for this Ad Hoc Emergency Session of the SEQ require that the 7-day advance notice required by DOE's regulations at 10 CFR 209.32(b) be shortened.

Issued in Washington, DC, September 6, 2005.

**Samuel M. Bradley,**

*Assistant General Counsel for International and National Security Programs.*

[FR Doc. 05–18017 Filed 9–7–05; 12:29 pm]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Biomass Research and Development Technical Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Monday, October 3, 2005, 1 p.m.–5 p.m., Tuesday, October 4, 2005, 9:45 a.m.–3:30 p.m.

**ADDRESSES:** Double Tree Hotel Washington DC, 1515 Rhode Island Ave., NW., Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Neil Rossmeissl, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–8668 or Harriet Foster at (202) 586–4541; E-mail: *harriet.foster@ee.doe.gov*.

**SUPPLEMENTARY INFORMATION:** *Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

*Tentative Agenda:* Agenda will include discussions on the following:

- Recommendations towards updating the Biomass *Vision and Roadmap*.
- Review of DOE–USDA Biomass R&D Joint Solicitation status.
- In addition, the committee will receive an update on current USDA and DOE projects.

*Public Participation:* In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Neil Rossmeissl at 202–586–8668 or the Biomass Initiative at 202–586–4541 or *harriet.foster@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available for public review and copying within 90 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 2, 2005.

**Carol Matthews,**

*Acting Committee Management Officer.*

[FR Doc. 05–17916 Filed 9–8–05; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[IC05–583–001, FERC–583]**

### Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

September 2, 2005.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of June 15, 2005 (70 FR 34748–50) and has made this notation in its submission to OMB.

**DATES:** Comments on the collection of information are due by October 3, 2005.

**ADDRESSES:** Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–33, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may

be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC05–583–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

**SUPPLEMENTARY INFORMATION:**

## Description

The information collection submitted for OMB review contains the following:

1. Collection of Information: FERC–583 ''Annual Kilowatt Generating Report (Annual Charges)''.

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: 1902–0136.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

4. Necessity of the Collection of Information: Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the statutory provisions of section 10(e) of the Federal Power Act (FPA), part I, 16 U.S.C. 803(e), and Section 3401 of the Omnibus Budget Reconciliation Act of 1986 (OBRA), 42 U.S.C. 7178. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) authorizes the Commission to ''assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year''. The information collected annually and used to determine the amounts of the annual charges to be assessed licensees for reimbursable government administrative costs and for the use of government dams. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 11.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

5. Respondent Description: The respondent universe currently comprises 705 companies (on average) subject to the Commission's jurisdiction.

6. Estimated Burden: 1410 total hours, 705 respondents (average), 1 response per respondent, and 2 hours per response (average).

7. Estimated Cost Burden to respondents: 1410 hours/2080 hours per years × $108,558 per year = $ 73,590. The cost per respondent is equal to $104.

**Statutory Authority:** Section 10(e) of the Federal Power Act (FPA), part I, 16 U.S.C. 803(e), and Section 3401 of the Omnibus Budget Reconciliation Act of 1986 (OBRA), 42 U.S.C. 7178.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4905 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[IC05–510–001, FERC–510]**

## Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

August 31, 2005

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of June 7, 2005 (70 FR 33141–42) and has made this notation in its submission to OMB.

**DATES:** Comments on the collection of information are due by September 30, 2005.

**ADDRESSES:** Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–33, Attention: Michael Miller, 888 First Street, NE, Washington, DC. 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC05–510–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to this e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the

document. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

**SUPPLEMENTARY INFORMATION:**

**Description**

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC–510 ''Application for Surrender of Hydropower License''.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0068.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the Statutory provisions of sections 4(e) and 6 and 13 of the Federal Power Act (FPA), 16 U.S.C. 797(e), 799 and 806. The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

Section 4(e) gives the Commission authority to issue licenses for the purposes of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other power project works necessary or convenient for developing and improving navigation, transmission and utilization of power over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe the conditions of licenses including the revocation or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed or natural catastrophes have damaged or destroyed the project facilities. The information collected under the designation FERC–510 is in the form of a written application for surrender of a hydropower license. The information is used by Commission staff to determine the broad impact of such surrender. The Commission will issue a notice soliciting comments from the public and other agencies and conduct a careful review of the prepared application before issuing an order for Surrender of a License. The order is the result of an analysis of the information produced, *i.e.,* economic, environmental concerns, etc., which are examined to determine if the application for surrender is warranted. The order implements the existing regulations and is inclusive for surrender of all types of hydropower licenses issued by FERC and its predecessor, the Federal Power Commission. The Commission implements these mandatory filing requirements in the Code of Federal Regulations (CFR) under 18 CRF 6.1–6.4.

5. *Respondent Description:* The respondent universe currently comprises 8 companies (on average) subject to the Commission's jurisdiction.

6. *Estimated Burden:* 80 total hours, 8 respondents (average), 1 response per respondent, and 10 hours per response (average).

7. *Estimated Cost Burden to respondents:* 80 hours/2080 hours per years × $108,558 per year = $ 4,175. The cost per respondent is equal to $522.

**Statutory Authority:** Section 4(e), 6, and 13 of the Federal Power Act, 16 U.S.C. 797(e) 799 and 806.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4930 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. IC05–520–001; FERC–520]**

## Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

September 2, 2005.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of June 3, 2005 (70 FR 32596–97) and has made this notation in its submission to OMB.

**DATES:** Comments on the collection of information are due October 3, 2005.

**ADDRESSES:** Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–33, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC05–520–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First-time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at (202) 502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to the e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at

(202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

**Description**

The information collection submitted for OMB review contains the following:

1. Collection of Information: FERC–520 ''Application for Authority to Hold Interlocking Directorate Positions.''

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: 1902–0083.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

4. Necessity of the Collection Information: Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the statutory provision of Section 305(b) of the Federal Power Act (FPA) (16 U.S.C. 825d). The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 45. Section 305(b) makes the holding of certain defined interlocking corporate positions unlawful unless the Commission has authorized the interlocks to the held and, requires the applicant to show in a form and manner as prescribed by the Commission, that neither public nor private interests will be adversely affected by the holding of the position.

Under part 45, each person that desires to hold interlocking positions must submit an application to the Commission for authorization, or if qualified, comply with the requirements for automatic authorization. The interlocking positions application requirements are set forth in Section 45.8; automatic authorization requirements are set forth in Section 45.9. In addition, a person already holding an existing authorized interlocking position, must apply for separate authorization under Section 45.4(a) when appointed to a new position within the same company. The information required under Part 45 generally identifies the applicant, describes the various interlocking positions the applicant seeks authorization to hold, provides information on the applicant's financial interests, other officers and directors of the firms involved, and the nature of the business relationships among the firms.

The Commission implements these filings requirements in the Code of Federal Regulations (CFR) under 18 CFR part 45.

5. Respondent Description: The respondent universe currently comprises 28 companies (on average) subject to the Commission's jurisdiction.

6. Estimated Burden: 1450 total hours, 28 respondents (average), 1 response per respondent, and 51.8 hours per response (average).

7. Estimated Cost Burden to respondents: 1,450 hours/2080 hours per years x $108,558 per year = $75,677. The cost per respondent is equal to $2,703.

**Statutory Authority:** Section 305(b) of the Federal Power Act (FPA) (16 U.S.C. 825d).

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4904 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP05–465–001]**

## ANR Pipeline Company; Notice of Compliance Filing

September 2, 2005.

Take notice that on August 26, 2005, ANR Pipeline Company (ANR) submitted a compliance filing pursuant to the Federal Energy Regulatory Commission's Letter Order issued August 12, 2005, in Docket Nos. RM96–1–026 and RP05–465.

ANR states that copies of the filing were served on parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4909 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## ANR Storage Company; Notice of Compliance Filing

September 2, 2005.

Take notice that, on August 26, 2005, ANR Storage Company (ANR Storage) submitted a compliance filing pursuant to the Federal Energy Regulatory Commission's Letter Order issued August 12, 2005, in Docket Nos. RM96–1–026 and RP05–464.

ANR Storage states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4908 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–482–001]**

### Blue Lake Gas Storage Company; Notice of Compliance Filing

September 2, 2005.

Take notice that, on August 26, 2005, Blue Lake Gas Storage Company (Blue Lake), submitted a compliance filing pursuant to the Federal Energy Regulatory Commission's Letter Order issued August 12, 2005, in Docket Nos. RM96–1–026 and RP05–482.

Blue Lake states that copies of the filing were served on parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4910 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[RP05–544–000 et al.]**

### CenterPoint Energy—Mississippi River Transmission Corporation et al., Notice of Proposed Changes in FERC Gas Tariff

September 2, 2005.

In the matter of: RP05–570–000, RP05–575–000, RP05–548–000, RP05–576–000, RP05–541–000, RP05–539–000, RP05–540–000, RP05–542–000, RP05–563–000, RP05–547–000, RP05–554–000, RP05–568–000, RP05–562–000, RP05–538–000, RP05–577–000, RP05–545–000, RP05–558–000, RP05–569–000, RP05–557–000, RP05–551–000, RP05–555–000, RP05–571–000, RP05–592–000, RP05–572–000, RP05–543–000, RP05–556–000, RP05–561–000, RP05–578–000, RP05–579–000: Chandeuleur Pipe Line Company, Colorado Interstate Gas Company, Eastern Shore Natural Gas Company, El Paso Natural Gas Company, Enbridge Pipelines (AlaTenn) L.L.C., Enbridge Pipelines (KPC), Enbridge Pipelines (Midla) L.L.C., Garden Banks Gas Pipeline, L.L.C., Guardian Pipeline, L.L.C., Kern River Gas Transmission Company, Kinder Morgan Interstate Gas Transmission LLC, KO Transmission Company, Midwestern Gas Transmission Company, Mississippi Canyon Gas Pipeline, LLC, Mojave Pipeline Company, Nautilus Pipeline Company, L.L.C., Northeast Pipeline Corporation, Ozark Gas Transmission, L.L.C., Panther Interstate Pipeline Energy, LLC., Questar Pipeline Company, Questar Southern Trails Pipeline Company, Sabine Pipe Line LLC, SCG Pipeline, Inc., Southern Star Central Gas Pipeline, Inc., Stingray Pipeline Company, L.L.C., TransColorado Gas Transmission Company, Viking Gas Transmission Company, Wyoming Interstate Company, Ltd., Young Gas Storage Company, Ltd.: Notice of Proposed Changes in FERC Gas Tariff.

Take notice that the above-referenced pipelines tendered for filing their tariff sheets respectively, pursuant to section 154.402 of the Commission's regulations, to reflect the Commission's change in the unit rate for the Annual Charge Adjustment (ACA) surcharge to be applied to rates for recovery of 2005 Annual Charges. The proposed effective date of the tariff sheets is October 1, 2005.

The above-referenced pipelines state that the purpose of their filings is to reflect the revised ACA effective for the twelve-month period beginning October 1, 2005. The pipelines further state that their tariff sheets reflect a decrease of $0.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $0.0018 Dth as specified by the Commission in its invoice dated June 30, 2005, for the Annual Charge Billing—Fiscal year 2005.

Due to the large number of pipelines that have filed to comply with the Annual Charge Adjustment Billing, the Commission is issuing this single notice of the filings. The filings issued are received are reflected in the caption of this notice.

Any person desiring to become part in any of the listed dockets must file a separate motion to intervene in each docket for which they wish party status.

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

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

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

*FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time September 13, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4911 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–488–001]**

### Clear Creek Storage Company, L.L.C.; Notice of Tariff Filing

August 31, 2005.

Take notice that on August 25, 2005, Clear Creek Storage Company, L.L.C. (Clear Creek), in compliance with the Commission's August 10, 2005, Letter Order in Docket No. RP05–488–000, (the August 10 order), tendered for filing and acceptance to be effective September 1, 2005, Substitute Original Sheet No. 49A and Substitute Third Revised Sheet No. 77A to Original Volume No. 1 of its FERC Gas Tariff.

Clear Creek states that a copy of this filing has been served upon its customers and the Public Service Commission of Wyoming.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4925 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–422–001]**

### El Paso Natural Gas Company; Notice of Filing

September 2, 2005.

Take notice that, on August 25, 2005, El Paso Natural Gas Company (EPNG) filed a substitute Second Revised Sheet No. 27A. EPNG requests an effective date of January 1, 2006. In particular, EPNG states that it discovered a minor error on Sheet No. 27A and is submitting a substitute Second Revised Sheet No. 27A to reflect the intended minimum daily rate of $0.0000.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4906 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–453–001]**

### Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

September 2, 2005.

Take notice that on August 26, 2005, Garden Banks Gas Pipeline, LLC (Garden Banks) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective September 1, 2005:

Tenth Revised Sheet No. 136 and
Fourth Revised Sheet No. 137

Garden Banks states that the above-referenced tariff sheets are being filed in compliance with Commission's Letter Order issued August 12, 2005 in Docket No. RP05–453–000.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4907 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP05–581–000]**

## Guardian Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

September 2, 2005.

Take notice that on August 26, 2005, Guardian Pipeline, LLC (Guardian) tendered for filing to become part of Guardian's FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective September 26, 2005:

Fifth Revised Sheet No. 103
Third Revised Sheet No. 153

Guardian states that this filing is being made to amend its tariff to change excess quantity penalty from a two tiered fixed/index based price to a single formula based on a daily index price.

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

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4912 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP05–468–000]**

## Iroquois Gas Transmission System, L.P.; Notice of Filing of Request for Extension of Time

September 1, 2005.

Take notice that on August 25, 2005, Iroquois Gas Transmission System, L.P. (Iroquois) filed a motion for an extension of time to place tariff sheets into effect which were conditionally accepted by an unpublished delegated letter order issued August 18, 2005. Iroquois requests that the tariff sheets become effective November 1, 2005 in lieu of September 1, 2005. Iroquois states that it requires additional time to make modifications to its systems that are necessary for the implementation of Order No. 587–S requirements. Iroquois states that because of the complexity of the changes, limited number of experienced technical personnel and lack of availability of key employees, additional time is needed.

Any person desiring to protest the requested extension must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on the applicant.

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

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

*Comment Date:* 5 p.m. Eastern Time September 8, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4917 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL05–129–000]**

## Lockhart Power Company; Notice of Filing

September 1, 2005.

Take notice that on August 12, 2005, Lockhart Power Company (Lockhart) requested a waiver from the requirements of the Commission's regulations regarding the adoption of the standard generator interconnection agreement and procedures promulgated in Order No. 2003–C 111 FERC ¶ 61,401 (2005).

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

The Commission encourages electronic submission of protests and

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

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

*Comment Date:* 5 p.m. Eastern Time on September 12, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4918 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–582–000]**

### Maritimes & Northeast Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

September 2, 2005.

Take notice that on August 26, 2005, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective September 26, 2005.

Maritimes states that copies of its filing have been served upon all affected customers of Maritimes and interested state commissions.

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

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4913 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–485–002]**

### Paiute Pipeline Company; Notice of Compliance Filing

September 1, 2005.

Take notice that on August 25, 2005, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective September 1, 2005:

Substitute Second Revised Sheet No. 56C.1
Substitute Eighth Revised Sheet No. 58B
Substitute Ninth Revised Sheet No. 63C
Substitute Fifth Revised Sheet No. 89A
Substitute Fourth Revised Sheet No. 98B
Substitute Eighth Revised Sheet No. 114

Paiute states that the purpose of its filing is to effectuate changes to the general terms and conditions of Paiute's tariff to comply with Order No. 587–S and a letter order issued August 10, 2005 in Docket Nos. RP05–485–000 and RP05–485–001.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4915 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL03–55–006]**

### Potomac Edison Company; Notice of Refund Report

September 2, 2005.

Take notice that on August 30, 2005, Potomac Edison Company, d/b/a/ Allegheny Power, pursuant to the *Order on Rehearing and Rejecting Refund Report,* 112 FERC ¶ 61, 020 (2005), tendered for filing a refund report.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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

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

*Comment Date:* 5 p.m. eastern time on September 20, 2005.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5–4895 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL05–124–000]**

### PPL Montana, LLC; PPL Colstrip I, LLC; and PPL Colstrip II, LLC; Notice of Institution of Proceeding and Refund Effective Date

September 2, 2005.

On September 1, 2005, the Commission issued an order that instituted a proceeding in Docket No. EL05–124–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, concerning the justness and reasonableness of PPL Montana, LLC's, PPL Colstrip I, LLC's and PPL Colstrip II, LLC's market-based rates in the Northwestern control area. *PPL Montana, LLC, et al.*, 112 FERC ¶ 61,237 (2005).

The refund effective date in Docket No. EL05–124–000, established pursuant to section 206(b) of the FPA, will be 60 days from the date of publication of this notice in the **Federal Register.**

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4914 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–513–038]**

### Questar Pipeline Company; Notice of Negotiated Rates

September 2, 2005.

Take notice that on August 25, 2005, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Thirty-Eighth Revised Sheet No. 7 and Tenth Revised Sheet No. 7A with an effective date of September 1, 2005.

Questar states that this filing proposed to add three new negotiated-rate contracts.

Questar states that a copy of this filing has been served upon all parties to this proceeding, its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4903 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–504–001]**

### Steuben Gas Storage Company; Notice of Proposed Change in FERC Gas Tariff

August 31, 2005.

Take notice that on August 24, 2005, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume 1, two tariff sheets to be effective September 1, 2005. The revised tariff sheets are designated as:

Third Sub Tenth Revised Sheet No. 154
Original Sheet No. 154(A)

Steuben states that copies of the filing are being mailed to Steuben's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4929 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–580–000]**

### Williston Basin Interstate Pipeline Company Notice of Annual Report of Penalty Revenue Credits

August 31, 2005.

Take notice that on August 26, 2005, Williston Basin Interstate Pipeline Company (Williston Basin), PO Box 5601, Bismarck, North Dakota 58506–5601, pursuant to § 154.502 of the Commission's Regulations, tendered for filing its ''Annual Report of Penalty Revenue Credits'' covering such activity during the twelve month period ended June 30, 2005.

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

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4922 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–451–001]**

### Young Gas Storage Company, Ltd.; Notice of Compliance Filing

August 31, 2005.

Take notice that, on August 25, 2005, Young Gas Storage Company, Ltd. (''Young'') submitted a compliance filing pursuant to Commission Letter Order dated August 10, 2005, Docket No. RP05–451–000.

Young states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4924 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL05–146–000]**

### Independent Energy Producers Association, Complainant; v. California Independent System Operator Corporation, Respondent; Notice of Complaint

September 2, 2005.

Take notice that on August 26, 2005, the Independent Energy Producers Association (IEP) pursuant to section 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, filed a Complaint against the California Independent System Operator Corporation (CAISO) in which it requests that the Commission issue an order directing the CAISO to eliminate the Must-Offer Obligation upon implementation of an interim Reliability Capacity Services Tariff.

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

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.*

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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

*Comment Date:* 5 p.m. eastern time on September 16, 2005.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5–4896 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL05–147–000]**

## Milford Power Company, LLC v. ISO New England, Inc.; Notice of Complaint

September 1, 2005.

Take notice that on August 31, 2005, Milford Power Company, LLC (Milford) filed a formal complaint against ISO New England, Inc. (ISO–NE) pursuant to section 206 of the Federal Power Act, alleging that ISO–NE's implementation of the Reliability Must Run Agreement between ISO–NE and Milford is inconsistent with the terms of the agreement and results in Milford's failure to recover its full cost-of-service rate in an hour even though the Milford units were fully available in that hour. Milford requests that the Commission direct ISO–NE to make a billing adjustment to recalculate the payments due to Milford to factor in ambient air temperatures.

Milford states that copies of the complaint were served on the contacts for ISO–NE as listed on the Commission's list of Corporate Officials.

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. Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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

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

*Comment Date:* 5 p.m. eastern time on September 20, 2005.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5–4897 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Combined Notice of Filings #1

September 2, 2005.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER01–388–003.

*Applicants:* WFEC GENCO, L.L.C.

*Description:* WFEC GENCO, L.L.C. submits an amendment to its 3/24/05 filing in Docket No. ER01–388–003 of a revised updated market power analysis proposed mitigation measure, and corresponding tariff sheet revisions.

*Filed Date:* 08/26/2005.

*Accession Number:* 20050830–0076.

*Comment Date:* 5 p.m. Eastern Time on Friday, September 16, 2005.

*Docket Numbers:* ER02–2263–004.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits its triennial market power analysis.

*Filed Date:* 08/29/2005.

*Accession Number:* 20050901–0127.

*Comment Date:* 5 p.m. Eastern Time on Monday, September 19, 2005.

*Docket Numbers:* ER03–563–052; EL04–102–010.

*Applicants:* Devon Power LLC.

*Description:* Fifth Compliance Report of ISO New England, Inc. submitted in compliance with the Commission's order issued June 2, 2004, Devon Power LLC, *et al.*, 107 FERC ¶ 61,240 (2004).

*Filed Date:* 08/29/2005.

*Accession Number:* 20050829–5067.

*Comment Date:* 5 p.m. Eastern Time on Monday, September 19, 2005.

*Docket Numbers:* ER05–31–004; EL05–70–005.

*Applicants:* American Electric Power Service Corporation.

*Description:* American Electric Power Service Corporation, agent for its affiliate Indiana Michigan Power Company (I&M), submits a revised utility-to-utility interconnection agreement between I&M and Northern Indiana Public Service Company in compliance with the Commission's Order issued 7/26/05, 112 FERC ¶ 61,128 (2005).

*Filed Date:* 08/26/2005

*Accession Number:* 20050831–0053.

*Comment Date:* 5 p.m. Eastern Time on Friday, September 16, 2005.

*Docket Numbers:* ER05–191–002.

*Applicants:* Perryville Energy Partners, L.L.C.

*Description:* Perryville Energy Partners, L.L.C. submits First Revised Sheet No. 22 of its FERC Electric Tariff, Original Volume No. 2, in compliance with the Commission's order issued 8/2/05, 112 FERC ¶ 61,161 (2005).

*Filed Date:* 08/26/2005.

*Accession Number:* 20050829–0010.

*Comment Date:* 5 p.m. Eastern Time on Friday, September 16, 2005.

*Docket Numbers:* ER05–667–002.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* Midwest Independent Transmission System Operator, Inc.'s response to the Commission's letter order issued 4/28/05 in Docket No. ER05–667–000 which requested additional information regarding the Large Generator Interconnection Agreement among Midwest ISO, Montana-Dakota Utilities Company and Dakota Wind Harvest, Inc.

*Filed Date:* 08/29/2005.

*Accession Number:* 20050831–0013.

*Comment Date:* 5 p.m. Eastern Time on Monday, September 19, 2005.

*Docket Numbers:* ER05–752–002.

*Applicants:* Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.

*Description:* Midwest Independent Transmission System Operator Inc., and PJM Interconnection, L.L.C. submitted clarifying revisions to the calculation of Capacity Benefit Margin under the Congestion Management Process of their Joint Operating Agreement (JOA) pursuant to the Commission's order issued 7/5/05, 112 FERC ¶ 61,029 (2005) and a request joint request for the effective date for JOA changes authorized in this proceeding.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050831–0042.

*Comment Date:* 5 p.m. Eastern Time on Friday, September 9, 2005.

*Docket Numbers:* ER05–934–001.

*Applicants:* Kentucky Utilities Company.

*Description:* Kentucky Utilities Company submits its compliance pursuant to the Commission's 6/28/05 Letter Order in Docket No. ER05–934–000.

*Filed Date:* 08/29/2005.

*Accession Number:* 20050831–0049.

*Comment Date:* 5 p.m. Eastern Time on Monday, September 19, 2005.

*Docket Numbers:* ER05–1204–001.

*Applicants:* Mystic I, LLC; Mystic Development, LLC; and Fore River Development, LLC.

*Description:* Mystic I, LLC, Mystic Development, LLC, and Fore River Development, LLC submit substitute tariff sheets to their respective Market-Based Rate Tariffs, Third Revised Volume No. 1 which were originally filed on 7/5/05.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050901–0108.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, September 20, 2005.

*Docket Numbers:* ER05–1326–001.

*Applicants:* Cornerstone Energy General Partners, LLC

*Description:* Cornerstone Energy General Partners, LLC submits an amendment to its 8/12/05 filing of an ''Application for Order Authorizing Market-Based Rates, Waiving Regulations and Granting Blanket Approvals'' in Docket No. ER05–1326–000.

*Filed Date:* 08/26/2005.

*Accession Number:* 20050831–0010.

*Comment Date:* 5 p.m. Eastern Time on Friday, September 16, 2005.

*Docket Numbers:* ER05–1401–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* Midwest Independent Transmission System Operator, Inc. submits an Interconnection & Operating Agreement with Arnold Windfarm, LLC, the Midwest Independent Transmission System Operator, Inc. and Interstate Power and Light Company, a wholly-owned subsidiary of Alliant Energy Corporation.

*Filed Date:* 08/29/2005.

*Accession Number:* 20050831–0003.

*Comment Date:* 5 p.m. Eastern Time on Monday, September 19, 2005.

*Docket Numbers:* ER05–1406–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* Pacific Gas and Electric Company submits a fully executed Generator Special Facilities Agreement and an unexecuted draft Generator Interconnection Agreement with Midway Power, LLC.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050831–0041.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, September 20, 2005.

*Docket Numbers:* ER05–1407–000.

*Applicants:* Portland General Electric Company.

*Description:* Portland General Electric Company (PGE) submits a proposed tariff, PGE Original Volume No. 13, Sale of Ancillary Services at Cost Based Rates.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050901–0104.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, September 20, 2005.

*Docket Numbers:* ER05–1408–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits the Second Amended & Restated 33kV Added Facilities Agreement between Southern California Water Company and Southern California Edison Company.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050901–0105.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, September 20, 2005.

*Docket Numbers:* ER05–1409–000.

*Applicants:* The United Illuminating Company.

*Description:* The United Illuminating Company submits proposed revisions to Schedule 21–UI and Schedule 20A–UI of section II of the ISO New England Inc. Transmission, Markets and Services Tariff, which is ISO New England Inc. Open Access Transmission Tariff.

*Filed Date:* 08/30/2005.

*Accession Number:* 20050901–0003.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, September 20, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas**

*Secretary*

[FR Doc. E5–4931 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2145–060]**

### Rocky Reach Hydroelectric Project; Notice of Availability of Draft Environmental Impact Statement

September 1, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR Part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects staff (staff) reviewed the application for a New Major License for the Rocky Reach Project. Staff prepared a draft environmental impact statement (DEIS) for the project, located on the Columbia River in Chelan County, Washington.

The DEIS contains staff's analysis of the potential environmental effects of the project and concludes that licensing the project, with staff's recommended measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the DEIS is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''e-Library'' link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any comments should be filed within 60 days from the notice date in the **Federal Register** and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Rocky Reach Project, P–2145–060 to all comments. For further information, please contact Kim A. Nguyen at (202) 502–6105 or at *kim.nguyen@ferc.gov.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4916 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

August 31, 2005.

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

a. *Type of Application:* Request to amend license article 412.

b. *Project No.:* 2496–119.

c. *Date Filed:* August 4, 2005.

d. *Applicant:* Eugene Water and Electric Board.

e. *Name of Project:* Leaburg-Walterville Project.

f. *Location:* The project is located on the McKenzie River, in Lane County, Oregon.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Steven Newcomb, Eugene Water and Electric Board, P.O. Box 10148, Eugene, OR 97440–2148.

i. *FERC Contact:* Any questions on this notice should be addressed to Diana Shannon (202) 502–8887, or *diana.shannon@ferc.gov.*

j. *Deadline for filing motions to intervene, protests, comments:* September 30, 2005.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Proposed Action:* Article 412 originally required the licensee to develop a spawning gravel augmentation plan, which was approved by the Commission in March 2003. Alternatively, the licensee now proposes to create fund whereby the licensee would provide $64,192 annually (increasing 2.5 percent a year) to the McKenzie Watershed Council for 20 years. These funds would be used to support habitat restoration and enhancements to improve ecological conditions in the lower McKenzie River and its tributaries.

l. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h.

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

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the docket number (P–2496–119) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings. All documents should be filed with: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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

agency's comments must also be sent to the Applicant's representative.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–4923 Filed 9–8–05; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–2005–0237; FRL–7734–9]**

### Computer Sciences Corporation; Transfer of Data

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Computer Sciences Corporation in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Computer Sciences Corporation has been awarded a contract to perform work for OPP, and access to this information will enable Computer Sciences Corporation to fulfill the obligations of the contract.

**DATES:** Computer Sciences Corporation will be given access to this information on or before September 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Patsy Garnett, FIFRA Security Officer, Information Technology & Resources Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–5455.

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

*A. Does this Action Apply to Me?*

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0237. 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, CrystalMall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

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

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

#### II. Contractor Requirements

Under contract number DW–4793935401/000, the contractor will perform the following tasks:

The contractor will perform various document management functions to examine, categorize, handle and format OPP information, which will be in both electronic and paper copy. The contractor will be working with applications for pesticide registration, supporting studies, and other technical documents of archival significance.

The contract involves no subcontractors.

OPP has determined that the contract described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under the contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Computer Sciences Corporation, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Computer Sciences Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Computer Sciences Corporation until the requirements in this document have been fully satisfied. Records of information provided to Computer Sciences Corporation will be maintained by EPA Project Officers for the contract. All information supplied to Computer Sciences Corporation by EPA for use in connection with the contract will be returned to EPA when Computer Sciences Corporation has completed its work.

#### List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: September 1, 2005.

**Arnold E. Layne,**

*Director, Information Technology & Resources Management Division, Office of Pesticide Programs.*

[FR Doc. 05–17821 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6667–3]**

### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at

202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

**Draft EISs**

*EIS No. 20050054, ERP No. D–NOA–L39062–WA,* Washington State Forest Habitat Conservation Plan, Propose Issuance of Multiple Species Incidental Take Permit or 9d)Rules, NPDES Permit, U.S. Army COE section 10 and 404 Permits, WA

*Summary:* EPA's expressed concerns regarding the pesticide application procedures and small landowner exemptions that could have potential effects on water quality. Rating EC2.

*EIS No. 20050190, ERP No. D–FHW–F59004–MI,* Detroit Intermodal Freight Terminal (DIFT) Project, Proposes Improvement to Intermodal Freight Terminals in Wayne and Oakland Counties, MI

*Summary:* EPA has environmental objections to the proposed project regarding impacts to air quality, specifically involving particulate matter 2.5 microns or less (PM2.5), as well as environmental justice issues. EPA requests that the Final EIS more fully describe localized impacts of PM2.5 and commit to air quality mitigation strategies. Rating EO2.

**Final EISs**

*EIS No. 20050296, ERP No. F–TVA–E05100–TN, 500–kV* Transmission Lin in Middle Tennessee Construction and Operation, Cumberland Fossil Plant to either the Montgomery 500–kV Substation, Montgomery County, or the Davidson 500–kV Substation, Davidson County, Stewart, Houston, Montgomery, Dickerson, Cheatham and Davidson Counties, TN

*Summary:* EPA is concerned that the preferred alignments would impact forested wetlands and that overall more wetlands would be impacted than by other presented alignments.

*EIS No. 20050304, ERP No. F–AFS–L65467–ID,* Red Pines Project, Implementation of Fuel Reduction Activities and Watershed Activities Improvement, Nez Perce National Forest, Red River Ranger District, Idaho County, ID

*Summary:* EPA continues to have concerns about the potential for adverse impacts to water quality and listed salmonoids from sediment loading.

*EIS No. 20050333, ERP No. F–FRC–J03018–00,* Piceance Basin Expansion Project, Construction and Operation of a New Interstate Natural Gas Pipeline System, Wamsutter Compressor Station to Interconnections Greasewood Compressor Station, Rio Blanco County, CO and Sweetwater County, WY

*Summary:* No formal comment letter was sent to the preparing agency.

Dated: September 9, 2005.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

[FR Doc. 05–17925 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6667–2]**

## Environmental Impacts Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements filed 08/29/2005 through 09/02/2005, pursuant to 40 CFR 1506.9.

*EIS No. 20050357, Draft EIS, AFS, UT,* Lake Project, Proposal to Maintain Vegetative Diversity and Recover Economic Value of Dead, Dying and High Risk to Mortality Trees, Manti-La Sal National Forest, Ferron/Price Ranger District, Emery and Sanpete Counties, UT, Comment Period Ends: 10/24/2005, Contact: Alan Lucas 435–636–3320.

*EIS No. 20050358, Draft EIS, NPS, VA,* Great Falls Park General Management Plan, Implementation, George Washington Parkway, Fairfax County, VA, Comment Period Ends: 11/08/2005, Contact: Audrey F. Calhoun 703–289–2500.

*EIS No. 20050359, Draft EIS, NPS, AK,* Denali National Park and Preserve, Draft South Denali Implementation Plan, Matanuska-Susitna Borough, AK, Comment Period Ends: 11/15/2005, Contact: Glen Yankus 907–644–3535.

*EIS No. 20050360, Draft EIS, AFS, SD,* Bugtown Gulch Mountain Pine Beetle and Fuels Projects, To Implement Multiple Resource Management Actions, Black Hills National Forest, Hell Canyon Ranger District, Custer County, SD, Comment Period Ends: 10/24/2005, Contact: Patricia Hudson 605–673–4853.

*EIS No. 20050361, Draft EIS, FRC, WA,* Rocky Reach Hydroelectric Project, (FERC/DEIS–0184D), Application for a New License for the Existing 865.76 Megawatt Facility, Public Utility District No. 1 (PUD), Columbia River, Chelan County, WA, Comment Period Ends: 11/08/2005, Contact: Kim Nguyen 202–502–6105.

*EIS No. 20050362, Draft EIS, NRC, NC,* Generic—Brunswick Stream Electric Plant, Units 1 and 2 (TAC Nos. MC4641 and MC4642) License Renewal of Nuclear Plants, Supplement 25 to NUREG–1437, Brunswick County, NC, Comment Period Ends: 12/02/2005, Contact: Richard L. Emch 301–415–1590.

*EIS No. 20050363, Final EIS, NPS, SC, NC, GA, FL,* Low Country Gullah Culture Special Resource Study, Gullah Culture Preservation and Protection Analysis to Consider the Suitability and Feasibility for Inclusion in the National Park Service System, SC, NC, GA and FL, Wait Period Ends: 10/11/2005, Contact: John Barrett 404–562–3124 Ext 637.

*EIS No. 20050364, Final EIS, FHW, IA, NE,* Council Bluffs Interstate System Improvements Project, Transportation Improvements, Missouri River on I–80 to east of I–480 Interchange, Tier 1, Pottawattamie County, IA and Douglas County, NE, Wait Period Ends: 10/11/2005, Contact: Philip Barnes 515–233–7300.

*EIS No. 20050365, Draft EIS, NRC, OH,* American Centrifuge Plant, Gas Centrifuge Uranium Enrichment Facility, Construction, Operation, and Decommission, License Issuance, Piketon, OH, Comment Period Ends: 10/24/2005, Contact: Matthew Blevins 301–415–7684.

*EIS No. 20050366, Final EIS, FHW, AR,* I–69 Section of Independent Utility 13 El Dorado to McGehee, Construction of 4 Lane divided Access Facility, U.S. Coast Guard Permit, U.S. Army COE Section 404 Permit, Quachita River, Quachita, Union, Calhoun, Bradley, Drew, and Desha Counties, AR, Wait Period Ends: 10/24/2005, Contact: Randal Looney 501–324–6430.

*EIS No. 20050367, Draft Supplement, NOA, ME,* Atlantic Herring Fishery Management Plan (FWP), Amendment 1, Management Measure Adjustment, Implementation, Gulf of Maine, George Bank, ME, Comment Period Ends: 10/24/2005, Contact: Paul Howard 978–465–0492.

*EIS No. 20050368, Draft EIS, IBR, NM,* Carlsbad Project Water Operations and Water Supply Conservation, Changes in Carlsbad Project Operations and Implementation of Water Acquisition Program, U.S. COE Section 404 Permit, NPDES, Eddy, De Baca, Chaves, and Guadelupe Counties, NM, Comment Period Ends:

10/31/2005, Contact: Marsha Carra 505–462–3602.

*EIS No. 20050369, Final EIS, FHW, MD,* MD–32 Planning Study, Transportation Improvements from MD–108 to Interstate 70, Funding, NPDES Permit and COE Section 404 Permit, Howard County, MD, Wait Period Ends: 10/24/2005, Contact: Caryn Brookman 410–962–4440.

*EIS No. 20050370, Draft EIS, AFS, OR,* Middle Fork John Day Range Planning Project, Livestock Grazing Authorization, Implementation, Blue Mountain Ranger and Prairie City Ranger Districts, Malheur National Forest, Grant County, OR Comment Period Ends: 10/24/2005, Contact: Linda Batten 541–575–3000.

*EIS No. 20050371, Draft EIS, FAA, UT,* St. George Municipal Airport Replacement, Funding, City of St. George, Washington County, UT Comment Period Ends: 11/08/2005, Contact: David Field 425–227–2608.

Dated: September 6, 2005.

**Ken Mittelholtz,**

*Environmental Protection Specialist, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 05–17924 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPT–2005–0028; FRL–7726–6]**

## National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

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

**ACTION:** Notice.

**SUMMARY:** A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on September 28–30, 2005, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Allyl chloroformate; arsenic trioxide; boron trifluoride; cyclohexyl isocyanate; dibromoethane; diphosgene; ethyl chloroformate; ethyl chlorothioformate; isobutyl chloroformate; isopropyl chloroformate; jet fuel 8; ketene; methyl chloroformate; n-butyl chloroformate; propyl chloroformate; and sec-butyl chloroformate.

**DATES:** A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on September 28, 2005; 8:30 a.m. to 5:30 p.m. on September 29, 2005, and from 8 a.m. to noon on September 30, 2005.

**ADDRESSES:** The meeting will be held at the U.S. Department of Labor (Francis Perkins Building) 200 Constitution Ave., NW, Washington, DC 20210, Room N3437 A, B and C. The nearest metro stop is Judiciary Square..

**FOR FURTHER INFORMATION CONTACT:** *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address:*TSCA-Hotline@epa.gov*.

*For technical information contact*: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7403M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, 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 DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2005–0028. 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 EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

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

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

### II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

### III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for December 13–15, 2005 in Washington, DC.

### List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: September 1, 2005.

**Charles M. Auer,**

*Director, Office of Pollution Prevention and Toxics*

[FR Doc. 05–17822 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–2005–0123; FRL–7738–1]**

## Methyl Bromide Risk Assessments for Fumigant Pesticide; Extension of Comment Period

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

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a notice in the **Federal Register** of July 13, 2005, concerning the availability of EPA's human health and environmental fate and effects risk assessments and related documents for the fumigant methyl bromide. This document is extending the comment period for 30 days, from September 12, 2005 to October 12, 2005.

**DATES:** Comments, identified by docket identification (ID) number OPP–2005–0123 must be received on or before October 12, 2005.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION** of the July 13, 2005 **Federal Register** document.

**FOR FURTHER INFORMATION CONTACT:** Susan Bartow, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0065; fax number: (703) 308–8041; e-mail address: *bartow.susan@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

The Agency included in the notice a list of those who may be potentially affected by this action. If you have 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–2005–0123. 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.

*C. How and to Whom Do I Submit Comments?*

To submit comments, or access the official public docket, please follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION** of the July 13, 2005 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### II. What Action is EPA Taking?

This document extends the public comment period established in the **Federal Register** of July 13, 2005 (70 FR 40336) (FRL–7721–3). In that document, EPA made available the human health and environmental fate and effects risk assessments for methyl bromide. Methyl bromide is a broad-spectrum fumigant chemical that can be used as an acaricide, antimicrobial, fungicide, herbicide, insecticide, nematicide, and vertebrate control agent. The most prevalent use pattern is as a soil fumigant; however, it is also used as a structural fumigant and for post harvest treatment of commodities. The Agency developed these risk assessments 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). The Agency received a request from the Methyl Bromide Industry Panel of the American Chemistry Council to extend the comment period. EPA is hereby extending the comment period, which was set to end on September 12, 2005, by 30 days. The comment period will now end on October 12, 2005. This extension is being given based on the Agency's delay in providing legible copies of the appendices supporting the risk assessments.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 6, 2005.

**Debra Edwards,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 05–18009 Filed 9–7–05; 12:54 pm]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7965–3]**

## Proposed Approval of Central Characterization Project's Transuranic Waste Characterization Program at Idaho National Laboratory

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability; opening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments on the proposed approval of the transuranic (TRU) radioactive waste characterization program implemented by the Central Characterization Project (CCP) at Idaho National Laboratory (INL). INL CCP is characterizing waste from the Advanced Mixed Waste Treatment Project (AMWTP) and the Idaho Closure Project (ICP),

respectively, for disposal at the Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP).

In accordance with the EPA's WIPP Compliance Criteria, EPA inspected the INL CCP's characterization of TRU debris waste, solid waste and soil/gravel waste from May 3–5, 2005. EPA's inspection team determined that the INL CCP waste characterization program was technically adequate, and therefore, EPA is proposing to approve the INL CCP waste characterization program in the configuration observed during the inspection and as described in EPA's inspection report. In addition to proposing the approval of the INL CCP waste characterization program, EPA is proposing a tiered structure for reporting changes to the waste characterization program demonstrated by INL CCP. The results of the EPA's evaluation of the INL CCP program and the proposed approval are described in the EPA's inspection report which is available for review in the public dockets listed in **ADDRESSES**. We will consider public comments received on or before the due date mentioned in **DATES.**

This notice summarizes the waste characterization processes EPA evaluated and EPA's proposed approval. As required by the 40 CFR 194.8, at the end of a 45-day comment period EPA will evaluate public comments, address relevant public comments in the final inspection report, and issue the final report and an approval letter to the DOE Carlsbad Field Office (CBFO). INL CCP is currently authorized to characterize TRU waste, however, INL CCP waste is not eligible for disposal at WIPP until EPA issues an approval letter to DOE.

**DATES:** EPA is requesting public comment on the docketed document. Comments must be received by EPA's official Air Docket on or before October 24, 2005.

**ADDRESSES:** Comments may be submitted by mail to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR–2005–0162. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Rajani Joglekar, Office of Radiation and Indoor Air, (202) 343–9462. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our Web site at *http://www.epa/gov/radiation/wipp.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. 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 No. OAR–2005–0162. 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 any 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 Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. These documents are also available for review in paper form at the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: In Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

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 identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

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.

For additional information about EPA's electronic public docket visit EPA

Dockets online or see 67 FR 38102, May 31, 2002.

*B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification 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. However, late comments may be considered if time permits.

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 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. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2005–0162. 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 *a-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2005–0162. 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.

2. *By Mail.* Send your comments to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR–2005–0162.

3. *By Hand Delivery or Courier.* Deliver your comments to: Air and Radiation Docket, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR–2005–0162. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

4. *By Facsimile.* Fax your comments to: (202) 566–1741, Attention Docket ID. No. OAR–2005–0162.

*C. 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 identification 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

DOE is operating the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), TRU waste consists of materials containing processes having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C. WIPP began receiving shipments of TRU radioactive waste in March 1999.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of appendix A to 40 CFR part 194); and (2) with limited exceptions, until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of appendix A to 40 CFR part 194), LANL or any other site may not ship TRU waste for disposal at WIPP. The EPA's approval process for waste generator sites is described in § 194.8.

In July 2004, EPA promulgated changes to the ''Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with Disposal Regulations' (69 FR 42571–42583, July 16, 2004). Some of these changes modified EPA's approval of waste characterization (WC) programs at DOE's TRU waste sites. EPA will now conduct baseline inspections for each waste generator site that is characterizing contact-handled (CH) TRU waste. During a baseline inspection EPA evaluates a waste characterization program by sampling the equipment, procedures and personnel training, qualifications and experience that are involved in several WC processes. EPA will then propose to approve a site's TRU waste characterization program based on the waste characterization ability demonstrated during the inspection. As a part of the approval,

EPA will also specify how changes to an approved WC program must be reported to EPA. EPA will designate changes to an approved waste characterization program as Tier 1 (T1) or Tier 2 (T2) depending on their potential impact on data quality. A T1 designation requires DOE to notify EPA of proposed changes to an approved WC program prior to implementing the change. EPA may choose to inspect a site before approving changes. A T2 designation allows DOE to implement changes to an approved WC process component without EPA approval, however, DOE is required to notify EPA of such changes. EPA may continue to conduct inspections at any time to evaluate waste characterization programs at the approved sites under the authority of § 194.24(h).

The new site inspection and approval process requires EPA to issue a **Federal Register** notice proposing the baseline compliance decision, docket the inspection report for public review, and seek public comment on the proposed decision for a period of 45 days.

**III. Proposed Baseline Compliance Decision**

The CBFO Quality Assurance (QA) Manager sent an e-mail March 14, 2005, notifying EPA that INL–CCP was prepared to ship waste and wants to demonstrate to EPA its ability to properly characterize TRU waste and meet regulatory requirements. EPA performed a baseline inspection (EPA Inspection No. EPA–INL–CCP–05.05–8) of the TRU waste characterization activities of the DOE's Central Characterization Project (CCP) at the Idaho National Laboratory (INL) from May 3–5, 2005. The CCP is a mobile characterization program that assists TRU waste generator sites with waste characterization activities. Regardless of the CCP location, EPA evaluates and approves all sites that utilize the CCP as an independent waste characterization site. At INL, the CCP is characterizing waste from the Advanced Mixed Waste Treatment Project (AMWTP) and the Idaho Closure Project (ICP).

The purpose of EPA's inspection of INL CCP was to evaluate the adequacy of the sites's WC programs for the contact-handled (CH) TRU waste intended to be disposed at WIPP. EPA's inspection focused on equipment, procedures and personnel training/qualifications and experience for the following waste characterization processes: acceptable knowledge (AK), non-destructive assay (NDA), visual examination technique (VET) for newly-generated waste, visual examination/real-time radiography (VE/RTR) of retrievably-stored waste, load management, and the WIPP Waste Information System (WWIS). The activities examined during the inspection included:

—AK and load management for the AMWTP's CH, retrievably-stored, TRU debris waste and solid waste.

—VET for CH, newly-generated, debris waste, solid waste and soil/gravel waste from ICP, Pit 4.

—VE/RTR for the AMWTP's CH, retrievably-stored, debris waste and solid waste.

—NDA and the WWIS for CH, retrievably-stored, and newly-generated, debris waste, solid waste, and soil/gravel waste from AMWTP and ICP, Pit 4.

In addition to reviewing individual components (procedures and equipment) of each of the WC processes, EPA interviewed and reviewed training records of the personnel responsible for compiling data, analyzing waste contents, operating equipment, and preparing data for WWIS tracking.

EPA also required radioassay replicate analysis on containers from the five waste categories that INL CCP is currently characterizing. The purpose of the replicate testing is to enable EPA to verify that the radioassay equipment being assessed for approval can provide consistent, reproducible results for determining the quantity of each of the 10 WIPP-tracked radionuclides (241Am, 137Cs, 238Pu, 239Pu, 240Pu, 242Pu, 90Sr, 233U, 234U, and 238U) and the TRU alpha concentration.

At the time of the inspection, EPA identified no findings and two (2) concerns for the INL CCP waste characterization program. At the end of the inspection EPA gave DOE a written description of the concerns. Prior to the end of the inspection, DOE responded to EPA's concerns. EPA evaluated DOE's response for completeness and adequacy, and concluded that the corrective actions taken by DOE adequately resolved EPA's concerns. The details of EPA's findings and concerns from the INL CCP inspection can be found in the inspection report.

Based on the results of the inspection discussed in EPA's report, EPA is proposing to approve the INL CCP waste characterization program in the configuration observed during this inspection. This includes the following:

(1) AK and load management process for CH retrievable-stored, TRU debris and solid waste stored at AMWTP.

(2) Three non-destructive assay systems (Tomographic Gamma Scanner, Waste Assay Gamma Spectrometer, SWEPP Gamma-Ray Spectrometer) for assaying CH TRU solid, soil/gravel, and debris waste.

(3) VE as a quality control check of the RTR process and RTR of CH retrievably-stored, solid and debris waste.

(4) VET process for newly-generated debris, solid, and soil/gravel waste.

(5) WWIS process for tracking of waste contents of debris, solid, and soil/gravel waste.

EPA proposes to approve CCP's TRU waste characterization processes listed above. This approval does not cover remote-handled TRU waste.

Any changes to the waste characterization program from the baseline inspection must be reported to, and, if applicable, approved by EPA according to the following table. Additional details for the tiering designation can be found in EPA's inspection report.

TIERING OF TRU WASTE CHARACTERISTICS PROCESSES IMPLEMENTED BY CCP AT INL (BASED ON MAY 3–5, 2005 BASELINE INSPECTION)

| WC process elements | INL–CCP WC process specific T1 changes | INL–CCP WC process specific T2 changes * | INL–CCP general T2 changes * |
|---|---|---|---|
| AK including load management ..... | Any new waste category .....<br>Changes to WWIS algorithms specific to load management. | Updates or additions to Waste Stream Profile Forms for waste stream(s) within an approved waste category.<br>Changes to load management status of approved waste stream(s). | Changes to site procedures requiring CBFO approvals.<br>Changes in key areas of expertise. |

TIERING OF TRU WASTE CHARACTERISTICS PROCESSES IMPLEMENTED BY CCP AT INL (BASED ON MAY 3–5, 2005 BASELINE INSPECTION)—Continued

| WC process elements | INL–CCP WC process specific T1 changes | INL–CCP WC process specific T2 changes * | INL–CCP general T2 changes * |
|---|---|---|---|
| NDA | New equipment of physical modifications to approved equipment.<br>Changes to approved calibration range for approved equipment. | Changes to software for approved equipment.<br>Changes to operating range(s) upon CBFO approval. | Same as above. |
| RTR | N/A | New equipment or changes to approved equipment. | Same as above. |
| VE and VET | N/A | N/A | Same as above. |
| WWIS | N/A | N/A | Same as above. |

* Upon receiving EPA approval, every three (3) months INL–CCP will report to EPA all T2 changes.

**Availability of the Baseline Inspection Report for Public Comment**

EPA is seeking public comment on our proposed approval of the INL CCP waste characterization program and the proposed tiering structure for changes to the INL CCP waste characterization program. EPA's inspection report of INL CCP's waste characterization program is in the public dockets described in **ADDRESSES.** This report can also be found online in EDOCKET ID No. OAR–2005–0162 and at our Web site at *http://www.epa.gov/radiation/wipp.* In accordance with 40 CFR 194.8, EPA is providing the public 45 days to comment on EPA's proposed approval and inspection report.

EPA will evaluate public comments and revise the inspection report as necessary. If appropriate, EPA will then issue a final inspection report and a letter to DOE approving the INL CCP waste characterization program for disposal of TRU waste at WIPP. Any approval letter and final inspection report will be available from the DOCKETS and from our WIPP Web site. EPA will not make a determination regarding the approval of the INL CCP waste characterization program before the end of the 45-day comment period ends.

Dated: August 3, 2005.

**William L. Wehrum,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 05–17926 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7966–9]**

### Notice of Availability of Final NPDES General Permits MAG910000 and NHG910000 for Discharges From Groundwater Remediation, Contaminated Construction De-Watering, and Miscellaneous Surface Water Discharge Activities in the States of Massachusetts and New Hampshire and Indian Country Lands in the State of Massachusetts: The Remediation General Permit (RGP)

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

**ACTION:** Notice of availability of final NPDES general permits MAG910000 and NHG910000: The Remediation General Permit (RGP).

**SUMMARY:** The Director of the Office of Ecosystem Protection at the Environmental Protection Agency's New England Regional Office (EPA–NE), is issuing National Pollutant Discharge Elimination System (NPDES) general permits to cover discharges of contaminated ground and surface waters in Massachusetts (MA), New Hampshire (NH), as well as in Indian Country lands located in MA, to surface receiving waters (waters of the United States) related to the following: groundwater remediation activities; construction projects where chemical contamination is present in the water; well development or rehabilitation and aquifer pump testing at formerly contaminated sites; clean-up of industrial sumps; hydrostatic testing of pipelines and tanks; and short-term testing at dredging projects not covered by a permit issued by the Army Corps of Engineers.

The purpose of this document is to inform the public that the new general permit in Massachusetts and New Hampshire, known as the Remediation General Permit (RGP), is now available. The Notice of Availability for the draft RGP was published in the **Federal Register** on November 2, 2004 (69 FR 63531). In response to a number of requests, on December 8, 2004, EPA–NE extended the comment period from December 17, 2004, to January 18, 2005.

During the public comment period, EPA–NE received 18 sets of comments regarding the RGP. EPA–NE prepared a response-to-comments document and made a number of corresponding changes to the RGP, including, but not limited to: removing utility vaults and manholes from the applicability, allowing the use of historic data in certain circumstances, expanding the period of intermittent shutdowns from 90 to 120 days, etc. The response-to-comments document is available with the final general permit.

The final RGP establishes notification requirements, effluent limitations, monitoring requirements, and administrative requirements, as well as other standards, conditions, prohibitions, and management practices for discharges to both fresh and marine waters. The RGP does *not* cover new sources as defined under 40 CFR 122.2. Also, the final RGP does *not* cover discharges from utility vaults and manholes, as proposed. Rather, EPA plans to develop a separate general permit for that discharge category.

**DATES:** The general permit shall be effective September 9, 2005. See the general permit for specific application deadlines.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the final permit may be obtained between the hours of 8 a.m. and 4 p.m., Monday through Friday, excluding holidays, from: (1) Steven Rapp (617–918–1551) or Roger Janson (617–918–1621), Office of Ecosystem Protection, EPA–NE, 1 Congress St., Suite 1100 (mail code: CMP), Boston, MA 02114–2023; e-mail: *Rapp.Steve@epa.gov* or *Janson.Roger@epa.gov*; (2) Mr. Paul Hogan or Ms. Kathleen. Keohane,

NPDES Permit Unit, MA DEP, 627 Main Street, Worcester, MA 01608; e-mail: *Paul.Hogan@state.ma.us* or *Kathleen.Keohane@state.ma.us*; and (3) Mr. Jeff Andrews, NH DES, Wastewater Engineering Bureau, P.O. Box 95, Concord, NH 03302–0095; e-mail: *jandrews@des.state.nh.us*. Additionally, the Fact Sheet, response to comments, RGP, and other information, such as the suggested notice of intent (NOI) form can be accessed on the EPA–NE Web site at: *http://www.epa.gov/region1/npdes/mass.html#dgp* and *http://www.epa.gov/region1/npdes/newhampshire.html#dgp*.

Dated: August 31, 2005.

**Robert W. Varney,**

*Regional Administrator, Region 1.*

[FR Doc. 05–17927 Filed 9–8–05; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–05–0398X]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

**Proposed Project**

Evaluation of an Intervention to Increase Colorectal Cancer Screening in Primary Care Clinics—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description:* Colorectal cancer (CRC) is the third most frequent form of cancer and the second leading cause of cancer-related deaths among both men and women in the United States. Research shows that screening can reduce both the occurrence of colorectal cancer and colorectal cancer deaths. Screening is beneficial for: (1) Detection and removal of precancerous polyps, resulting in patients recovering without progression to a diagnosis of cancer, and (2) early detection of CRC for more effective treatment and improved survival. Regular CRC screening is recommended for people aged 50 years and older. Many screening tests are widely available and screening has been shown to be effective in reducing CRC mortality. Despite this demonstrated effectiveness, CRC screening remains low. Some reasons attributed to the low screening rates include limited public awareness of CRC and the benefits of screening, failure of health care providers to recommend screening to patients, and inefficient surveillance and support systems in many health care settings.

The purpose of this study is to evaluate and understand the effect of a multi-component intervention on CRC screening rates in primary care clinics. The study will also examine the effects of the intervention conditions on behavioral outcomes (*e.g.*, clinician-patient discussions about CRC screening) and on attitudes, beliefs, opinions, and social influence surrounding CRC screening among patients, clinicians, and clinic support staff. The target population includes average-risk patients aged 50–80 years, clinicians, and clinic support staff within the primary care clinics in two managed care organizations (MCOs).

There are three tasks in this study. In Task 1, 180 primary care clinicians will complete a survey assessing demographics; opinions about preventive services; CRC screening training and practices; satisfaction with CRC screening; and CRC screening beliefs, facilitators, and barriers. The survey will be administered to primary care clinicians pre- and post-intervention. In Task 2, 180 clinic support staff will complete a survey assessing demographics; work-related responsibilities; opinions about preventive services; CRC training and practices; satisfaction with CRC screening; and CRC screening beliefs, facilitators, and barriers. The survey will be administered to clinic support staff pre- and post intervention. In Task 3, clinic patients will complete a survey assessing demographics, health status; receipt of previous CRC screening and other preventive services; knowledge and opinions about CRC and CRC screening; and social support. The survey will be administered to 4,252 patients pre-intervention baseline and 4,252 patients post-intervention follow-up. We are requesting OMB clearance for one year. There are no costs to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS TABLE

| Respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|
| Clinicians | 180 | 2 | 30/60 | 180 |
| Clinic Support Staff | 180 | 2 | 25/60 | 150 |
| Patients surveyed only at baseline | 3002 | 1 | 20/60 | 1,001 |
| Patients surveyed at baseline and follow-up | 1250 | 2 | 20/60 | 833 |
| Patients surveyed only at follow-up | 3002 | 1 | 20/60 | 1,001 |

Dated: August 31, 2005.

**Joan F. Karr,**

*Acting Reports Clearance Officer, Centers for Disease Control and Prevention.*

[FR Doc. 05–17892 Filed 9–8–05; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–416 and CMS–10156]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) Participation Report; *Form No.:* CMS–416 (OMB #0938–0354); *Use:* States are required to submit an annual report on the provision of EPSDT services to CMS pursuant to section 1902(1)(43)(D) of the Social Security Act. These reports provide CMS with data necessary to assess the effectiveness of State EPSDT programs, to determine a state's results in achieving its participation goal, and to respond to inquiries; *Frequency:* Annually; *Affected Public:* State, local or tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Retiree Drug Subsidy (RDS) Application and Instructions; *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 and implementing regulations at 42 CFR subpart R plan sponsors (employers, unions) who offer prescription drug coverage to their qualified covered retirees are eligible to receive a 28% tax-free subsidy for allowable drug costs. In order to qualify, plan sponsors must submit a complete application to CMS with a list of retirees for whom it intends to collect the subsidy; *Form Number:* CMS–10156 (OMB#: 0938–0957); *Frequency:* Quarterly, Monthly, Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal, State, local and/or tribal Government; *Number of Respondents:* 50,000; *Total Annual Responses:* 50,000; *Total Annual Hours:* 2,025,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Melissa Musotto, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 25, 2005.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 05–17734 Filed 9–8–05; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–R–262]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the Proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Plan Benefit Package (PBP) and Formulary Submission for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDPs); *Form No.:* CMS–R–262 (OMB # 0938–0763); *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit package information to CMS for approval. Organizations will provide this information through the submission of the formulary and the PBP software; *Frequency:* On occasion, annually and other (as required by new legislation); *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 470; *Total Annual Responses:* 2,092; *Total Annual Hours:* 5,546.

To obtain copies of the supporting statement and any related forms for these paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for these information collections will be considered if they are mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 25, 2005.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 05–17735 Filed 9–8–05; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[HHS Computer Match No. 0508; CMS Computer Match No. 2005–05]**

### Privacy Act of 1974

**AGENCY:** Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

**ACTION:** Notice of Computer Matching Program (CMP).

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, this notice establishes a CMP that CMS plans to conduct with the Florida Agency for Health Care Administration (AHCA). We have provided background information about the proposed matching program in the **SUPPLEMENTARY INFORMATION** section below. The Privacy Act requires that CMS provide an opportunity for interested persons to comment on the proposed matching program. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation. See **EFFECTIVE DATES** section below for comment period.

**EFFECTIVE DATES:** CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on 09/01/2005. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication.

**ADDRESSES:** The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance Data Development, Enterprise Databases Group, Office of Information Services, CMS, Mail-stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

**FOR FURTHER INFORMATION CONTACT:** Lourdes Grindal Miller, Health Insurance Specialist, Program Integrity Group, Office of Financial Management, CMS, Mail-stop C3–02–16, 7500 Security Boulevard, Baltimore Maryland 21244–1850. The telephone number is 410–786–1022 and e-mail is *Lourdes.grindalmiller@cms.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### Description of the Matching Program

*A. General*

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits.

Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

*B. CMS Computer Matches Subject to the Privacy Act*

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: August 30, 2005.

**John R. Dyer,**

*Chief Operating Officer, Centers for Medicare & Medicaid Services.*

### CMS COMPUTER MATCH No. 2005–05

**NAME:**

''Computer Matching Agreement (CMA) Between the Centers for Medicare & Medicaid Services (CMS) and the State of Florida Agency for Health Care Administration (AHCA) titled ''Disclosure of Medicare and Medicaid Information.''

**SECURITY CLASSIFICATION:**

Level Three Privacy Act Sensitive.

**PARTICIPATING AGENCIES:**

The Centers for Medicare & Medicaid Services, and State of Florida Agency for Health Care Administration.

**AUTHORITY FOR CONDUCTING MATCHING PROGRAM:**

This CMA is executed to comply with the Privacy Act of 1974 (Title 5 United States Code (U.S.C.) § 552a), as amended, (as amended by Public Law (Pub. L.) 100–503), the Computer Matching and Privacy Protection Act (CMPPA) of 1988), the Office of Management and Budget (OMB) Circular A–130, titled ''Management of Federal Information Resources'' at 65 **Federal Register** (FR) 77677 (December 12, 2000), 61 FR 6435 (February 20, 1996), and OMB guidelines pertaining to computer matching at 54 FR 25818 (June 19, 1989).

This Agreement provides for information matching fully consistent with the authority of the Secretary of the Department of Health and Human Services (Secretary). Section 1816 of the Social Security Act (the Act) permits the Secretary to contract with Fiscal Intermediaries (FI) to ''make such audits of the records of providers as may be necessary to insure that proper payments are made under this part,'' and to ''perform such other functions as are necessary to carry out this subsection'' (42 U.S.C. 1395h(a)).

Section 1842 of the Act provides that the Secretary may contract with entities known as carriers to ''make such audits of the records of providers of services as may be necessary to assure that proper payments are made'' (42 U.S.C. 1395u(a)(1)(C)); ''assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits'' (42 U.S.C. 1395u(a)(2)(B)); and ''to otherwise assist * * * in discharging administrative duties necessary to carry out the purposes of this part'' (42 U.S.C. 1395u(a)(4)).

Furthermore, § 1874(b) of the Act authorizes the Secretary to contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title (42 U.S.C. 1395kk(b)).

Section 1893 of the Act establishes the Medicare Integrity Program, under

which the Secretary may contract with eligible entities to conduct a variety of program safeguard activities, including fraud review employing equipment and software technologies that surpass the existing capabilities of FIs and carriers (42 U.S.C. 1395ddd)). The contracting entities are called Program Safeguards Contractors.

Pursuant to § 409.902, Florida Statutes (F.S.), AHCA is charged with the administration of the Medicaid program in Florida, and is the single state agency for such purpose. AHCA is required to operate a program to oversee the activities of Florida Medicaid recipients and providers to ensure that fraudulent and abusive behavior occurs to the minimum extent possible (§ 409.913, F.S.).

AHCA's disclosure of the Medicaid data pursuant to this agreement is for purposes directly connected with the administration of the Medicaid program, in compliance with 42 CFR 431.300 through 431.307. Those purposes are the detection, prosecution and deterrence of fraud and abuse (F&A) in the Medicaid program.

**PURPOSE(S) OF THE MATCHING PROGRAM:**

The purpose of this agreement is to establish the conditions, safeguards, and procedures under which CMS will conduct a computer matching program with AHCA to study claims, billing, and eligibility information to detect suspected instances of Medicare and Medicaid F&A in the State of Florida. CMS and AHCA will provide EDS, a CMS contractor (hereinafter referred to as the ''Custodian'') with Medicare and Medicaid records pertaining to eligibility, claims, and billing which the Custodian will match in order to merge the information into a single database. Utilizing fraud detection software, the information will then be used to identify patterns of aberrant practices requiring further investigation. The following are examples of the type of aberrant practices that may constitute F&A by practitioners, providers, and suppliers in the State of Florida expected to be identified in this matching program: (1) Billing for provisions of more than 24 hours of services in one day, (2) providing treatment and services in ways more statistically significant than similar practitioner groups, and (3) up-coding and billing for services more expensive than those actually performed.

**CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:**

This CMP will enhance the ability of CMS and AHCA to detect F&A by matching claims data, eligibility, and practitioner, provider, and supplier enrollment records of Medicare beneficiaries, practitioners, providers, and suppliers in the State of Florida against records of Florida Medicaid beneficiaries, practitioners, providers, and suppliers in the State of Florida.

**DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:**

The data for CMS are maintained in the following Systems of Records: National Claims History (NCH), System No. 09–70–0005 was most recently published in the **Federal Register**, at 67 FR 57015 (September 6, 2002.) NCH contains records needed to facilitate obtaining Medicare utilization review data that can be used to study the operation and effectiveness of the Medicare program. Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

Carrier Medicare Claims Record, System No. 09–70–0501 was published in the **Federal Register** at 67 FR 54428 (August 22, 2002). Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

Enrollment Database, System No. 09–70–0502 was published in the **Federal Register** at 67 FR 3203 (January 23, 2002). Matched data will be released to AHCA pursuant to the routine use set forth in the system notice.

Intermediary Medicare Claims Record, System No. 09–70–0503 was published in the **Federal Register** at 67 FR 65982 (October 29, 2002). Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

Unique Physician/Provider Identification Number, System No. 09–70–0525, was most recently published in the **Federal Register** at 69 FR 75316 (December 16, 2004). Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

Medicare Supplier Identification File, System No. 09–70–0530 was most recently published in the **Federal Register**, at 67 FR 48184 (July 23, 2002). Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

Medicare Beneficiary Database, System No. 09–70–0536 was published in the **Federal Register** at 67 FR 63392 (December 6, 2001). Matched data will be released to AHCA pursuant to the routine use as set forth in the system notice.

The data for AHCA are maintained in the following data files: Claims File Layouts HIPAA Version, Download File Record File-Claims, Recipient File Layout, Provider File Layout.

**INCLUSIVE DATES OF THE MATCH:**

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–17846 Filed 9–8–05; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### Privacy Act of 1974; Report of a New System of Records

**AGENCY:** Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

**ACTION:** Notice of a new System of Records (SOR).

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, we are proposing to create a new SOR titled, ''Data Collection Secondary to Coverage Decision (DCSCD) System, HHS/CMS/OCSQ, System No. 09–70–0547.'' National Coverage Determinations (NCDs) are determinations by the Secretary with respect to whether or not a particular item or service is covered nationally under title XVIII of the Social Security Act (the Act) § 1869(f)(1)(B). In order to be covered by Medicare, an item or service must fall within one or more benefit categories contained within Part A or Part B, and must not be otherwise excluded from coverage. Moreover, with limited exceptions, the expenses incurred for items or services must be ''reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,'' § 1862(a)(1)(A). CMS has determined that the evidence is adequate to conclude that certain identified diagnoses are reasonable and necessary in several patient groups where certain criteria for these patients have been met. The reasonable and necessary determination requires that patients meet the criteria and are consistent with the trials discussed. Collection of these data elements allows that determination to be made. We are particularly

interested in seeing evidence that would permit us to make a coverage or non-coverage decision, *i.e.*, to move a diagnostic indication from coverage under a clinical trial or study to coverage or non-coverage based on definitive evidence of benefit, no benefit, or harm. If adequate new evidence is available, the decision may be changed to either ''coverage based on evidence of benefit,'' ''limited coverage'' or ''non-coverage based on evidence of harm or no benefit.''

The purpose of this system is to collect and maintain data on patients to review determinations of ''reasonable and necessary'' with respect to whether or not a particular item or service is covered nationally under title XVIII of the Act § 1869(f)(1)(B). Information retrieved from this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; (2) assist another Federal or state agency with information to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) to an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (4) support constituent requests made to a congressional representative; (5) support litigation involving the agency; and (6) combat fraud and abuse in certain health benefits programs. We have provided background information about the new system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

**EFFECTIVE DATES:** CMS filed a new SOR report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on 09/01/2005. We will not disclose any information under a routine use until 30 days after publication. We may defer implementation of this SOR or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

**ADDRESSES:** The public should address comments to the CMS Privacy Officer, Mail Stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

**FOR FURTHER INFORMATION CONTACT:** Rosemarie Hakim, Epidemiologist, Office of Clinical Standards and Quality, CMS, Mail Stop C1–09–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1849. Her telephone number is (410) 786–3934, or she can be reached via e-mail at *rhakim@cms.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In the case of ''limited coverage'', in NCDs for which additional evidence is required, CMS has determined that the evidence is adequate to conclude that the item or service improves net health outcomes only under specific circumstances. One of these circumstances is that the service is delivered in the context of specific data being collected. Coverage may be limited to providers who participate in and beneficiaries who are enrolled in a defined prospective data collection activity, when this data collection activity constitutes part of the evidence required to ensure that the item or service provided to that patient is reasonable and necessary.

CMS is committed to ensuring that advances in medical technology are available for its Medicare beneficiaries while ensuring the care they receive is reasonable and necessary, which is a necessary condition for payment. The coverage with evidence development initiative is intended to enable Medicare to provide payment for items and services under conditions that help assure significant net benefits of the treatment for beneficiaries, and to give rise to additional information. This evidence will also assist doctors and patients in better understanding the risks, benefits and costs of alternative diagnostic and treatment options. Consequently, the linkage of coverage to data collection will also help to ensure that individual patients are receiving care that is reasonable and necessary given their specific clinical situation; systematic, protocol-driven data has the potential to increase the likelihood of improved health outcomes. Care provided under these protocols may lead to greater attention to appropriate patient evaluation and selection, as well as the appropriate application of the technology. These additional data may alter the course of patient treatment based on the best available evidence, and may lead a physician to reconsider the use of the item or service or otherwise alter a patient's management plan, potentially improving health outcomes. In addition, these additional data will be made available in some form to providers and practitioners to inform their decisions, monitor performance quality, benchmark and identify best practices. Collection of these data elements allows that determination to be made. We will also ensure that any future data collection system is consistent with the *Standards for Privacy of Individually Identifiable Health Information* and that all issues related to patient confidentiality, privacy, and compliance with other Federal laws will be resolved prior to the collection of any data.

## I. Description of the Proposed System of Records

### *A. Statutory and Regulatory Basis for SOR*

The statutory authority for linking coverage decisions to the collection of additional data is derived from Sec. 1862 (a)(1)(A) of the Act, which states that Medicare may not provide payment for items and services unless they are ''reasonable and necessary'' for the treatment of illness or injury. In some cases, CMS will determine that an item or service is only reasonable and necessary when specific data collections accompany the provision of the service. In these cases, the collection of data is required to ensure that the care provided to individual patients will improve health outcomes.

### *B. Collection and Maintenance of Data in the System*

Information will be collected on individuals where CMS has determined that the evidence is adequate to conclude that certain identified diagnoses are reasonable and necessary in several patient groups where certain criteria for these patients have been met and the criteria are consistent with the trials reviewed. The collected information will contain, but is not limited to, name, address, telephone number, health insurance claim (HIC) number, geographic location, race/ethnicity, gender, and date of birth, as well as, background information relating to Medicare or Medicaid issues.

**II. Agency Policies, Procedures, and Restrictions on the Routine Use**

*A. Agency Policies, Procedures, and Restrictions on the Routine Use*

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release DCSCD information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of DCSCD. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to provide reimbursement for NCDs and assist in the collection of data on patients receiving an NCD for primary prevention to a data collection process to assure patient safety and protection and to determine that the NCD is reasonable and necessary.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

**III. Proposed Routine Use Disclosures of Data in the System**

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system of records.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency to:

a. Assist in the review determinations of ''reasonable and necessary'' with respect to whether or not a particular item or service is covered nationally under title XVIII of the Act § 1869(f)(1)(B).

b. Contribute to the accuracy of CMS's proper payment of Medicare benefits, and/or

c. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

Other Federal or state agencies in their administration of a Federal health program may require DCSCD information in order to assist in the review determinations of ''reasonable and necessary'' with respect to whether or not a particular item or service is covered nationally under title XVIII of the Act § 1869(f)(1)(B).

3. To an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

The DCSCD data will provide for research or in support of evaluation projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use this data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

4. To a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a member of Congress in resolving an issue relating to a matter before CMS. The member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

5. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS' policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

6. To a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is

deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual relationship or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions and makes grants when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

7. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require DCSCD information for the purpose of combating fraud and abuse in such Federally-funded programs.

*B. Additional Provisions Affecting Routine Use Disclosures*

This system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), subparts A and E. Disclosures of PHI authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of not directly identifiable information, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

**IV. Safeguards**

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy.

These laws and regulations include but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Prescription Drug Improvement, and Modernization Act (MMA) of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; HHS Information System Program Handbook and the CMS Information Security Handbook.

**V. Effects of the Proposed System of Records on Individual Rights**

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

**John R. Dyer,**

*Chief Operating Officer, Centers for Medicare & Medicaid Services.*

**SYSTEM NO. 09–70–0547**

**SYSTEM NAME:**

''Data Collection Secondary to Coverage Decision (DCSCD) System, HHS/CMS/OCSQ''.

**SECURITY CLASSIFICATION:**

Level Three Privacy Act Sensitive Data.

**SYSTEM LOCATION:**

Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various co-locations of CMS contractors.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals where CMS has determined that the evidence is adequate to conclude that certain identified diagnoses are reasonable and necessary in several patient groups where certain criteria for these patients have been met and the criteria are consistent with the trials reviewed.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The data collection should include baseline patient characteristics. The collected information will contain, but is not limited to, name, address, telephone number, health insurance claim (HIC) number, geographic location, race/ethnicity, gender, and date of birth, as well as, background information relating to Medicare or Medicaid issues.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The statutory authority for linking coverage decisions to the collection of additional data is derived from Sec. 1862(a)(1)(A) of the Social Security Act (the Act), which states that Medicare may not provide payment for items and services unless they are ''reasonable and necessary'' for the treatment of illness or injury. In some cases, CMS will

determine that an item or service is only reasonable and necessary when specific data collections accompany the provision of the service. In these cases, the collection of data is required to ensure that the care provided to individual patients will improve health outcomes.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to collect and maintain data on patients to review determinations of ''reasonable and necessary'' with respect to whether or not a particular item or service is covered nationally under title XVIII of the Act § 1869(f)(1)(B). Information retrieved from this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; (2) assist another Federal or state agency with information to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) to an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (4) support constituent requests made to a congressional representative; (5) support litigation involving the agency; and (6) combat fraud and abuse in certain health benefits programs.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:**

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' We are proposing to establish the following routine use disclosures of information maintained in the system. Information will be disclosed:

1. To agency contractors or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

2. To another Federal or state agency to:

a. Assist in the review determinations of ''reasonable and necessary'' with respect to whether or not a particular item or service is covered nationally under title XVIII of the Act § 1869(f)(1)(B).

b. Contribute to the accuracy of CMS's proper payment of Medicare benefits, and/or

c. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

3. To an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

4. To a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

5. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

6. To a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

7. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

**ADDITIONAL PROVISIONS AFFECTING ROUTINE USE DISCLOSURES:**

This system contains Protected Health Information (PHI) as defined by Department of Health and Human Services (HHS) regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 Code of Federal Regulations (CFR) parts 160 and 164, 65 FR 82462 (12–28–00), subparts A and E). Disclosures of PHI authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of not directly identifiable information, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the complaint population is so small that individuals who are familiar with the complainants could, because of the small size, use this information to deduce the identity of the complainant).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

All records are stored electronically.

**RETRIEVABILITY:**

The data is retrieved by an individual identifier *i.e.*, name of beneficiary.

**SAFEGUARDS:**

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implements appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS; and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer

Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Prescription Drug Improvement, Modernization Act (MMA) of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; HHS Information Systems Program Handbook and the CMS Information Security Handbook.

**RETENTION AND DISPOSAL:**

CMS will retain information for a total period of 10 years. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from the Department of Justice.

**SYSTEM MANAGER AND ADDRESS:**

Director, Office of Clinical Standards and Quality, CMS, Room S2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

**NOTIFICATION PROCEDURE:**

For the purpose of access, the subject individual should write to the system manager who will require the system name, address, age, gender, and for verification purposes, the subject individual's name (woman's maiden name, if applicable).

**RECORD ACCESS PROCEDURE:**

For the purpose of access, use the same procedures outlines in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5).

**CONTESTING RECORDS PROCEDURES:**

The subject individual should contact the system manager named above and reasonable identify the records and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These Procedures are in accordance with Department regulation 45 CFR 5b.7).

**RECORD SOURCE CATEGORIES:**

Records maintained in this system are derived from Carrier and Fiscal Intermediary Systems of Records, Common Working File System of Records, clinics, institutions, hospitals and group practices performing the procedures, and outside registries and professional interest groups.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 05–17845 Filed 9–8–05; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Notice of Availability of the Biennial Report to Congress on the Status of Children in Head Start Programs

**AGENCY:** Administration on Children, Youth and Families (ACYF) Administration for Children and Families (ACF), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Administration for Children and Families announces publication of the Biennial Report to Congress on the Status of Children in Head Start Programs, Fiscal Year (FY) 2003. The report is mandated under Section 650 of the Head Start Act, as amended, which requires the Secretary of Health and Human Services to submit a report to Congress at least once during every two-year period on the status of children in Head Start programs. During FY 2003 more than 909,000 children were enrolled in Head Start programs including 62,000 children in Early Head Start programs serving children between birth and three years of age.

**EFFECTIVE DATE:** September 9, 2005.

**ADDRESSES:** Persons wishing to receive a copy of the Biennial Report to Congress on the Status of Children in Head Start Programs, FY 2003 may contact the Head Start Publication Center on 866–763–6481. Copies of the report may also be obtained by accessing the Head Start Web site at *http://www.acf.hhs.gov/programs/hsb/research/index.htm.*

**FOR FURTHER INFORMATION CONTACT:** Frank Fuentes, Acting Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, 330 C Street, SW., Washington, DC 20447.

**SUPPLEMENTARY INFORMATION:** The Head Start and Early Head Start programs are authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*) It is a national program providing comprehensive developmental services to low-income preschool children, primarily age three to age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Section 650 of the Head Start Act requires that the Secretary publish a Biennial Report of the Status of Children in Head Start Programs. The FY 2003 Biennial Report provides information about children enrolled in the program and the services they receive. During FY 2003 more than 909,000 children were enrolled in Head Start programs. Head Start operated 47,000 classrooms in more than 19,000 Head Start centers at an average annual cost per child of $7,092. Over 1,428,000 volunteers contributed their services to Head Start programs.

Dated: August 30, 2005.

**Joan E. Ohl,**

*Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 05–17920 Filed 9–8–05; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### National Native American Emergency Medical Services Association

**AGENCY:** Indian Health Service, IHS.

**ACTION:** Notice of Single Source Cooperative Agreement with the National Native American Emergency Medical Services Association.

**SUMMARY:** The Indian Health Service (IHS) announces the award of a cooperative agreement that will be funded on a competitive continuing basis to the National Native American Emergency Medical Services Association (NNAEMSA) for a demonstration project to improve emergency medical services for Native American people by improving communications between the IHS and the Native American Emergency Medical Services (EMS) providers; by improving communications and information among other federal agencies, professional organizations and Native American EMS providers; and by supporting an Annual Educational Conference.

*Project Period:* The cooperative agreement is for a five-year project period effective on or about September 15, 2005 to September 14, 2010.

*Amount of Award(s):* Total funding for the project is $450,000. Funding in the amount of $90,000.00 is available in

FY 2005. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

**Authority:** The award is issued under the authority of the Public Health Service Act, Section 301(a), and is included under the Catalog of Federal Domestic Assistance number 93.933.

The specific objectives of the project are:

1. The Association will publish, at least three times yearly, a newsletter for members. The newsletter will be available in both hard copy and electronically.

2. The Association will present an Annual Educational Conference which supports training and continuing education for Native American EMS providers such as EMT-Basics, EMT-Intermediates, EMT-Paramedics, physicians, nurses, EMS Medical Directors, ambulance drivers, and First Responders who will receive Continuing Education Units/Continuing Medical Education credits.

3. The Association will act (1) to disseminate appropriate and accurate information and education regarding EMS and EMS providers in Indian Country to State EMS and State Administering Agencies, national professional organizations and federal agencies and to relay information and developments back to its membership and (2) to establish links with other national Indian organizations, professional EMS-related groups and federal agencies.

4. The Association will actively participate with Department of Homeland Security, Department of Health and Human Services and Mountain Plains Health Consortium to inform and educate Native American EMS provider regarding Presidential directives concerning adoption and implementation of the National Incident Management System (NIMS) and Incident Command System (ICS) and other Emergency Preparedness requirements for First Responders.

**Reporting Requirements**

1. Progress Report—Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

2. Financial Status Report—Semi-annual financial status reports must be submitted within 30 days of the end of the half year. Final financial status reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

**Justification for Single Source**

Previously, this project was awarded on a non-competitive continuing basis. With its national focus and years of experience and knowledge which collectively it represents, NNAEMSA fill a niche that no other organization or local Native American EMS association can provide. NNAEMSA is the only nationwide organization that specifically represents approximately 80 individual Native American EMS programs. These EMS programs provide care to over half-million Native American people who live on or near Indian reservations or who live in non-reservation areas with significant Native American populations. The population served by these programs is the same as IHS's user population. NNAEMSA is uniquely qualified to provide the services listed herein, having the requisite knowledge and experience to do so. NNAEMSA has an established record of achievements over the past five years in providing continuing medical education programs of high quality to pre-hospital providers and valuable tribal EMS expertise to IHS in consultation.

**Use of Cooperative Agreement**

A cooperative agreement shall be awarded because of anticipated substantial programmatic involvements by IHS staff in the project. The substantial programmatic involvement is as follows:

1. IHS staff will approve articles to be included in the newsletters and may, as requested by the Association, provide articles.

2. Working with the Association, IHS staff will be involved in the development of the Annual Educational Conference to include topics of concern to the Agency and will be included in presentations as requested by IHS Program Staff or NNAEMSA.

3. IHS Program staff will have approval over the hiring of key personnel as defined by regulation or provision in the cooperative agreement.

4. IHS Program staff will provide technical assistance to the NNAEMSA Board and will attend in person at least one NNAEMSA Board meeting.

5. IHS Program staff will provide technical assistance for the NNAEMSA Board member training and will attend in person any NNAEMSA Board member training sessions scheduled and as travel budget allows.

**FOR FURTHER INFORMATION CONTACT:** For program information, contact Cathy Stueckemann, Public Health Advisor, Division of Nursing, Office of Clinical and Preventive Services, IHS Reyes Building, 801 Thompson Avenue, Rockville, Maryland, 20852, telephone (301) 443–2500.

For grants management information, contact Denise Clark, Grants Management Specialist, Division of Grants Operations, Reyes Building, 801 Thompson Avenue, Rockville, Maryland, 20852, telephone (301) 443–5204.

Dated: September 1, 2005.

**Robert G. McSwain,**

*Deputy Director, Indian Health Service.*

[FR Doc. 05–17941 Filed 9–8–05; 8:45 am]

**BILLING CODE 4165–16–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Notice of Establishment

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the Director, National Institutes of Health (NIH), announces the establishment of the Board of Scientific Counselors for Basic Sciences, National Cancer Institute (Board).

This Committee shall advise the Director, NIH; the Deputy Director for Intramural Research, NIH; the Director, National Cancer Institute (NCI); and the Scientific Director, NCI, on the intramural research programs through periodic visits to the laboratories for assessment of the research in progress, the proposed research, and evaluation of the productivity and performance of tenured, tenure track and staff scientist and physicians.

This Board will consist of 30 members, including the Chair, appointed by the Director, NCI, from authorities knowledgeable in the fields of laboratory, clinical and biometric research, clinical cancer treatment, cancer etiology, and cancer prevention and control research in the fields of interest to NCI.

Duration of this committee is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: August 30, 2005.

**Elias A. Zerhouni,**

*Director, National Institutes of Health.*

[FR Doc. 05–17937 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Initial Review Group, Subcommittee I—Career Development.

*Date:* October 25–26, 2005.

*Time:* 8 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, VA 22202.

*Contact Person:* Robert Bird, PhD, Scientific Review Administrator, Resources and Training Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8113, MSC 8328, Bethesda, MD 20892–8328. 301–496–7978. *birdr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 1, 2005.

**Anthony M. Coelho, Jr.,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17933 Filed 9–9–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Initial Review Group, Subcommittee A—Cancer Centers.

*Date:* December 2, 2005.

*Time:* 8 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* David E. Maslow, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8117, Bethesda, MD 20892–7405, (301) 496–2330, *dm65y@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398; Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 31, 2005.

**Anthony M. Coelho, Jr.,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17935 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Review of a Program Project Grant Application.

*Date:* October 18–19, 2005.

*Time:* 6 p.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

*Contact Person:* William D. Merritt, PhD, Scientific Review Administrator, Grants Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8034, MSC 8328, Bethesda, MD 20892–8328, 301–496–9767.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower. 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 31, 2005.

**Anthony M. Coelho, Jr.**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17936 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, SRV-stats.

*Date:* September 28, 2005.

*Time:* 12:45 p.m. to 2:15 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, (301) 443–1606, *mcarey@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Career Opportunities in Research Education and Research Training (COR) Honors Program (T34).

*Date:* September 29, 2005.

*Time:* 3 p.m. to 4:15 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, (301) 443–1606, *mcarey@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Initial Review Group, Services Research Review Committee.

*Date:* October 16–19, 2005.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center for Leadership Dev., DOLCE Hotel & Conference Destination, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, (301) 402–8152, *mbroitma@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Initial Review Group, Interventions Research Review Committee.

*Date:* October 18–19, 2005.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center for Leadership Dev., DOLCE Hotel & Conference Destination, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH Minority Research Infrastructure Program.

*Date:* October 20–21, 2005.

*Time:* 8:30 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301/443–1606, *mcarey@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Epidemiology—National Comorbidity Survey Replication.

*Date:* October 24, 2005.

*Time:* 2 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609, 301–443–0004, *sechu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: August 31, 2005.

**Anthony M. Coelho, Jr.,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17934 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 06–15, Review R21.

*Date:* October 5, 2005.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Mary Kelly, Scientific Review Specialist, National Institute of Dental & Crainofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402, (301) 594–4809, *may_kelly@nih.gov.*

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 06–07, Review R21s (Oral Cancer).

*Date:* November 10, 2005.

*Time:* 1:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Peter Zelazowski, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Crainofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861, *peter.zelazowski@nih.gov.*

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 06–06, Review R21s (Bone).

*Date:* November 15, 2005.

*Time:* 10:30 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Peter Zelazowski, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Crainofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorder Research, National Institutes of Health, HHS)

Dated: August 30, 2005.

**Anthony M. Coelho, Jr.,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17938 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Cancellation of Meetings

Notice is hereby given of the cancellation of the Commission on Systemic Interoperability, September 13, 2005, 8 a.m. to 4 p.m., Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, Washington, DC 20201, cancellation of the Commission on Systemic Interoperability Teleconference, October 11, 2005, 3 p.m. to 4:30 p.m., National Library of Medicine, Conference Room B, Building 38, 2nd Floor, Bethesda, Maryland 20894, and the cancellation of the Commission on Systemic Interoperability, October 24, 2005, 8 a.m. to 1 p.m., Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, Washington, DC 20201, all of which were published in the **Federal Register** on July 13, 2005, 70 FR 40392.

These meetings are cancelled, as they are no longer necessary to complete Commission activities.

Dated: August 31, 2005.

**Anthony M. Coelho, Jr.,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–17940 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Toxicology Program (NTP); NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Announcement of Expert Panel Meeting To Evaluate Revised Analyses and Proposed Reference Substances for In Vitro Test Methods for Identifying Ocular Corrosives and Severe Irritants

**AGENCY:** National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), Department of Health and Human Services (HHS).

**ACTION:** Meeting announcement and opportunity for public comment.

**SUMMARY:** NICEATM announces a second meeting of an expert panel by teleconference on September 19, 2005, to evaluate (1) revised accuracy and reliability analyses of four *in vitro* test methods proposed for detecting ocular corrosives and severe irritants and (2) a revised list of proposed reference substances for validation studies on *in vitro* test methods for identifying ocular corrosives and severe irritants. The four *in vitro* test methods under consideration are the (1) Bovine Corneal Opacity and Permeability (BCOP) assay, (2) Hen's Egg Test—Chorion Allantoic Membrane (HET–CAM), (3) Isolated Rabbit Eye (IRE) assay, and (4) Isolated Chicken Eye (ICE) assay. The revised analyses and revised list of proposed reference substances are available in an addendum to the draft Background Review Documents (BRDs) for the four methods (available at *http://iccvam.niehs.nih.gov/methods/ocudocs/reanalysis.htm*). A previous **Federal Register** notice solicited public comment on the revised analyses and revised list of proposed reference substances (Vol. 70, No. 142, pg. 43149, July 26, 2005). Comments submitted in response to the July 26, 2005 **Federal Register** notice will be considered at the expert panel meeting and do not need to be resubmitted. The public is invited to attend the teleconference and will be provided with an opportunity to make oral comments during the public comment period. Interested individuals can attend the meeting via a phone line or in person at the NIEHS campus (see **ADDRESSES** below). Participation is limited only by the number of phone lines available and by the number of available seats at the teleconference site. Additional meeting information may be obtained on the ICCVAM/NICEATM Web site (*http://iccvam.niehs.nih.gov*) or by contacting NICEATM (see **ADDRESSES** below).

**DATES:** The expert panel meeting will be held via teleconference on Monday, September 19, 2005, beginning at 9 a.m. eastern daylight time (e.d.t.) and continuing until adjournment (approximately 12 p.m. e.d.t.).

Requests to attend the meeting via the telephone or in person must be received no later than September 12, 2005, to ensure access (see **ADDRESSES** below). We encourage all individuals who plan to attend this meeting to register online at the NICEATM Web site (*http://iccvam.niehs.nih.gov/*), but requests may also be submitted by e-mail, telephone, fax, or through hand delivery/courier (see **ADDRESSES** below).

Persons wishing to make oral comments during the teleconference must notify NICEATM no later than September 12, 2005 (see **ADDRESSES** below). In lieu of oral comments, individuals may provide written comments for distribution to the expert panel prior to the meeting. Written comments should be received by September 15, 2005, in order to enable consideration by the expert panel prior to the meeting.

Persons with disabilities, such as those who need sign language interpreters and/or other reasonable accommodation to participate in this meeting at NIEHS, are asked to notify NICEATM by September 8, 2005.

**ADDRESSES:** The teleconference will originate from Room 3162, 3rd Floor, NIEHS, 79 T.W. Alexander Drive, Bldg. 4401, Research Triangle Park, NC. A government-approved photo ID is required to access the meeting.

Correspondence should be sent by mail, fax, e-mail, or through hand delivery/courier to Dr. Raymond Tice at NICEATM, NIEHS, PO Box 12233, MD EC–17, Research Triangle Park, NC 27709, (phone) 919–541–4482, (fax) 919–541–0947, (e-mail) *niceatmcomments@niehs.nih.gov.* Courier address: NICEATM, 79 T.W. Alexander Drive, Building 4401, Room 3129, Research Triangle Park, NC 27709.

**SUPPLEMENTARY INFORMATION:**

#### Background

On November 3, 2004, NICEATM released draft BRDs that provided information about the current validation status of the four *in vitro* test methods for detecting ocular corrosives and severe irritants (**Federal Register**, Vol. 69, No. 212, pp. 64081–64082, November 3, 2004). In conjunction with ICCVAM, NICEATM convened an expert panel meeting on January 11–12, 2005, to independently assess the validation status of the four *in vitro* test methods. The expert panel report and background information for this meeting are available at *http://iccvam.niehs.nih.gov/methods/eyeirrit.htm.* Public comments at the meeting indicated that additional data could be made available that had not been provided in response to earlier requests for data announced in the **Federal Register** in March (Vol. 69, No. 57, pp. 13859–13861, March 24, 2004) and November 2004). The expert panel recommended that NICEATM conduct a reanalysis of the accuracy and reliability of each test method that would include these data. In response to this recommendation, NICEATM published a notice in the **Federal Register** (Vol. 70, No. 38, pp. 9661–9662, February 28, 2005) requesting additional *in vitro* data on these four *in vitro* ocular irritancy test methods, corresponding *in vivo* rabbit eye test method data, as well as any human ocular exposure/injury data (either from ethical human studies or accidental exposure). Subsequently, NICEATM received additional *in vitro* and *in vivo* data that were used for the

revised accuracy and reliability analyses and considered in revising the list of proposed reference substances.

In preparation for this teleconference, NICEATM released the revised accuracy and reliability analyses and the revised list of proposed reference substances as an addendum to the draft BRDs and announced its availability in the July 26, 2006 **Federal Register** notice. Following the expert panel teleconference, a second expert panel report will be published and made available for public comment. ICCVAM will consider both expert panel reports, other relevant background materials, and all comments received from the public and the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) on this topic in finalizing ICCVAM recommendations for these test methods.

**Opportunity for Public Comment**

Public comments may be made on the revised accuracy and reliability analyses for BCOP, HET–CAM, ICE, and IRE and on the proposed list of reference substances. In lieu of oral comments, individuals may provide written comments for distribution to the expert panel prior to the meeting. Written comments should be received no later than September 15, 2005, to enable consideration by the expert panel prior to the meeting. Written comments received in response to the July 26, 2005 **Federal Register** notice announcing availability of the addendum to the draft BRDs do not need to be resubmitted. If written comments are submitted, appropriate contact information (name, affiliation, mailing address, phone, fax, email and sponsoring organization, if applicable) should be included. Written comments will be posted on the NICEATM/ICCVAM Web site and made available to the expert panel and the ICCVAM. Persons wishing to make oral comments during the teleconference (one speaker per organization) must notify NICEATM by no later than September 12, 2005. Speakers will be assigned on a consecutive basis and comments will be limited to no more than four minutes per speaker. Due to logistical issues it may not be possible for persons who do not pre-register to make oral comments.

**Background Information on ICCVAM and NICEATM**

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that use or generate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability, and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, and replace animal use. The ICCVAM Authorization Act of 2000 (Pub. L. 106–545, available at *http://iccvam.niehs.nih.gov/about/PL106545.htm*) establishes ICCVAM as a permanent interagency committee of the NIEHS under the NICEATM. NICEATM administers the ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following Web site: *http://www.iccvam.niehs.nih.gov.*

Dated: August 30, 2005.

**Samuel H. Wilson,**

*Deputy Director, National Institute of Environmental Health Sciences.*

[FR Doc. 05–17939 Filed 9–8–05; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[CGD13–05–017]**

### Letter of Recommendation, Proposed LNG Project Northern Star Natural Gas LLC, Bradwood, Clatsop County, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Request for comments; notice of public meeting.

**SUMMARY:** In accordance with the requirements in 33 CFR 127.009, the U.S. Coast Guard Captain of the Port (COTP) Portland, Oregon is preparing a Letter of Recommendation (LOR) as to the suitability of the Columbia River for liquefied natural gas (LNG) marine traffic. This LOR will encompass the marine safety and security aspects associated with the proposed Northern Star Natural Gas LLC (Northern Star) LNG facility. The LOR is in response to a Letter of Intent (LOI) submitted by Northern Star to operate an LNG facility in Bradwood, Clatsop County, Oregon. Because the proposed LNG facility would be located in state waters, the Federal Energy Regulatory Commission (FERC) is the lead Federal agency for this proposed project. The COTP Portland, OR is soliciting written comments and related material, and will join FERC in holding a public meeting seeking comments, pertaining specifically to maritime safety and security aspects of the proposed LNG facility. In preparation for issuance of an LOR and the completion of certain other regulatory mandates, the COTP Portland, OR, will consider comments received from the public as input into a formalized risk assessment process. This process will assess the safety and security aspects of the facility, adjacent port areas, and navigable waterways.

**DATES:** All written comments and related material must reach the Coast Guard on or before October 6, 2005. In addition, a public meeting will be held Thursday, September 29, 2005 at 7 p.m. Those who plan to speak at the meeting should provide their name by September 22, 2005 to Lieutenant Shadrack Scheirman using one of the methods listed under **FOR FURTHER INFORMATION CONTACT**. The comment period associated with the public meeting will remain open for seven days following the meeting. The meeting location is: Knappa High School, 41535 Old Highway 30, Astoria, OR 97102, 503–458–6166.

**ADDRESSES:** You may submit written comments to Commanding Officer, U.S. Coast Guard Sector Portland. Sector Portland maintains a file for this notice. Comments and material received will become part of this file and will be available for inspection and copying at Sector Portland between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, contact Lieutenant Shadrack Scheirman at Sector Portland by one of the methods listed below:

(1) Phone at (503) 247–4015
(2) E-mail at *Shadrack.L.Scheirman@uscg.mil*
(3) Fax to (503) 240–2586

**SUPPLEMENTARY INFORMATION:**

**Request for Written Comments**

We encourage you to submit written comments and related material pertaining specifically to marine safety and security aspects associated with the proposed Northern Star LNG facility. If you do so, please include your name and address, identify the docket number for this notice ([CGD13–05–017]), and give the reason for each comment. You may submit your comments and related material by mail, or hand delivery, as described in **ADDRESSES**, or you may send them by fax or e-mail using the contact information under **FOR FURTHER INFORMATION CONTACT**. To avoid confusion and duplication, please

submit your comments and material by only one means.

If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached U.S. Coast Guard Sector Portland, please enclose a stamped, self-addressed postcard or envelope.

**Public Meeting**

Due to the scope and complexity of this project, we have decided to hold a joint public meeting with FERC to allow the public the opportunity to comment on the proposed LNG facility. FERC will issue a separate notice for the public meeting listed under **DATES** above, regarding the public's opportunity to comment on the environmental aspects of the facility siting.

With advance notice, organizations and members of the public may provide oral statements regarding the suitability of the Columbia River for LNG vessel traffic. In the interest of time and use of the public meeting facility, oral statements should be limited to five minutes. Persons wishing to make oral statements should notify Lieutenant Shadrack Scheirman using one of the methods listed under **FOR FURTHER INFORMATION CONTACT** by September 22, 2005. Written comments may be submitted at the meeting or to the Docket up to October 6, 2005.

**Background and Purpose**

In accordance with the requirements of 33 CFR 127.007, Northern Star submitted an LOI on March 16, 2005, to operate an LNG facility in Bradwood, Clatsop County, Oregon.

FERC will be the lead agency for the Environmental Impact Statement (EIS) mandated by the National Environmental Policy Act (NEPA). To help FERC make sure that the EIS covers the Coast Guard's LOR and other actions under this proposal, the Coast Guard will serve as a cooperating agency.

The proposed terminal is an LNG import, storage, and re-gasification facility. LNG carriers (ships) would berth at a new pier and LNG would be transferred by pipeline from the carriers to one of three storage tanks, each with a net capacity of 165,000 cubic meters ($m^3$). The LNG would then be re-gasified and metered into natural gas pipelines. LNG would be delivered to the terminal in double-hulled LNG carriers ranging in capacity from 100,000 $m^3$ to 250,000 $m^3$. The larger carriers would measure up to approximately 965 feet long with up to approximately a 150 foot wide beam, and draw 40 feet of water. The Northern Star Natural Gas terminal would handle approximately 96 vessels per year, depending upon natural gas demand, and carrier size, with shipments arriving about every four days.

The U.S. Coast Guard exercises regulatory authority over LNG facilities which affect the safety and security of port areas and navigable waterways under Executive Order 10173, the Magnuson Act (50 U.S.C. 191), the Ports and Waterways Safety Act of 1972, as amended (33 U.S.C. 1221, *et seq.*) and the Maritime Transportation Security Act of 2002 (46 U.S.C. 701). The Coast Guard is responsible for matters related to navigation safety, vessel engineering and safety standards, and all matters pertaining to the safety of facilities or equipment located in or adjacent to navigable waters up to the last valve immediately before the receiving tanks. The Coast Guard also has authority for LNG facility security plan review, approval, and compliance verification as provided in title 33 CFR part 105, and recommendation for siting as it pertains to the management of vessel traffic in and around the LNG facility.

Upon receipt of an LOI from an owner or operator intending to build a new LNG facility, the Coast Guard COTP conducts an analysis that results in a letter of recommendation issued to the owner or operator and to the state and local governments having jurisdiction, addressing the suitability of the waterway to accommodate LNG vessels. Specifically, the letter of recommendation addresses the suitability of the waterway based on:

- The physical location and layout of the facility and its berthing and mooring arrangements.
- The LNG vessels' characteristics and the frequency of LNG shipments to the facility.
- Commercial, industrial, environmentally sensitive, and residential areas in and adjacent to the waterway used by the LNG vessels en route to the facility.
- Density and character of marine traffic on the waterway.
- Bridges or other manmade obstructions in the waterway.
- Depth of water.
- Tidal range.
- Natural hazards, including rocks and sandbars.
- Underwater pipelines and cables.
- Distance of berthed LNG vessels from the channel, and the width of the channel.

In addition, the Coast Guard will review and approve the facility's operations manual and emergency response plan (33 CFR 127.019), as well as the facility's security plan (33 CFR 105.410).

The Coast Guard will also provide input to other Federal, State, and local government agencies reviewing the project. Under an interagency agreement, the Coast Guard will provide input to, and coordinate with FERC, the lead Federal agency for authorizing the siting and construction of onshore LNG facilities, on safety and security aspects of the Northern Star project, including both the marine and land-based aspects of the project.

In order to complete a thorough analysis and fulfill the regulatory mandates cited above, the COTP Portland, OR, will be conducting a formal risk assessment, evaluating various safety and security aspects associated with Northern Star's proposed project. This risk assessment will be accomplished through a series of workshops focusing on the areas of waterways safety, port security, and consequence management, with involvement from a broad cross-section of government and port stakeholders with expertise in each of the respective areas. The workshops will be by invitation only. However, comments received during the public comment period will be considered as input into the risk assessment process.

**Additional Information**

Additional information about the project is available from the FERC's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and the FERC's Docket Number PF05–10, and follow the instructions. Searches may also be done using the phrases ''Northern Star'' or ''Bradwood Landing LNG'' in the ''Text Search'' field. For assistance with access to eLibrary, the helpline can be reached at 1 866 208 3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Northern Star has also established an Internet Web site for its project at *http://www.Northernstar-NG.com.* The Web site includes a project overview, contact information, regulatory overview, and construction procedures.

For information on facilities or services for individuals with disabilities, or to request assistance at the meeting, contact Lieutenant Shadrack Scheirman listed under **FOR**

**FURTHER INFORMATION CONTACT** as soon as possible.

Dated: August 30, 2005.

**Patrick G. Gerrity,**

*Captain, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 05–17833 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4962–N–03]**

### Notice of Funding Availability for Fiscal Year (FY) 2004 HOPE VI Main Street Grants; Notice of Extension of Application Submission Date for Areas Affected by Hurricane Katrina

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of extension of application submission date for applicants submitting applications from areas affected by Hurricane Katrina.

**SUMMARY:** This notice announces that HUD has extended the submission deadline date for the Fiscal Year (FY) 2004 HOPE VI Main Street Grants Notice of Funding Availability (NOFA) for those applicants located in areas designated by the President as disaster areas, and other areas that experienced major power outages due to Hurricane Katrina. These areas include the entire state of Louisiana; the entire state of Mississippi; the Alabama counties of Baldwin, Bibb, Calhoun, Clarke, Choctaw, Green, Hale, Jefferson, Mobile, Shelby, Sumter, Tuscaloosa, and Washington; and the Florida counties of Broward, Miami-Dade, Monroe, and Palm Beach. The application submission deadline for this funding opportunity was September 2, 2005. For those applicants located in one of these states or counties, the revised submission date is September 7, 2005 at 5:15 p.m. For applicants unaffected by Hurricane Katrina, the submission deadline remains unchanged.

**FOR FURTHER INFORMATION CONTACT:** Lar Gnessin, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000; telephone (202) 708–0614 extension 2676 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this telephone number via TTY by calling the toll-free Federal Information Relay Service on (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** On July 21, 2005 (70 FR 42150), HUD published the Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2004 HOPE VI Main Street Grants Notice announcing the availability of approximately $5 million in funds to produce affordable housing in HUD-defined Main Street rejuvenation areas. In a **Federal Register** notice published on August 1, 2005 (70 FR 44110), HUD announced several corrections to the NOFA, including the requirement that only paper submissions may be accepted.

Due to Hurricane Katrina, which caused widespread damage and power outages in the entire state of Louisiana; the entire state of Mississippi; the Alabama counties of Baldwin, Bibb, Calhoun, Clarke, Choctaw, Green, Hale, Jefferson, Mobile, Shelby, Sumter, Tuscaloosa, and Washington; and the Florida counties of Broward, Miami-Dade, Monroe, and Palm Beach, HUD has extended the application submission deadline for the FY 2005 HOPE VI Main Street Grants NOFA to September 7, 2005. HUD is aware that recovery of many areas will not occur before this date. The period of this extension has been limited because funding for this NOFA expires on September 30, 2005, and must be returned to the U.S. Treasury if not awarded by that date. The below listed areas were designated by the President as federal disaster areas, or experienced major power outages; thus, this extension affects only applicants located in the entire state of Louisiana; the entire state of Mississippi; the Alabama counties of Baldwin, Bibb, Calhoun, Clarke, Choctaw, Green, Hale, Jefferson, Mobile, Shelby, Sumpter, Tuscaloosa, and Washington; and the Florida counties of Broward, Miami-Dade, Monroe, and Palm Beach.

HUD will accept applications to the FY 2004 Main Street VI Main Street Grants NOFA from applicants of the affected states or counties listed above through hard copy (paper) submission consistent with the instructions in the August 1, 2005 correction. In order to ensure timely receipt, HUD strongly recommends applicants use an overnight delivery method to ensure timely receipt of paper applications. Hand deliveries will not be accepted. Hard copy submissions should be sent to the appropriate address listed as follows: *FY 2004 Main Street VI Main Street Grants Program:* Department of Housing and Urban Development, Attn: Dominique Blom, Acting Deputy Assistant Secretary, 451 Seventh Street, SW., Room 4130, Washington, DC 20410–5000.

Dated: September 2, 2005.

**Paula O. Blunt,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 05–17950 Filed 9–6–05; 4:19 pm]

**BILLING CODE 4210–33–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4980–N–36]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 1, 2005.

**Mark R. Johnston,**

*Director, Office of Special Needs Assistance Programs.*

[FR Doc. 05–17728 Filed 9–8–05; 8:45 am]

**BILLING CODE 4210–29–M**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### List of Programs Eligible for Inclusion in Fiscal Year 2006 Funding Agreements To Be Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice lists programs or portions of programs that are eligible for inclusion in Fiscal Year 2006 funding agreements with self-governance tribes and lists programmatic targets for each of the non-BIA bureaus, pursuant to section 405(c)(4) of the Tribal Self-Governance Act.

**DATES:** This notice expires on September 30, 2006.

**ADDRESSES:** Inquiries or comments regarding this notice may be directed to Dr. Ken Reinfeld, Office of Self-Governance and Self-Determination (MS–4618, MIB), 1849 C Street NW., Washington, DC 20240–0001, telephone: (202) 208–5734, fax: (202) 219–1404, or to the bureau points of contact listed below.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Title II of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103–413, the ''Tribal Self-Governance Act'', or the ''Act'') instituted a permanent self-governance program at the Department of the Interior (DOI). Under the self-governance program certain programs, services, functions, and activities, or portions thereof, in Interior bureaus other than BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance tribal government.

Under section 405(c) of the Tribal Self-Governance Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Tribal Self-Governance Act, two categories of non-BIA programs are eligible for self-governance funding agreements:

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function or activity that is administered by Interior that is ''otherwise available to Indian tribes or Indians,'' can be administered by a tribal government through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (P.L. 93–638, as amended). Section 403(b)(2) also specifies ''nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions and activities, or portions thereof, unless such preference is otherwise provided for by law.''

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of ''special geographic, historical, or cultural significance'' to a self-governance tribe.

Under section 403(k) of the Tribal Self-Governance Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, we will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances.

*Response to Comments*

The Department provided the proposed list to the self-governance tribes on April 18, 2005 for their review and comment. No comments were received. Several minor editorial and technical changes provided by Interior's bureaus were incorporated.

#### II. Funding Agreements Between Self-Governance Tribes and Non-BIA Bureaus of the Department of the Interior

A. Bureau of Land Management (none)
B. Bureau of Reclamation (4)
  Gila River Indian Community
  Karuk Tribe of California
  Duckwater Shoshone Tribe of Nevada
  Yurok Tribe
C. Minerals Management Service (none)
D. National Park Service (4)
  Grand Portage Band of Lake Superior Chippewa Indians
  Lower Elwha S'Klallam Tribe
  Tanana Chiefs Conference, Inc.
  Yurok Tribe
E. Office of Surface Mining and Reclamation Enforcement (none)
F. U.S. Fish and Wildlife Service (2)
  Council of Athabascan Tribal Governments
  Confederated Salish and Kootenai Tribes of the Flathead Reservation
G. U.S. Geological Survey (none)
H. Office of the Special Trustee for American Indians (three)
  Cherokee Nation of Oklahoma
  Confederated Salish and Kootenai Tribes of the Flathead Reservation
  Wyandotte Tribe of Oklahoma

#### III. Eligible Programs of the Department of the Interior Non-BIA Bureaus

Below is a listing by bureau of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either ''otherwise available to Indians'' under Title I and not precluded by any other law, or may have ''special geographic, historical, or cultural significance'' to a participating tribe. The lists represent the most current information on programs potentially available to tribes under a self-governance funding agreement.

The Department will also consider for inclusion in funding agreements other programs or activities not included below, but which, upon request of a self-governance tribe, the Department determines to be eligible under either sections 403(b)(2) or 403(c) of the Act. Tribes with an interest in such potential agreements are encouraged to begin discussions with the appropriate non-BIA bureau.

*A. Eligible Programs of the Bureau of Land Management (BLM)*

BLM management responsibilities cover a wide range of areas, such as recreational activities, timber, range and minerals management, wildlife habitat management and watershed restoration. In addition, BLM is responsible for the survey of certain Federal and tribal lands. Two programs provide tribal services: (1) Tribal and allottee minerals management; and (2) Survey of tribal and allottee lands.

BLM carries out some of its activities in the management of public lands through contracts and cooperative agreements. These and other activities, dependent upon availability of funds, the need for specific services, and the self-governance tribe demonstrating a special geographic, cultural, or historical connection, may also be available for inclusion in self-governance funding agreements. Once a tribe has made initial contact with BLM, more specific information will be

provided by the respective BLM State office.

Tribal Services

1. *Minerals Management.* Inspection and enforcement of Indian oil and gas operations, and inspection, enforcement and production verification of Indian coal and sand and gravel operations are already available for contracts under Title I of the Act and therefore may be available for inclusion in a funding agreement.

2. *Cadastral Survey.* Tribal and allottee cadastral survey services are already available for contracts under Title I of the Act and therefore may be available for inclusion in a funding agreement.

Other Activities

1. *Cultural Heritage.* Cultural heritage activities, such as research and inventory, may be available in specific states.

2. *Forestry Management.* Activities such as environmental studies, tree planting, thinning, and similar work, may be available in specific states.

3. *Range Management.* Activities, such as re-vegetation, noxious weed control, fencing, construction and management of range improvements, grazing management experiments, range monitoring, and similar activities, may be available in specific states.

4. *Riparian Management.* Activities, such as facilities construction, erosion control, rehabilitation, and similar activities, may be available in specific states.

5. *Recreation Management.* Activities, such as facilities construction and maintenance, interpretive design and construction, and similar activities may be available in specific states.

6. *Wildlife and Fisheries Habitat Management.* Activities, such as construction and maintenance, interpretive design and construction, and similar activities, may be available in specific states.

7. *Wild Horse Management.* Activities, such as wild horse round ups, removal, and disposition, including operation and maintenance of wild horse facilities may be available in specific states.

The above programs under ''Other Activities'' are available in many states for competitive contracting. However, if they are of special geographic, historical or cultural significance to a participating self-governance tribe, they may be available for funding agreements. Tribes may also discuss additional BLM-funded activities with the relevant State office in relation to negotiating specific self-governance funding agreements.

For questions regarding self-governance, contact Jerry Cordova, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240–0001, telephone: (202) 452–7756, fax: (202) 452–7701. General information on all contracts available in a given year through the BLM can be obtained from the BLM National Business Center, P.O. Box 25047, Bldg 50, Denver Federal Center, Denver, CO 80225–0047.

*B. Eligible Programs of the Bureau of Reclamation*

Reclamation operates a wide range of water resource management projects for hydroelectric power generation, municipal and industrial water supplies, flood control, outdoor recreation, enhancement of fish and wildlife habitats, and research. Most of Reclamation's activities involve construction, operation and maintenance, and management of water resources projects and associated facilities. Components of the following water resource management and construction projects may be eligible for inclusion in self-governance funding agreements.

1. Klamath Project—CA, OR
2. Trinity River Restoration Program—CA
3. Central Valley Project (Trinity Division)—CA
4. Central Arizona Project—AZ, NM
5. Colorado River Front Work/Levee System—AZ, CA, NV
6. Lower Colorado Indian Water Management Study—AZ, CA, NV
7. Middle Rio Grande Project—NM
8. Yuma Area Projects—AZ, CA
9. Rocky Boy's/North Central Montana Regional Water System—MT
10. Indian Water Rights Settlements Projects—as Congressionally Authorized

For questions regarding self-governance, contact Barbara White, Reclamation Self-Governance Coordinator, Native American Affairs Office, Bureau of Reclamation (W–6100), 1849 C Street NW., Washington, DC 20240–0001, telephone: (202) 513–0631, fax: (202) 513–0311.

*C. Eligible Programs of the Minerals Management Service (MMS)*

MMS provides stewardship of America's offshore resources and collects revenues generated from mineral leases on Federal and Indian lands. MMS is responsible for the management of the Federal Outer Continental Shelf, which are submerged lands off the coasts that have significant energy and mineral resources. Within the offshore minerals management program, environmental impact assessments and statements and environmental studies may be available if a self-governance tribe demonstrates a special geographic, cultural or historical connection.

MMS also offers mineral-owning tribes other opportunities to become involved in MMS's Minerals Revenue Management functions. These programs address the intent of tribal self-governance but are available regardless of self-governance intentions or status and are a good prerequisite for assuming other technical functions. Generally, minerals revenue management programs are available to tribes because of FOGRMA. Minerals revenue management programs that may be available to self-governance tribes are as follows:

1. *Audit of Tribal Royalty Payments.* Audit activities for tribal leases, except for the issuance of orders, final valuation decisions, and other enforcement activities. (For tribes already participating in MMS cooperative audits, this program is offered as an optional alternative.)

2. *Verification of Tribal Royalty Payments.* Financial compliance verification and monitoring activities, production verification, and appeals research and analysis.

3. *Tribal Royalty Reporting, Accounting, and Data Management.* Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, billing and general ledger.

4. *Tribal Royalty Valuation.* Preliminary analysis and recommendations for valuation and allowance determinations and approvals.

5. *Royalty Management of Allotted Leases.* Mineral revenue collections of allotted leases, provided that MMS consults with and obtains written approval from affected individual Indian mineral owners to delegate this responsibility to the tribe.

6. *Online Monitoring of Royalties and Accounts.* Online computer access to reports, payments, and royalty information contained in MMS accounts. MMS will install equipment at tribal locations, train tribal staff, and assist tribes in researching and monitoring all payments, reports, accounts, and historical information regarding their leases.

7. *Royalty Internship Program.* An orientation and training program for auditors and accountants from mineral producing tribes to acquaint tribal staff with royalty laws, procedures, and

techniques. This program is recommended for tribes that are considering a self-governance funding agreement but have not yet acquired mineral revenue expertise via a FOGRMA section 202 contract.

For questions regarding self-governance, contact Shirley Conway, Minerals Revenue Management, Minerals Management Service (MS–4241 MIB), 1849 C Street NW., Washington, DC 20240–0001, telephone: (202) 208–3512, fax: (202) 501–0247.

*D. Eligible Programs of the National Park Service (NPS)*

The National Park Service administers the National Park System made up of national parks, monuments, historic sites, battlefields, seashores, lake shores and recreation areas. NPS maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, park maintenance, and interpretation of geology, history, and natural and cultural resources.

Some elements of these programs may be eligible for inclusion in a self-governance annual funding agreement. The listing below was developed considering the geographic proximity to, and/or traditional association of a self-governance tribe with, units of the National Park system, and the types of programs that have components that may be suitable for contracting through a self-governance annual funding agreement. This listing is not all inclusive, but is representative of the types of programs which may be eligible for tribal participation through annual funding agreements.

*Ongoing Programs and Activities.* Components of the following programs are potentially eligible for inclusion in a self-governance annual funding agreement:

1. Archaeological Surveys
2. Comprehensive Management Planning
3. Cultural Resource Management Projects
4. Ethnographic Studies
5. Erosion Control
6. Fire Protection
7. Gathering Baseline Subsistence Data—AK
8. Hazardous Fuel Reduction
9. Housing Construction and Rehabilitation
10. Interpretation
11. Janitorial Services
12. Maintenance
13. Natural Resource Management Projects
14. Operation of Campgrounds
15. Range Assessment—AK
16. Reindeer Grazing—AK
17. Road Repair
18. Solid Waste Collection and Disposal
19. Trail Rehabilitation
20. Watershed Restoration and Maintenance

*Special Programs.* Aspects of these programs may be available if a self-governance tribe demonstrates a geographical, cultural, or historical connection.

1. Beringia Research
2. Elwha River Restoration

*Connections to National Park Units.* Aspects of ongoing programs and activities may be available to self-governance tribes with known geographic, cultural, or historical connections to the following national park units.

1. Bering Land Bridge National Park—AK
2. Cape Krusenstern National Monument—AK
3. Gates of the Arctic National Park & Preserve—AK
4. Glacier Bay National Park and Preserve—AK
5. Katmai National Park and Preserve—AK
6. Kenai Fjords National Park—AK
7. Klondike Gold Rush National Historical Park—AK
8. Kobuk Valley National Park—AK
9. Lake Clark National Park and Preserve—AK
10. Noatak National Preserve—AK
11. Sitka National Historical Park—AK
12. Wrangell-St. Elias National Park and Preserve—AK
13. Yukon-Charley Rivers National Preserve—AK
14. Casa Grande Ruins National Monument—AZ
15. Hohokam Pima National Monument—AZ
16. Montezuma Castle National Monument—AZ
17. Organ Pipe Cactus National Monument—AZ
18. Saguaro National Park—AZ
19. Tonto National Monument—AZ
20. Tumacacori National Historical Park—AZ
21. Tuzigoot National Monument—AZ
22. Arkansas Post National Memorial—AR
23. Joshua Tree National Park—CA
24. Lassen Volcanic National Park—CA
25. Redwood National Park—CA
26. Whiskeytown National Recreation Area—CA
27. Hagerman Fossil Beds National Monument—ID
28. Effigy Mounds National Monument—IA
29. Boston Harbor Islands, National Park Area—MA
30. Cape Cod National Seashore—MA
31. New Bedford Whaling National Historical Park—MA
32. Sleeping Bear Dunes National Lakeshore—MI
33. Grand Portage National Monument—MN
34. Voyageurs National Park—MN
35. Bear Paw Battlefield, Nez Perce National Historical Park—MT
36. Glacier National Park—MT
37. Great Basin National Park—NV
38. Bandelier National Monument—NM
39. Carlsbad Caverns National Park—NM
40. White Sands National Monument—NM
41. Fort Stanwix National Monument—NY
42. Cuyahoga Valley National Park—OH
43. Hopewell Culture National Historical Park—OH
44. Chickasaw National Recreation Area—OK
45. John Day Fossil Beds National Monument—OR
46. Alibates Flint Quarries National Monument—TX
47. Guadalupe Mountains National Park—TX
48. Lake Meredith National Recreation Area—TX
49. Ebey's Landing National Historical Reserve—WA
50. Mt. Rainier National Park—WA
51. Olympic National Park—WA
52. San Juan Islands National Historic Park—WA
53. Whitman Mission National Historic Site—WA

For questions regarding self-governance, contact Dr. Patricia Parker, Chief, American Indian Liaison Office, National Park Service (Org. 2560, 9th Floor), 1201 Eye Street NW., Washington, DC 20005–5905, telephone: (202) 354–6965, fax: (202) 371–6609.

*E. Eligible Programs of the Office of Surface Mining and Reclamation Enforcement (OSM)*

OSM regulates surface coal mining and reclamation operations, and reclaims abandoned coal mines, in cooperation with states and Indian tribes.

1. *Abandoned Mine Land Reclamation Program.* This program restores eligible lands mined and abandoned or left inadequately restored and is available to Indian tribes.

2. *Control of the Environmental Impacts of Surface Coal Mining.* This program includes analyses, NEPA documentation, technical reviews, and

studies. Where surface coal mining exists on Indian land, certain regulatory activities that are not inherently Federal are available to Indian tribes.

For questions regarding self-governance, contact Maria Mitchell, Office of Surface Mining Reclamation and Enforcement (MS–210 SIB), 1951 Constitution Ave. NW., Washington, DC 20240, telephone: (202) 208–2865, fax: (202) 219–3111.

*F. Eligible Programs of the U.S. Fish and Wildlife Service (FWS)*

The mission of FWS is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. Primary responsibilities are for migratory birds, endangered species, freshwater and anadromous fisheries, and certain marine mammals. FWS also has a continuing cooperative relationship with a number of Indian tribes throughout the National Wildlife Refuge System and the Service's fish hatcheries. Any self-governance tribe may contact a National Wildlife Refuge or National Fish Hatchery directly concerning participation in Service programs under the Tribal Self-Governance Act.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. The listing below was developed considering the proximity of an identified self-governance tribe to a National Wildlife Refuge or National Fish Hatchery, and the types of programs that have components that may be suitable for contracting through a self-governance funding agreement. This listing is not all-inclusive but is representative of the types of programs which may be eligible for tribal participation through a funding agreement.

1. *Subsistence Programs Within Alaska*
2. *Fish and Wildlife Technical Assistance, Restoration and Conservation*
   a. Fish and Wildlife Population Surveys
   b. Habitat Surveys
   c. Sport Fish Restoration
   d. Capture of Depredating Migratory Birds
   e. Fish and Wildlife Program Planning
   f. Habitat Restoration Activities
3. *Endangered Species Program*
   a. Cooperative Management of Conservation Programs
   b. Development and Implementation of Recovery Plans
   c. Conducting Status Surveys for High Priority Candidate Species
   d. Participation in the Development of Habitat Conservation Plans, as appropriate
4. *Education Programs*
   a. Interpretation
   b. Outdoor Classrooms
   c. Visitor Center Operations
   d. Volunteer Coordination Efforts On- and Off-Refuge
5. *Environmental Contaminants Program*
   a. Analytical Devices
   b. Removal of Underground Storage Tanks
   c. Specific Cleanup Activities
   d. Natural Resource Economic Analysis
   e. Specific Field Data Gathering Efforts
6. *Hatchery Operations*
   a. Egg Taking
   b. Rearing/Feeding
   c. Disease Treatment
   d. Tagging
   e. Clerical/Facility Maintenance
7. *Wetland and Habitat Conservation and Restoration*
   a. Construction
   b. Planning Activities
   c. Habitat Monitoring and Management
8. *Conservation Law Enforcement*
   All Law Enforcement under Cross-Deputization
9. *National Wildlife Refuge Operations and Maintenance*
   a. Construction
   b. Farming
   c. Concessions
   d. Maintenance
   e. Comprehensive Management Planning
   f. Biological Program Efforts
   g. Habitat Management
   h. Fire Management

*Locations of Refuges and Hatcheries With Close Proximity to Self-Governance Tribes*

1. Alaska National Wildlife Refuges—AK
2. Alchesay National Fish Hatchery—AZ
3. Humboldt Bay National Wildlife Refuge—ID
4. Kootenai National Wildlife Refuge—ID
5. Agassiz National Wildlife Refuge—MN
6. Mille Lacs National Wildlife Refuge—MN
7. Rice Lake National Wildlife Refuge—MN
8. National Bison Range—MT
9. Ninepipe National Wildlife Refuge—MT
10. Pablo National Wildlife Refuge—MT
11. Mescalero National Fish Hatchery—NM
12. Sequoyah National Wildlife Refuge—OK
13. Tishomingo National Wildlife Refuge—OK
14. Bandon Marsh National Wildlife Refuge—OR
15. Dungeness National Wildlife Refuge—WA
16. Makah National Fish Hatchery—WA
17. Nisqually National Wildlife Refuge—WA
18. Quinault National Fish Hatchery—WA
19. San Juan Islands National Wildlife Refuge—WA

For questions regarding self-governance, contact Patrick Durham, Fish and Wildlife Service (MS–3012 MIB), 1849 C Street NW., Washington, DC 20240–0001, telephone: (202) 208–4133, fax: (202) 501–3524.

*G. Eligible Programs of the U.S. Geological Survey (USGS)*

The mission of the U.S. Geological Survey is to provide information on biology, geology, hydrology, and cartography that contributes to the wise management of the Nation's natural resources and to the health, safety, and well-being of the American people. Information includes maps, data bases, and descriptions and analyses of the water, plants, animals, energy, and mineral resources, land surface, underlying geologic structure and dynamic processes of the Earth. Information on these scientific issues is developed through extensive research, field studies, and comprehensive data collection to: evaluate natural hazards such as earthquakes, volcanoes, landslides, floods, droughts, subsidence and other ground failures; assess energy, mineral, and water resources in terms of their quality, quantity, and availability; evaluate the habitats of animals and plants; and produce geographic, cartographic, and remotely-sensed information in digital and non-digital formats. No USGS programs are specifically available to American Indians or Alaska Natives. Components of the following programs may have a special geographic, cultural, or historical connection with a self-governance tribe:

1. Mineral Environmental, and Energy Assessments
2. USGS Earthquake Hazards Reduction Program
3. Water Resources Data Collection and Investigations
4. Biological Resources Inventory, Monitoring, Research and Information Transfer Activities

For questions regarding self-governance, contact Sue Marcus, American Indian/Alaska Native Liaison, U.S. Geological Survey, 104 National

Center, Reston, VA 20192, telephone: (703) 648–4437, fax: (703) 648–5470.

*H. Eligible Programs of the Office of the Special Trustee for American Indians (OST)*

The Department of the Interior has responsibility for what may be the largest land trust in the world, approximately 56 million acres. OST oversees the management of these trust assets as well as maintains, invests, disburses, and reports to individual Indians and tribes on financial asset transactions generated from leasing and other commercial activities on these lands. The mission of the OST is to serve Indian communities by fulfilling Indian fiduciary trust responsibilities. This is to be accomplished through the implementation of a Comprehensive Trust Management Plan (CTM) that is designed to improve trust beneficiary services, ownership information, management of trust fund assets, and self-governance activities.

A tribe operating under self-governance may include the following programs, services, functions, and activities or portions thereof in a funding agreement:

1. Financial Trust Services (Individual Indian Monies Financial Services)
2. Appraisal Services

Responsibilities for the operation of these programs have been shifted from BIA to OST. Tribes/Consortia that currently perform these programs under a Self-Governance funding agreement with the Indian Affairs, may negotiate a separate Memorandum of Understanding (MOU) with OST that outlines the roles and responsibilities for management of these programs. The MOU between the Tribe/Consortium and OST outlines the roles and responsibilities for the performance of the OST program by the Tribe/Consortium. If those roles and responsibilities are already fully articulated in the existing Self-Governance funding agreement, an MOU is not required. To the extent that any necessary elements are missing from the funding agreement, however, an MOU will be negotiated between the Tribe/Consortium and OST.

Other Self-Governance Tribes/Consortia that do not perform these programs may be eligible to enter into a self-governance funding agreement with OST. In such cases, the Tribe/Consortium would negotiate a funding agreement with OST and the funding would come from OST program dollars. These funding agreements would stipulate the roles and responsibilities of the Tribe/Consortium and OST and no separate MOU would be necessary.

For questions regarding self-governance, contact Carrie Moore, Director, Office of External Affairs, Office of the Special Trustee for American Indians (MS–5140 MIB), 1849 C Street NW., Washington, DC 20240–0001, phone: (202) 208–4866, fax: (202) 208–7545.

**IV. Programmatic Targets**

During Fiscal Year 2006, upon request of a self-governance tribe, each non-BIA bureau will negotiate funding agreements for its eligible programs beyond those already negotiated.

Dated: August 24, 2005.

**James E. Cason,**

*Associate Deputy Secretary.*

[FR Doc. 05–17914 Filed 9–8–05; 8:45 am]

**BILLING CODE 4310–10–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CA–939–04–1610–00]**

### Notice of Availability of Record of Decision for the California Coastal National Monument Resource Management Plan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), the Bureau of Land Management (BLM) management policies, and Presidential Proclamation No. 7264, the BLM announces the availability of the RMP/ROD for the California Coastal National Monument (CCNM) located off the coast of California. The California State Director has signed the RMP/ROD, which becomes effective immediately.

**ADDRESSES:** Copies of the Resource Management Plan/Record of Decision (RMP/ROD) are available upon request from the Monument Manager, CCNM Office, Bureau of Land Management, 299 Foam Street, Monterey, California or via the Internet at *http://www.ca.blm.gov*. Copies may also be obtained at: California State Office, 2800 Cottage Way, Sacramento, CA; Hollister Field Office, 20 Hamilton Court, Hollister, CA; Arcata Field Office, 1695 Heindon Road, Arcata, CA; Ukiah Field Office, 2550 North State Street, Ukiah, CA, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, CA; Palm Springs/South Coast Field Office, 690 W. Garnet Ave., North Palm Springs, CA; and California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA.

**FOR FURTHER INFORMATION CONTACT:** Rick Hanks, (831) 372–6105.

**SUPPLEMENTARY INFORMATION:** The CCNM RMP provides direction for managing the approximate 1000 acres of offshore rocks, small islands, exposed reefs, and pinnacles that comprise the Monument. The Monument was established by Presidential Proclamation No. 7264 on January 11, 2000, under the authority of the Antiquities Act of 1906. The Monument lies within the jurisdiction of 15 California counties and five BLM field offices, and at least 25% of the coastal portion of the mainland adjacent to the Monument is contained within the California State Parks System. Planning for the Monument officially began with a **Federal Register** notice on April 24, 2002 initiating scoping. The California Department of Fish and Game, the California Department of Parks and Recreation, the United States Air Force, and the Cher-Ae Heights Indian Community of the Trinidad Rancheria, a federally recognized tribe, are cooperating agencies in the development of this RMP. BLM sought public and governmental participation in the development of this RMP and will continue to pursue partnerships in the management of the Monument. Because of the unique nature of the CCNM, many governmental entities have jurisdiction over resources immediately adjacent to the monument and are integrally important to meeting the goals and objectives for the Monument, as established in the RMP.

Dated: August 5, 2005.

**Mike Pool,**

*State Director.*

[FR Doc. 05–17921 Filed 9–8–05; 8:45 am]

**BILLING CODE 4310–40–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Fire Management Plan, Final Environmental Impact Statement, Chiricahua National Monument, AZ

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the Fire Management Plan, Chiricahua National Monument.

**SUMMARY:** Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332(2)(C), the

National Park Service announces the availability of the Record of Decision for the Fire Management Plan, Chiricahua National Monument, Arizona. On August 2, 2005 the Director, Intermountain Region approved the Record of Decision for the project. As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the FEIS issued on July 1, 2005. The following course of action will occur under the preferred alternative, the Watershed Alternative. This course of action and 2 alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures were identified.

The Record of Decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a finding on impairment of park resources and values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

**FOR FURTHER INFORMATION CONTACT:** Carrie Dennett, 13063 E. Bonita Canyon Road, Willcox, AZ 85643, (520) 824–3560 *Carrie_Dennett@nps.gov*.

**SUPPLEMENTARY INFORMATION:** Copies of the Record of Decision may be obtained from the contact listed above or online at *http://www.nps.gov/CHIR*.

Dated: August 2, 2005.

**Kate Cannon,**

*Acting Deputy, Intermountain Region, National Park Service.*

[FR Doc. 05–17852 Filed 9–8–05; 8:45 am]

**BILLING CODE 4312–07–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Environmental Impact Statement; Notice of Availability

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of availability of the Stream Management Plan, draft environmental impact statement, Herbert Hoover National Historic Site, Iowa.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the stream management plan draft environmental impact statement (EIS) for Herbert Hoover National Historic Site, Iowa.

**DATES:** There will be a 60-day public review period for comments on this document. Comments on the EIS must be received no later than 60 days after the Environmental Protection Agency publishes its notice of availability in the **Federal Register**. A public open house for information about, or to make comment on, the draft EIS will be announced in the local media and the Herbert Hoover National Historic Site's (Park) Web site when it is scheduled. Information about meeting time and place will be available by contacting the Park at 319–643–2541, visiting the Park's Web site at: *http://www.nps.gov/heho/creek.htm*, and at the NPS Planning, Environment, and Public Comment (PEPC) Web site *http://parkplanning.nps.gov/*. The document will also be available for review at each of these Web sites; the latter Web site allows the public to review and comment directly on this document.

**ADDRESSES:** Copies of the draft EIS are available by request by writing to the Superintendent, Stream Management Plan Draft EIS, Herbert Hoover National Historic Site, P.O. Box 607, West Branch, Iowa 52358, by phone 319–643–2541, at the Web site addresses mentioned above, and by e-mail message at *HEHO_Resource_Management@nps.gov*. The document can be picked-up in person at park headquarters at 110 Parkside Drive, West Branch, Iowa.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Stream Management Plan Draft EIS, Herbert Hoover National Historic Site, P.O. Box 607, West Branch, Iowa 52358, or by calling 319–643–2541.

**SUPPLEMENTARY INFORMATION:** During Herbert Hoover's early childhood, a small meandering stream ran near his birthplace cottage. This tributary of the west branch of the Wapsinonoc River has no official name and for ease of reference, it will be called Hoover Creek throughout the plan. Hoover Creek runs through the center of the historic site and has overflowed its banks and flooded park facilities 18 times in 11 years. These facilities include all of the prime historic structures associated with President Hoover as well as the visitor center and maintenance facility. Hoover Creek bank erosion and stream migration threaten to destabilize historic structures identified in the enabling legislation and the foundation of the Hoover Presidential Library and Museum. Slippery mud banks rise vertically 8 to 10 feet above the water level and present a safety hazard to visitors and employees. The Cultural Landscape Report (1995) states: ''* * * the stream is a degraded, yet character defining feature of the site * * *'' and recommends the restoration of the natural characteristics of the stream. Stream rehabilitation would restore stream and riparian function and protect critical resources.

Therefore, the Park is proposing to restore the riparian area and proper functioning condition of the stream to allow for reduction of the power of the stream and create greater holding capacity with a meandering stream and floodplain. The draft EIS describes and analyzes the environmental impacts of alternatives and their associated impacts. In the Park's Preferred Alternative (Alternative 5—Provide 50-year protection), this alternative would include changes to the stream channel dimensions, re-meandering and channel relocation, and installation of a grade control structure to control down cutting. This alternative would also include construction of a detention basin in the upstream reaches of Hoover Creek. Three additional action alternatives and a no action alternative are evaluated in this EIS.

Persons wishing to comment may do so by any one of several methods. They may attend the public hearing or open house noted above. They may mail comments to the Superintendent, Stream Management Plan Draft EIS, Herbert Hoover National Historic Site, P.O. Box 607, West Branch, Iowa 52358. They also may comment via e-mail to *HEHO_Resource_Management@nps.gov* (please include name and return address in the e-mail message). They may review and comment on the document directly at the PEPC Web site *http://parkplanning.nps.gov/*. Finally, they may hand-deliver comments to the Superintendent, Stream Management Plan Draft EIS, Herbert Hoover National Historic Site, 110 Parkside Drive, West Branch, Iowa.

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

businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

The responsible official is Ernest Quintana, Regional Director, Midwest Region, National Park Service.

Dated: July 28, 2005.

**Ernest Quintana,**

*Regional Director, Midwest Region.*

[FR Doc. 05–17854 Filed 9–8–05; 8:45 am]

**BILLING CODE 4312–94–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Fire Management Plan, Final Environmental Impact Statement, Saguaro National Park, AZ

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of availability of the Final Environmental Impact Statement for the Fire Management Plan, Saguaro National Park.

**SUMMARY:** Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service announces the availability of a Final Environmental Impact Statement for the Fire Management Plan, Saguaro National Park, Arizona.

**DATES:** The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

**ADDRESSES:** Information will be available for public inspection in the office of the Superintendent, Sarah Craighead, Saguaro National Park, Headquarters and Rincon Mountain District, 3693 South Old Spanish Trail, Tucson, AZ 85730–5601, phone 520–733–5101; and at the following locations:

Internet: *http://www.nps.gov/sagu/pphtml/documents.html*.

**FOR FURTHER INFORMATION CONTACT:** Kevin Parrish, Fuels Management Specialist, Saguaro National Park, Headquarters and Rincon Mountain District, 3693 South Old Spanish Trail, Tucson, AZ 85730–5601, phone 520–733–5132, or *Kevin_Parrish@nps.gov*.

Dated: August 3, 2005.

**Roger Maxwell,**

*Acting Director, Intermountain Region, National Park Service.*

[FR Doc. 05–17851 Filed 9–8–05; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Utah Museum of Natural History, Environmental Impact Statement, University of Utah and National Park Service and as Joint Lead Agencies, Salt Lake County, UT

**AGENCY:** The University of Utah and National Park Service, Interior.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS) for the construction and operation of a proposed new Utah Museum of Natural History at the University of Utah.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (C) and (D) (NEPA), the University of Utah and the National Park Service as Joint Lead Agencies, are preparing an Environmental Impact Statement (EIS) on the construction and operation of a proposed new Utah Museum of Natural History museum facility at the University of Utah, Salt Lake County, Utah.

The NEPA process is being followed because federal funds, as grants through the National Park Service, are contributing to the design and construction costs of the new museum facility. The EIS will identify potential environmental effects of construction and operation of the proposed 169,000 square foot museum building, parking, and related appurtenances and mitigation measures to minimize adverse environmental impacts on the 17-acre site provided to the Museum by the University of Utah. This site is near the University of Utah's Research Park, south of Red Butte Gardens and Arboretum in Salt Lake County, Utah.

The Utah Public Lands Artifact Preservation Act, Pub. L. 107–329, enacted in 2002, authorizes the Secretary of the Interior to make a grant to the University of Utah to pay the Federal share of the costs of construction of a new facility including design, planning, furnishing, and equipping of the Museum. Seventy-five percent of the Museum's collection is material recovered from federally managed public lands including lands administered by the National Park Service. In January 2005, the Museum initiated an Environmental Assessment on the proposed project. After completion of public scoping and the identification of issues, the agencies decided to prepare an EIS.

The EIS will analyze the proposed action, a no action alternative, alternative approaches to site and facilities design and placement, and other reasonable alternatives, if any, identified during the NEPA process. The EIS will also consider mitigation measures to minimize potential adverse environmental effects. Based on current information it is not expected that the EIS alternatives will include alternative sites for the museum facility, for several reasons. (1) The University of Utah and the Museum concluded a site selection process in 1995, and in 1997 the University of Utah Board of Trustees reserved the Research Park site for use by the Museum. Since that time considerable resources have been devoted to site planning, and substantial private, state and federal financial commitments have been received for design, construction and operation of a museum on the designated site. It would not be practical or economically feasible for the Museum to abandon this site for an alternative location. (2) Congress, in enacting the 2002 Utah Public Lands Artifact Preservation Act and in making subsequent appropriations, contemplated that the new museum would be located at the 17-acre Research Park site and it authorized and has since appropriated funding for a facility at that site. (3) If the new museum were built at an alternative location, the Research Park site would nonetheless still be developed, meaning that there would not likely be a decrease in overall impacts.

Issues that were identified by the public during scoping for the EA and that will be addressed in the EIS include: vegetation and wildlife; recreation and trail use; open space, visual quality and aesthetics; traffic, transportation and parking; socioeconomics/cultural; air quality; soils, geological and seismic concerns; surface and groundwater quality and management; consideration of alternative sites; hazardous materials; and archaeological, cultural, historic and paleontological resources. Scoping for the EA was conducted February 15 through March 16, 2005 with a scoping meeting on March 8. The meeting was widely publicized and was attended by over 90 members of the public. Approximately 350 comments were received by letter or email. A scoping brochure has been prepared that details the issues identified to date. Copies of the brochure may be obtained from the project's NEPA contractor, Bear West, 145 South 400 East, Salt Lake City, Utah 84111, phone (801) 355–8816. The scoping brochure along with a request for any additional scoping comments is being mailed to the project mailing list including those who attended the initial scoping meeting or submitted written

comments. One or more workshops, open houses or similar meetings may be conducted during preparation of the EIS. Because there was a well attended public meeting during scoping for the EA, no additional public meetings are planned as part of the EIS scoping process.

For questions regarding the proposed action, contact Utah Museum of Natural History, Sarah George, Director, 1390 E. Presidents Circle, University of Utah, Salt Lake City, Utah 84112–0050. For questions regarding NEPA compliance, contact National Park Service, Cordell Roy, Utah State Coordinator, 324 South State Street, Suite 200, Box 30, Salt Lake City, UT 84111.

**DATES:** Comments from the public will be accepted through October 11, 2005. Any comments received during that time will be reviewed and, if appropriate, a supplemental scoping brochure will be prepared. Comments received after the close of formal scoping will continue to be accepted and considered. It is anticipated that a Draft EIS will be available for public review in early 2006 and the Final EIS will be completed in the summer 2006.

**FOR FURTHER INFORMATION CONTACT:** Ralph Becker, Bear West, 145 South 400 East, Salt Lake City, Utah 84111 (801–355–8816), or e-mail to *rbecker@bearwest.com.*

**SUPPLEMENTARY INFORMATION:** If you wish to comment on the scoping brochure or on any other issues associated with the proposed project, you may submit your comments by mail to UMNH EIS, c/o Bear West, 145 South 400 East, Salt Lake City, Utah 84111 or via the internet to *bcall@bearwest.com.* Please include in any internet comments your name and return address for the project mailing list. If you do not receive a confirmation of receipt of your email message, contact Bear West directly at (801) 355–8816. Comments, including names and home addresses of respondents will be available for public review. Individual respondents may request that we withhold their home address from the record, which will be honored to the maximum extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish to have your address withheld, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: August 2, 2005.

**Kate Cannon,**

*Acting Deputy Director, Intermountain Region, National Park Service.*

[FR Doc. 05–17853 Filed 9–8–05; 8:45 am]

**BILLING CODE 4312–52–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–856 (Review)]**

### Ammonium Nitrate From Russia

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of a full five-year review concerning the suspended investigation on ammonium nitrate from Russia.

**SUMMARY:** The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** September 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Nesbitt (202–205–3355), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.* On July 5, 2005, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (70 FR 41426, July 19, 2005). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

*Participation in the review and public service list.* Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.* The prehearing staff report in the review will be placed in the nonpublic record on December 21, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

*Hearing.* The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on January 19, 2006, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 9, 2006. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to

appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 12, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.* Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 9, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 30, 2006; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before January 30, 2006. On March 3, 2006, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 7, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(c) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: September 2, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05–17885 Filed 9–8–05; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–269 and 270 and 731–TA–311–314, 317, and 379 (Second Review)]**

## Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, and Japan

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of full five-year reviews concerning the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Germany, Italy, and Japan.

**SUMMARY:** The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** September 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Vincent Honnold (202–205–3314), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.* On July 5, 2005, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (70 FR 41427, July 19, 2005). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

*Participation in the reviews and public service list.* Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined

by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.* The prehearing staff report in the reviews will be placed in the nonpublic record on December 20, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

*Hearing.* The Commission will hold a hearing in connection with these reviews beginning at 9:30 a.m. on January 24, 2006, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 11, 2006. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 18, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.* Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 12, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 2, 2006; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 2, 2006. On February 23, 2006, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 27, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: September 2, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05–17884 Filed 9–8–05; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Congaree Downs Limited Partnership, et al.,* Case No. 3:05–cv–02505, was lodged with the United States District Court for the District of South Carolina on August 30, 2005. This proposed Consent Decree concerns a complaint filed by the United States against the Defendants pursuant to Section 301(a) of the Clean Water Act (''CWA''), 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for filling wetlands without a permit.

The proposed Consent Decree requires the defendants to pay a civil penalty and restore the impacted wetland to its natural grade contour. The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Emery Clark, Assistant United States Attorney, United States Attorney's Office, Wachovia Building, Suite 500, 1441 Main Street, Columbia, South Carolina 29201 and refer to *United States* v. *Congaree Downs Limited Partnership, et al.,* Case No. 3:05–cv–02505.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, 901 Richland Lane, Columbia, South Carolina.

In addition, the proposed Consent Decree may be viewed on the World Wide Web at *http://www.usdoj.gov/enrd/open.html.*

**Stephen Samuels,**

*Assistant Chief, Environmental Defense Section, Environment and Natural Resources Division.*

[FR Doc. 05–17848 Filed 9–8–05; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Revised Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on August 31, 2005, a First Revised Consent Decree in the matter of *United States, et al.* v. *Marathon Ashland Petroleum LLC*, Civil Action No. 4:01–CV–40119–PVG, was lodged with the United States District Court for the Eastern District of Michigan.

The First Revised Consent Decree supercedes a Consent Decree entered in the above-referenced action in August of 2001 (''August 2001 Consent Decree'') among the United States, as Plaintiff, the County of Wayne, the State of Louisiana, and the State of Minnesota, as Plaintiff-Intervenors, and Marathon Ashland Petroleum LLC (''MAP''), as Defendant. In the August 2001 Consent Decree, MAP agreed to undertake, *inter*

*alia*, numerous projects to reduce emissions of air pollutants at seven refineries that MAP owns and operates. The proposed First Revised Consent Decree includes numerous changes, including substituting some of the original control technologies that proved ineffective or potentially unsafe for alternative, proven technologies, extending some compliance deadlines while accelerating others, incorporating some new final emissions limits, and modifying provisions relating to reporting, recordkeeping, modification, and termination.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the First Revised Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.* v. *Marathon Ashland Petroleum LLC*, D.J. Ref. No. 90–5–2–1–07247.

The First Revised Consent Decree may be examined at the Office of the United States Attorney, 211 W. Fort St., Suite 2300, Detroit, Michigan 48226, and at U.S. EPA Region 5, 77 W. Jackson St., Chicago, IL 60604. During the public comment period, the First Revised Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the First Revised Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $59.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**William D. Brighton,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 05–17849 Filed 9–8–05; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 19, 2005, a proposed consent decree was lodged in *United States* v. *Reichhold Limited, et al.*, No. 5:03–CV–0077–3(CAR) (M.D. Ga.). The consent decree settles the United States' claims against the Estate of Thomas W. Cleveland and Jacqueline Woolfork Mathes as well as ''Woolfolk Settlement Agreement Parties'' [Woolfolk Chemical Works, Ltd; The J.W. Woolfolk Trust; John W. Moye, Thomas W. Cleveland, Jr., James Teabo, and Rachel Mathes, individually, and in their capacity as former or current Co-Trustees of the J.W. Woolfolk Trust; The Elizabeth Woolfolk Moye Trust; John W. Moye, as Trustee of the Elizabeth Woolfolk Moye Trust; The Anita Woolfolk Cleveland Trust; Thomas W. Cleveland, Jr. and James Teabo, as former or current Trustees of The Anita Woolfolk Cleveland Trust; The Jacqueline Woolfolk Mathes Trust; and Rachel Mathes, as Trustee of The Jacqueline Woolfolk Mathes Trust] and the ''Woolfolk Parties'' [John H. Thurman; Elizabeth Cleveland Martin; Margie Cleveland Hoots; Anita Beauregard Cleveland; Blake Hansford Cleveland; Letitia M. Unver; Julia M. Poppell; Ann Cleveland Hoots; Deborah Cleveland; John C. Alden; Emma D. Alden; Thomas Alden; David Victor Hewes, Betty L. Hewes; Hope Hewes Robinson; Pamela Hewes Jones; James C. Liipfert, Jr.; Lucile B. Dudley; Richard B. Liipfert; Jeptha B. Liipfert; Susan A. Thurman; Mary Anne Thurman; Martha Kay Thurman; Thomas David Thurman; and Josephine Kujawinski] under Section 107 the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, in connection with the Woolfolk Chemical Superfund Site in Fort Valley, Georgia (the ''Site'').

Under the proposed consent decree the United States will participate in recovery against Continental Insurance Company (''Continental'') from a lawsuit against Continental to obtain insurance coverage brought by the Woolfolk Settlement Agreement Parties relating to the site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Reichhold Limited, et al.*, No. 5:03–CV–0077–3(CAR) (M.D. Ga.) and DOJ #90–11–3–07282.

The consent decree may be examined at the Office of the United States Attorney for the Middle District of Georgia, 433 Cherry St., Macon, Georgia 31202. During the public comment period, the consent decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html*. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC. 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood, *tonia.fleetwood@usdoj.gov*, Fax No. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Ellen M. Mahan,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 05–17850 Filed 9–8–05; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Emergency Review—Comment Request

September 5, 2005.

The Department of Labor (DOL) has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by September 16, 2005. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the DOL Departmental Clearance Officer, Ira Mills, on (202) 693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments and questions about the ICR listed below should be submitted to the Office of Information and Regulatory Affairs (OIRA), Attn.: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316 (this is not a toll-free number) before September 16, 2005.

The Office of Management and Budget is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology; *e.g.*, permitting electronic submissions of responses.

*Agency:* Employment and Training Administration.

*Title:* Senior Community Service Employment Program Performance Measurement System.

*OMB Control Number:* 1205–0040.

*Frequency:* Quarterly; Annually.

*Affected Public:* Not-for-profit; Business or other for-profit; Federal Government; and State, local or tribal.

*Number of Respondents:* 78.

| Cite reference | Total respondents [1] | Frequency | Total responses | Average time per response (minutes) | Burden hours |
|---|---|---|---|---|---|
| Participant Form—ETA–9020 | 69 | Ongoing | 106,000 | 11 | 19,430 |
| Community Service Assignment Form—ETA–9020 | 69 | Ongoing | 110,000 | 5 | 9,170 |
| Unsubsidized Employment Form—ETA–9022 | 69 | Ongoing | 22,000 | 11 | 4,030 |
| Exit Form—ETA–9023 | 69 | Ongoing | 55,000 | 2 | 1,830 |
| Quarterly Progress Report—ETA–5140 | 69 | Quarterly & Year-End. | 345 | 14 | 80 |
| 502(e) Participant Form—ETA–9020 (502e) | 9 | Ongoing | 13,050 | 3 | 650 |
| 502(e) Training Form—ETA–9021 (502e) | 9 | Ongoing | 14,350 | 5 | 1,100 |
| Unsubsidized Employment Form—ETA–9022 (502e) | 9 | Ongoing | 1,900 | 11 | 350 |
| 502(e) Quarterly Progress Report—ETA–5140 (502e) | 9 | Quarterly & Year-End. | 45 | 10 | 10 |
| Sub-total ETA forms | ..... | ..... | 322,690 | 8 | 36,650 |

*Total Burden Hours:* 36,650.

*Total Annualized Capital/Startup Costs:* $0.

*Total Burden Cost (Operating/Maintaining Systems or Purchasing Services):* $0.

*Description:* This package contains revised program performance reports for the Senior Community Service Employment Program (SCSEP). The previously approved package permitted implementation of the Older Americans Act (OAA) Amendments of 2000. That request reflected information collection requirements contained in the Final Rule submitted to OMB on December 24, 2003. The current request is for approval of modified forms necessitated by the implementation of an Internet-based SCSEP Performance and Results QPR (SPARQ) system due to go into effect on July 1, 2005.

The SCSEP is funded for approximately $440 million and provides over 60,000 positions in which over 100,000 low-income persons aged 55 or more are employed each year. Over 22,000 people will be placed from the program into unsubsidized placement. The main part of the program is operated by 69 grantees, either state governments or national non-profit organizations. The Section 502(e) training portion of the program is operated by an additional set of nine grantees.

To ensure that the Senior Community Service Employment Program is properly administered, and to implement the performance measures and sanctions authorized by the 2000 Amendments to the OAA, it is necessary to expand and change the existing Quarterly Progress Report (QPR). In addition, a collection of information is required under OMB Memorandum M–02–06, which has been adopted by the Department of Labor (the Department). This requirement necessitates a collection of information to implement the Administration's common performance measures.

**Ira L. Mills,**

*Departmental Clearance Officer/Team Leader.*

[FR Doc. 05–18003 Filed 9–8–05; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment Standards Administration Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in connection with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wage payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefits information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

**Modification to General Wage Determination Decisions**

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

*Volume I*

Connecticut
- CT20030001 (Jun. 13, 2003)
- CT20030002 (Jun. 13, 2003)
- CT20030003 (Jun. 13, 2003)
- CT20030004 (Jun. 13, 2003)
- CT20030005 (Jun. 13, 2003)

New Jersey
- NJ20030002 (Jun. 13, 2003)
- NJ20030009 (Jun. 13, 2003)

New York
- NY20030002 (Jun. 13, 2003)
- NY20030003 (Jun. 13, 2003)
- NY20030007 (Jun. 13, 2003)
- NY20030008 (Jun. 13, 2003)
- NY20030011 (Jun. 13, 2003)
- NY20030013 (Jun. 13, 2003)
- NY20030018 (Jun. 13, 2003)
- NY20030021 (Jun. 13, 2003)
- NY20030026 (Jun. 13, 2003)
- NY20030032 (Jun. 13, 2003)
- NY20030034 (Jun. 13, 2003)
- NY20030044 (Jun. 13, 2003)
- NY20030046 (Jun. 13, 2003)
- NY20030047 (Jun. 13, 2003)
- NY20030048 (Jun. 13, 2003)
- NY20030050 (Jun. 13, 2003)
- NY20030051 (Jun. 13, 2003)
- NY20030066 (Jun. 13, 2003)

*Volume II*

Pennsylvania
- PA20030001 (Jun. 13, 2003)
- PA20030002 (Jun. 13, 2003)
- PA20030003 (Jun. 13, 2003)
- PA20030004 (Jun. 13, 2003)
- PA20030005 (Jun. 13, 2003)
- PA20030006 (Jun. 13, 2003)
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- PA20030038 (Jun. 13, 2003)
- PA20030040 (Jun. 13, 2003)
- PA20030042 (Jun. 13, 2003)
- PA20030052 (Jun. 13, 2003)

*Volume III*

None

*Volume IV*

Illinois
- IL20030001 (Jun. 13, 2003)
- IL20030002 (Jun. 13, 2003)
- IL20030070 (Jun. 13, 2003)

Michigan
- MI20030001 (Jun. 13, 2003)
- MI20030002 (Jun. 13, 2003)
- MI20030003 (Jun. 13, 2003)
- MI20030004 (Jun. 13, 2003)
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Minnesota
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Ohio
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- OH20030004 (Jun. 13, 2003)
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Wisconsin
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- WI20030048 (Jun. 13, 2003)

*Volume V*

Arkansas

AR20030001 (Jun. 13, 2003)
AR20030023 (Jun. 13, 2003)
Texas
TX20030111 (Jun. 13, 2003)

*Volume VI*

Idaho
ID20030003 (Jun. 13, 2003)
ID20030015 (Jun. 13, 2003)
ID20030016 (Jun. 13, 2003)
ID20030017 (Jun. 13, 2003)
ID20030018 (Jun. 13, 2003)
ID20030019 (Jun. 13, 2003)
Montana
MT20030001 (Jun. 13, 2003)
MT20030003 (Jun. 13, 2003)
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MT20030006 (Jun. 13, 2003)
MT20030007 (Jun. 13, 2003)
MT20030033 (Jun. 13, 2003)
MT20030034 (Jun. 13, 2003)
MT20030035 (Jun. 13, 2003)
Oregon
OR20030001 (Jun. 13, 2003)
OR20030002 (Jun. 13, 2003)
Washington
WA20030001 (Jun. 13, 2003)
WA20030002 (Jun. 13, 2003)

*Volume VII*

California
CA20030001 (Jun. 13, 2003)
CA20030002 (Jun. 13, 2003)
CA20030004 (Jun. 13, 2003)
CA20030009 (Jun. 13, 2003)
CA20030019 (Jun. 13, 2003)
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CA20030036 (Jun. 13, 2003)
CA20030037 (Jun. 13, 2003)
Hawaii
HI20030001 (Jun. 13, 2003)
Nevada
NV20030009 (Jun. 13, 2003)

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 1st day of September 6, 2005.

**Shirley Ebbesen,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 05–17781 Filed 9–8–05; 8:45 am]

**BILLING CODE 4510–27–M**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Nuclear Waste (ACNW) will hold a meeting on September 20–21, 2005, Pacific Enterprise Plaza Building One, 3250 Pepper Lane, Las Vegas, Nevada 89120.

**Tuesday, September 20, 2005, Pacific Enterprise Plaza Building One, 3250 Pepper Lane, Las Vegas, Nevada 89120**

*9:45 a.m.–10 a.m.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

*10 a.m.–11:45 a.m.: Discussion of Prepared Letters/Reports* (Open)—The Committee will discuss proposed ACNW reports on matters considered during this meeting.

*1 p.m.–2 p.m.: Overview on Status of Yucca Mountain Project* (Open)—The Committee will be briefed by a U.S. Department of Energy (DOE) representative on recent developments affecting the geologic repository program at Yucca Mountain, Nevada.

*2 p.m.–3 p.m.: NRC Project Plan for the Yucca Mountain License Application Review* (Open)—The Committee will be briefed by an NRC representative on staff plans for the review of a DOE license application to construct a proposed geologic repository at Yucca Mountain.

*3:15 p.m.–4:45 p.m.: 2005 Update to the DOE Performance Confirmation Program Plan* (Open)—The Committee will be briefed by a DOE representative on the Performance Confirmation Plan to be included in any DOE license application requesting authorization to construct a geologic repository at Yucca Mountain.

*4:45 p.m.–5:15 p.m.: ACNW Low-Level Radioactive (LLW) White Paper:* Status Report (Open)—The Committee will discuss progress in development of a proposed White Paper on LLW management issues.

*5:15 p.m.–5:45 p.m.: ACNW Subcommittee Report on DOE Probabilistic Volcanic Hazards Analysis (PVHA) Workshop* (Open)—The Committee will hear a report from those Members who observed the August 2005 DOE PVHA expert elicitation update.

**Wednesday, September 21, 2005, Pacific Enterprise Plaza Building One, 3250 Pepper Lane, Las Vegas, Nevada 89120**

*8:30 a.m.–8:40 a.m.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

*8:40 a.m.–10:40 a.m.: 1995 National Academy of Sciences (NAS) Recommendations for Yucca Mountain Standards and the 2000 Court Remand* (Open)—Two Members of the NAS Committee that developed recommendations for site-specific radiation standards will discuss their individual views regarding the 2005 Court decision vacating the 10,000-year time period of regulatory compliance in 40 CFR part 197, as well as the NAS earlier one million year time frame recommendation.

*11 a.m.–12 Noon: Evolution of Climate in the Yucca Mountain Area over the Next Million Years* (Open)—An invited expert will brief the Committee on projected climate trends in the Yucca Mountain region and discuss possible implications for the regional ground-water flow system.

*1:15 p.m.–2:15 p.m.: An Approach to the Modeling of Magma/Repository Interactions* (Open) An ACNW

consultant will discuss his views on how this potentially disruptive event might be modeled for the purposes of a Yucca Mountain performance assessment.

*2:15 p.m.–3:15 p.m.: ACNW Summer Intern Project: Modeling a Volcanic Ash Plume* (Open) The Committee will receive a briefing on how the HYSPLIT (Hyprid-Particle Lagrangian Integrated Trajectory) atmospheric dispersion model, developed by the National Oceanographic and Atmospheric Administration, was used to develop an alternative ash plume dispersion analysis for the Yucca Mountain site.

*3:30 p.m.–4:30 p.m.: ACNW Subcommittee Report on August 2005 Savannah River and Barnwell LLW Disposal Site Visit* (Open)—The Committee will hear a report from those Members who participated in the aforementioned visits.

*4:30 p.m.–5 p.m.: Continuation of Discussion of Possible Letter/Reports* (Open)—The Committee will continue its discussion of proposed ACNW reports.

*5 p.m.–5:30 p.m.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

*6 p.m.–8 p.m.: ACNW Public Outreach Meeting* (Open)—The purpose of meeting is to develop information to advise the Commission on concerns of Yucca Mountain stakeholders, and to advise the NRC Commission on opportunities to provide better involvement of the stakeholders in NRC's prelicensing process.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 5, 2004 (69 FR 59620). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACNW staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACNW staff prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACNW staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Ms. Sharon Steele, ACNW Senior Staff Engineer (301–415–8065), between 8 a.m. and 5 p.m., ET.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Meeting schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

**Notes:**

- Presentation time should not exceed 50 percent of the total time allocated for a specific item. The remaining 50 percent of the time is reserved for discussion.
- Fifty (50) hard copies and one (1) electronic copy of the presentation materials should be provided to the ACNW.
- ACNW meeting schedules are subject to change. Presentations may be canceled or rescheduled to another day. If such a change would result in significant inconvenience or hardship, be sure to verify the schedule with Ms. Sharon Steele at 301–415–6805 between 8 a.m. and 4 p.m. prior to the meeting.
- Special instructions concerning the meeting facility:

—Attendees at this meeting will be subject to security screening prior to entering the meeting facility.

—Attendees should plan to arrive approximately 45 minutes prior to the meeting.

—No food or drink other than bottled water will be allowed in the meeting facility.

—Access to the parking lot in front of the meeting facility is restricted to participants to the meeting and not available to the general public. Ample street parking for the public is available nearby on Pepper Lane and Sagebrush Lane.

Dated: September 2, 2005.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. E5–4901 Filed 9–8–05; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste Meeting on Planning and Procedures; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold Planning and Procedures meetings on September 20 and 22, 2005, in Las Vegas, Nevada. The meetings will be open to public attendance, with the exception of portions that will be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy. The agenda for the subject meetings shall be as follows:

**Tuesday, September 20, 2005, 8 a.m.–9:30 a.m. (Open)**

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

**Thursday, September 22, 2005, 8:30 a.m.–12 Noon (Closed)**

The Committee will discuss current and future challenges, and future needs (e.g., staffing, qualification).

**Thursday, September 22, 2005, 1:30 p.m.–5 p.m. (Open)**

The Committee will (1) evaluate ACNW's progress against the 2005–2006 Action Plan, (2) determine a path forward and action items to keep the Committee on track to successfully accomplish Action Plan items not yet completed, and (3) determine whether changes are needed to the Action Plan.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Ms. Sharon A. Steele (Telephone: 301/415-6805) between 8

a.m. and 5:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8:30 a.m. and 5:15 p.m. (e.t.). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: September 1, 2005.

**Sharon A. Steele,**

*Acting Branch Chief, ACRS/ACNW.*

[FR Doc. E5–4902 Filed 9–8–05; 8:45 am]

**BILLING CODE 7590–01–P**

## PRESIDIO TRUST

### Notice of Receipt of and Availability for Public Comment on an Application for Wireless Telecommunications Facilities Site; The Presidio of San Francisco, California

**AGENCY:** The Presidio Trust.

**ACTION:** Public notice.

**SUMMARY:** This notice announces the Presidio Trust's receipt of and availability for public comment on an application from New Cingular Wireless PCS, LLC for installation of a wireless telecommunications facilities site (''Project'') in The Presidio of San Francisco. The proposed location of the Project is the south side of the MacArthur Tunnel.

The Project involves (i) installing a 32-foot pole with two sets of antennae panels and power and telecommunications panels, (ii) placing the associated telecommunications equipment within three cabinets on a concrete pad, and (iii) mounting two antennae on the south face of the MacArthur Tunnel wall. Power and telecommunications service will be brought to the site via underground trench.

*Comments:* Comments on the proposed project must be sent to Steve Carp, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052, and be received by October 12, 2005. A copy of Cingular's application is available upon request to the Presidio Trust.

**FOR FURTHER INFORMATION CONTACT:** Steve Carp, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. E-mail: *scarp@presidiotrust.gov*. Telephone: 415–561–5300.

Dated: September 2, 2005.

**Steve Carp,**

*Legal Analyst.*

[FR Doc. 05–17899 Filed 9–8–05; 8:45 am]

**BILLING CODE 4310–4R–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 12, 2005:

A closed meeting will be held on Thursday, September 15, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (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 Campos, 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 Thursday, September 15, 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: September 7, 2005.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05–17996 Filed 9–7–05; 11 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52382]**

### Order Pursuant to Section 11A of the Securities Exchange Act of 1934 and Rule 608(e) Thereunder Extending a *De Minimis* Exemption for Transactions in Certain Exchange-Traded Funds from the Trade-Through Provisions of the Intermarket Trading System

September 6, 2005.

This order extends, through June 28, 2006, a *de minimis* exemption to the provisions of the Intermarket Trading System Plan (''ITS Plan''),[1] a national market system plan,[2] governing intermarket trade-throughs that expired on September 4, 2005. The *de minimis* exemption was originally issued by the Commission on August 28, 2002 [3] and extended on May 30, 2003,[4] on March 3, 2004,[5] and on December 3, 2004.[6]

Specifically, this order continues the *de minimis* exemption from compliance with Section 8(d)(i) of the ITS Plan with respect to two specific exchange-traded

[1] The self-regulatory organizations (''SROs'') participating in the ITS Plan include the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the National Stock Exchange, Inc. (formerly the Cincinnati Stock Exchange, Inc.), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. (collectively, the ''participants''). *See* Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1983).

[2] Securities Exchange Act of 1934 (''Act'') Rule 11Aa3–2(d), 17 CFR 240.11Aa3–2(d), promulgated under Section 11A, 15 U.S.C. 78k–1, of the Act requires each SRO to comply with, and enforce compliance by its members and their associated persons with, the terms of any effective national market system plan of which it is a sponsor or participant. Rule 608(e) (formerly Rule 11Aa3–2(f)), 17 CFR 242.608(e), under the Act authorizes the Commission to exempt, either unconditionally or on specified terms and conditions, any SRO, member of an SRO, or specified security from the requirement of the rule if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

[3] *See* Securities Exchange Act Release No. 46428 (August 28, 2002), 67 FR 56607 (September 4, 2002) (the ''August 2002 Order''). The August 2002 Order granted relief through June 4, 2003.

[4] *See* Securities Exchange Act Release No. 47950 (May 30, 2003), 68 FR 33748 (June 5, 2003) (the ''May 2003 Order''). The May 2003 Order granted relief through March 4, 2004.

[5] *See* Securities Exchange Act Release No. 49356 (March 3, 2004), 69 FR 11057 (March 9, 2004) (the ''March 2004 Order''). The March 2004 Order granted relief through December 4, 2004.

[6] *See* Securities Exchange Act Release No. 50795 (December 3, 2004), 69 FR 71445 (December 9, 2004) (the ''December 2004 Order''). The December 2004 Order granted relief through September 4, 2005.

funds (''ETFs''), the Dow Jones Industrial Average ETF (''DIA'') and the Standard & Poor's 500 Index ETF (''SPY'').[7] By its terms, the December 2004 Order continued the exemption from the trade-through provisions of the ITS Plan of any transactions in the two ETFs that are effected at prices at or within three cents away from the best bid and offer quoted in the Consolidated Quote System (''CQS'') for a period of nine months, which ended on September 4, 2005.

Our August 2002, May 2003, March 2004, and December 2004 orders discussed our basis for determining that issuing and extending the *de minimis* exemption was consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system. The December 2004 Order further noted that:

> In March 2004 and in May 2003, the Commission extended the three cent *de minimis* exemption for additional nine-month periods, in order to assess trading data associated with the *de minimis* exemption and to consider whether to adopt the *de minimis* exemption on a permanent basis, to adopt some other alternative solution, or to allow the exemption to expire. As a result of its review of trading data associated with the *de minimis* exemption, the Commission has proposed, as part of its market structure initiatives, Regulation NMS under the Act, which would include a new rule relating to trade-throughs.

On April 6, 2005, the Commission approved Regulation NMS under the Act.[8] In Regulation NMS, the Commission adopted an approach that, among other things, protects only automated quotations and excludes manual quotations from trade-through protection, and renders the *de minimis* exemption unnecessary. However, until Regulation NMS is implemented in this regard, the reasons for maintaining the *de minimis* exemption in effect continue to be valid.

Therefore, to maintain the status quo and avoid requiring market participants to make short-term trading or programming changes pending such implementation, it is appropriate to extend the *de minimis* exemption through June 28, 2006, the day before the first scheduled date of that implementation under Regulation NMS. The Commission will consider whether to extend the *de minimis* exemption further if the DIA or the SPY are not chosen to be included in the NMS compliance phase that begins on June 29, 2006. The Commission emphasizes, as it did in the December 2004 Order, the March 2004 Order, the May 2003 Order, and the August 2002 Order, that the *de minimis* exemption does not relieve brokers and dealers of their best execution obligations under the federal securities laws and SRO rules.

Accordingly, *it is ordered*, pursuant to Section 11A of the Act and Rule 608(e) thereunder,[9] that participants of the ITS Plan and their members are hereby exempt from Section 8(d) of the ITS Plan during the period covered by this Order with respect to transactions in DIAs and SPYs that are executed at a price that is no more than three cents lower than the highest bid displayed in CQS and no more than three cents higher than the lowest offer displayed in CQS. This Order extends the *de minimis* exemption from September 4, 2005 through June 28, 2006.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05–17954 Filed 9–6–05; 4:12 pm]

**BILLING CODE 8010–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### Order of Suspension of Trading

September 7, 2005.

In the Matter of Advanced Media, Inc., Air Packaging Technologies, Inc., American Film Technologies, Inc., American Plastics & Chemicals, Inc., AmeriQuest Technologies, Inc., Apparel Technologies, Inc., BPI Packaging Technologies, Inc., Chantal Pharmaceutical Corp., CML Group, Inc., Compositech, Ltd., Crown Laboratories, Inc., DBS Industries, Inc., Dental Medical Diagnostic Systems, Inc., Dispatch Management Services Corp., Eglobe, Inc., Enamelon, Inc., Finantra Capital, Inc., First Scientific, Inc., Hayes Corp., Hybrid Networks, Inc., iPrint Technologies, Inc., Microage, Inc., MigraTEC, Inc., Network Computing Devices, Inc., Pacific Systems Control Technology, Inc., Paracelsian, Inc., Pharmaprint, Inc., Pinnacle Micro, Inc., Semiconductor Laser International Corp., Socrates Technologies Corp., Star Technologies, Inc., Sunrise Technologies International, Inc., Telemonde, Inc., thehealthchannel.com, Inc., Transmedia Asia Pacific, Inc., Tristar Corp., VDC Communications, Inc., Vianet Technologies, Inc., and Visionamerica, Inc.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Advanced Media, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Air Packaging Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Film Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Plastics & Chemicals, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending August 31, 1995.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AmeriQuest Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Apparel Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the

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[7] The Commission limited the *de minimis* exemption to these two securities because they share certain characteristics that may make immediate execution of their shares highly desirable to certain investors. In particular, trading in the two ETFs is highly liquid and market participants may value an immediate execution at a displayed price more than the opportunity to obtain a slightly better price. Unlike prior orders, the December 2004 extension of the *de minimis* exemption applied only to the DIA and the SPY, and not the QQQ, because, on December 1, 2004, trading of the QQQ transferred from the American Stock Exchange to Nasdaq, and thus trades in the QQQ ceased to be subject to the trade-through provisions of the ITS Plan. Accordingly, an exemption for the QQQ was no longer necessary. *See* December 2004 Order.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[9] 17 CFR 242.608(e).

Securities Exchange Act of 1934, having not filed a periodic report since the period ending February 28, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BPI Packaging Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chantal Pharmaceutical Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CML Group, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending July 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Compositech, Ltd., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crown Laboratories, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DBS Industries, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dental Medical Diagnostic Systems, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dispatch Management Services Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eglobe, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enamelon, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Finantra Capital, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Scientific, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hayes Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending October 3, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hybrid Networks, Inc., because despite a June 29, 2000 court order permanently enjoining it against future violations of Section 13(a) of the Securities and Exchange Act of 1934 and Rules 13a–1 and 13a–13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of iPrint Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Microage, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending July 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MigraTEC, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Network Computing Devices, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacific Systems Control Technology, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Paracelsian, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pharmaprint, Inc., because it is

delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pinnacle Micro, Inc., because despite an October 3, 1997 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a–1 and 13a–13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 25, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Semiconductor Laser International Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Socrates Technologies Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Star Technologies, Inc., because despite a November 15, 1993 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a–1 and 13a–13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sunrise Technologies International, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Telemonde, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of thehealthchannel.com, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Transmedia Asia Pacific, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tristar Corp., because despite a September 29, 1995 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a–1 and 13a–13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending February 24, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VDC Communications, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vianet Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Visionamerica, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2000.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

*Therefore, it is ordered,* pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 7, 2005, through 11:59 p.m. EDT on September 20, 2005.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 05–17991 Filed 9–7–05; 11:52 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52376; File No. SR–NASD–2005–102]**

## Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Allow Members To Report Certain Trades in Exchange-Listed Securities Through the Execution Services of the Nasdaq Market Center

September 1, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 26, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On August 31, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(5)[5] thereunder, and therefore the proposed rule change is effective upon filing with the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 3 Amendment No. 1 clarified the scope of NASD Rule 4720 prior to adoption of the proposed rule change, corrected typographical errors, and made other clarifying changes in response to comments from the Commission staff.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(5).

comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

Nasdaq proposes changes to NASD Rule 4720. The text of the proposed rule change is below. Proposed new language is in *italics;* proposed deletions are in [brackets].[6]

* * * * *

**4720. Reporting Through the Execution Services of the Nasdaq Market Center**

Subject to the conditions set forth below, members may utilize the Nasdaq Market Center to report trades in Nasdaq Market Center eligible securities required or eligible to be reported to Nasdaq pursuant to the *Rule 4630*, *4640*, *4650*, [and] *6100 and 6400* Series.

(1) Members shall include the time of execution on reports submitted to the Nasdaq Market Center; and

(2) For transactions between members, the members who are parties to the trade shall agree to all trade details prior to submitting the report to the Nasdaq Market Center, and have in effect and on file with Nasdaq, an Automated Confirmation Transaction Service Service Bureau/Executing Broker Supplement to the Nasdaq Workstation II Agreement (''Attachment 2 Agreement''), and a Nasdaq National Market Execution System Give-Up Addendum to the Nasdaq Workstation II Subscriber Agreement (''SuperMontage Give-Up Agreement'').

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Nasdaq is proposing to provide members the ability to use the execution services of the Nasdaq Market Center to report trades in exchange-listed securities that were matched outside of any system operated by a self-regulatory organization. Currently, Nasdaq members' ability to use the order execution service to report matched trades is limited to trades in Nasdaq National Market and SmallCap Market securities, convertible bonds listed on Nasdaq, and other reportable securities identified in the NASD Rule 6100 Series.[7]

Under Nasdaq's proposal, matched trades in exchange-listed securities that are reported though the execution services of the Nasdaq Market Center will be transmitted to the trade reporting service and processed in the same manner as information about matched trades in Nasdaq and other eligible securities submitted to that system. For example, trade information will be disseminated on the consolidated tape, and included in the reporting service's risk management calculations and Nasdaq's audit trail. In addition, the trades will be submitted to the National Securities Clearing Corporation (''NSCC'') for clearing, if necessary. Trades in exchange-listed securities reported through the order execution service will not be included in the execution algorithm, and thus will not interact with any Quotes/Orders in the system.

Under this rule change, members will not be permitted to report through the execution services of the Nasdaq Market Center trades in exchange-listed securities for which comparison is necessary. As is the case for trades in Nasdaq and other eligible securities, the order execution service will accept only: (1) Tape only reports; [8] (2) locked-in clearing only reports;[9] (3) tape reports of locked-in trades that are to be submitted to clearing; [10] and (4) non-tape, non-clearing reports.[11] Members will be able to report trades through the execution services of the Nasdaq Market Center during the hours that the trade reporting service is operational, which presently is 8 a.m. until 6:30 p.m. Eastern time.

By extending this functionality to reporting of matched trades in exchange-listed securities, members will be able to take advantage of several benefits that previously were limited to reporting matched trades in Nasdaq and other eligible securities. For example, it will be possible for members to consolidate the reporting and execution systems for a broader range of trades. In addition, members will be able to take advantage of the existing anonymity feature available in the order execution service by utilizing it for trades transmitted to the trade reporting service, and combine it with the benefits of ''give up'' relationships, also available to members today in both the order execution and trade reporting services of the Nasdaq Market Center.[12] As a result, members will be able to give up the true contra parties to a trade in exchange-listed securities, but still preserve full anonymity between these parties.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[13] in general and with Section 15A(b)(6) of the Act,[14] in particular, in that it is designed to foster coordination and cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposal is consistent with this obligation because it will provide members both the opportunity

[6] Changes are marked to the rule text that appears in the electronic NASD Manual found at *www.nasd.com*.

[7] A detailed description of how matched trades in Nasdaq and other eligible securities are reported through the execution services of the Nasdaq Market Center is contained in Securities Exchange Act Release No. 49733 (May 19, 2004), 69 FR 29990 (May 26, 2004) (SR–NASD–2004–034). The reporting of matched trades in exchange-listed securities proposed in this rule change is intended to operate in the same manner.

[8] A ''tape only report'' is a trade that is reported to Nasdaq for dissemination to the public, but the trade does not need to be transmitted to NSCC because one of the parties to the trade is a customer (*i.e.*, not a broker-dealer), or the buyer and seller both are broker-dealers and they have a common clearing arrangement that will enable them to settle the trade without using NSCC's facilities.

[9] A transaction is ''locked-in'' when the buying and selling broker-dealers have agreed to all the trade details prior to submitting the trade to Nasdaq and no further comparison is necessary. A ''locked-in clearing only report'' is a report that is locked-in and Nasdaq must forward the trade to NSCC for settlement. The trade does not have to be disseminated to the public because an exception to the public reporting requirement is applicable (*e.g.*, the transaction is the offsetting leg of a riskless principal trade).

[10] A ''tape report of a locked-in trade that is submitted for clearing'' is a locked-in report of a trade that must be disseminated to the public and settled through NSCC.

[11] A ''non-tape, non-clearing report'' is a report of trade that is not required to be disseminated to the public, and does not need to be transmitted to NSCC for settlement, but the broker-dealer is obligated or chooses to submit this ''regulatory report'' to Nasdaq. See *e.g.*, NASD Rule 4632(d)(3)(B) and Notice to Members 00–79.

[12] When a ''give up'' occurs, the member that submits the order to the order execution service (or the trade report to the trade reporting service) discloses to the contra party that the order (or report) is being entered on behalf of another member and the trade is to be settled with this other member. The member submitting the order (or trade report) has ''given up'' the identity of the other member who is the true party to the trade.

[13] 13 15 U.S.C. 78*o*–3.

[14] 15 U.S.C. 78*o*–3(b)(6).

to consolidate the execution and reporting of a wider range of trades, and will extend the combined benefits of give-up relationships and anonymous trading to reporting of matched trades in exchange-listed securities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change, as amended, has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(5) [16] thereunder in that it effects a change in an existing order execution system of Nasdaq that does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and it does not have the effect of limiting the access to or availability of the system. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[17]

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov. Please include File Number SR–NASD–2005–102 on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–102. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–102 and should be submitted on or before September 30, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4926 Filed 9–8–05; 8:45 am]

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[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(5).

[17] The effective date of the original proposed rule is August 26, 2005. The effective date of Amendment No. 1 is August 31, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on August 31, 2005, the date on which Nasdaq submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[18] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52377; File No. SR–NASD–2005–051]**

## Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Create an Enterprise License Fee for the TotalView Entitlement

September 2, 2005.

**I. Introduction**

On April 13, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to create an enterprise license fee for the TotalView entitlement. On June 3, 2005, Nasdaq amended the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on June 28, 2005.[3] The Commission received one comment letter on the proposal.[4] On August 16, 2005, Nasdaq filed a response to the comment letter.[5] This order approves the proposed rule change, as amended.

**II. Description of the Proposal**

Nasdaq proposes to establish a program whereby a broker-dealer distributor could obtain an enterprise license for the distribution of the TotalView market data entitlement for a fixed cost of either $25,000 per month for non-professional subscribers or of $100,000 per month for broker-dealer distributors that serve both non-professional and professional subscribers. This enterprise license pricing structure would mirror the pricing structure already established for individual professional and non-professional subscribers and is an alternative way to pay for the data.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 51869 (June 17, 2005), 70 FR 37144.

[4] *See* letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Christopher Gilkerson, Chair, SIA Technology & Regulation Committee, and Andrew Wels, Chair, SIA Market Data Subcommittee, dated July 19, 2005 (''SIA Letter'').

[5] *See* letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, dated August 16, 2005 (''Nasdaq Response Letter'').

This program would only be available to broker-dealers registered under the Act, and would cover all TotalView usage fees with respect to both internal usage and re-distribution to customers with whom the firm has a brokerage relationship.[6] Non-broker-dealer vendors and application service providers would not be eligible for the enterprise license, as such firms, according to Nasdaq, typically pass through the cost of market data user fees to their customers. This would enable firms to incorporate TotalView data into the software applications they make available to their institutional and retail customers, without providing them the opportunity to re-distribute TotalView data in competition with pure vendors.

The enterprise license would cover fees for TotalView data received directly from Nasdaq as well as data received from third-party vendors (*e.g.*, Bloomberg, Reuters). Upon signing up for the program, the relevant firm would be entitled to inform any third-party market data vendor it utilizes (through a Nasdaq-provided form) that, going forward, any TotalView data usage by the broker-dealer may be reported to Nasdaq on a non-billable basis.

**III. Summary of Comments**

The Commission received one comment letter on the proposed rule change. The commenter expressed its support for enterprise license fees and also for the fact that the product, TotalView, ''does not come with data integration strings attached.'' However, the commenter stated its concerns that NQDS data would be linked with the TotalView data and that the cost of Brut data integrated in the TotalView entitlement is too high.[7] In response, Nasdaq stated that the link between NQDS data and TotalView data was added to ensure compliance with the fee schedule established by the Operating Committee of the UTP Plan, which plan has been approved by the Commission. Nasdaq further noted that the cost of Brut data integrated in the TotalView entitlement has already been approved by the Commission.[8]

**IV. Discussion**

The Commission has carefully reviewed the proposed rule change, the SIA Letter and the Nasdaq Response Letter and 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 association,[9] the requirements of Section 15A of the Act,[10] in general, and Section 15A(b)(5) of the Act,[11] in particular, which requires that the NASD's rules provide for an equitable allocation of reasonable charges among members for the use of any facility or system which the NASD operates or controls.

The Commission believes that the program whereby a broker-dealer distributor could obtain an enterprise license for the distribution of the TotalView market data entitlement for a fixed cost of either $25,000 per month for non-professional subscribers or of $100,000 per month for broker-dealer distributors that serve both non-professional and professional subscribers satisfies the statutory standards outlined above and will provide increased flexibility to market data vendors, which may result in increased access to market data.

**V. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NASD–2005–051), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4927 Filed 9–8–05; 8:45 am]

**BILLING CODE 8010–01–P**

[6] Distributors who utilize the enterprise license would still be liable for the applicable distributor fees.

[7] *See* SIA Letter.

[8] *See* Nasdaq Response Letter.

[9] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78o–3.

[11] 15 U.S.C. 78o–3(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52362; File No. SR–NYSE–2005–57]**

## Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Automating the Execution of Elected Stop Orders and CAP–DI Orders and Converted CAP–DI Orders

August 30, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on August 10, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Exchange as effecting a change in an existing order-entry or trading system pursuant to Section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(5) [4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to systematize certain functions that are currently performed manually regarding the execution of elected stop orders and CAP–DI (convert and parity-destabilizing, immediate or cancel) orders and converted CAP–DI orders. The Exchange represents that the rules regarding the election and execution of CAP–DI and stop orders and conversion and execution of CAP–DI orders remain the same.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is filing this proposed amendment to systematize certain functions that are currently performed manually regarding the execution of elected stop orders and CAP–DI orders and converted CAP–DI orders.

The rules regarding the election and execution of CAP–DI and stop orders and the conversion and execution of CAP–DI orders remain the same.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(5).

The Display Book® (''Display Book'' or ''Book'') is the Exchange system that will handle the functions described below. The Display Book is an order management and execution facility that receives and displays orders to the specialist and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. In addition, the Display Book is connected to a variety of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems (*i.e.,* the Intermarket Trading System, Consolidated Tape Association, Consolidated Quotation System, *etc.*).

*Background*

Exchange Rules 13 and 123A.30 describe percentage orders, including CAP–DI orders, and the manner in which they are elected or converted and executed.

A percentage order [5] is a limited price order placed on the Display Book to buy or sell fifty percent of the volume of specified stock within a specified limit price after the order's entry. A percentage order becomes a ''live'' order capable of execution in one of two ways: (i) All or part of the percentage order is ''elected'' as a limit order when an Exchange trade occurs in the specified security at the percentage order's limit price or better; or (ii) all or part of a CAP order is ''converted'' into a limit order by the specialist, to make a bid or offer or to participate directly in a trade.

A ''D'' notation on a CAP order instructs the specialist that the order may be converted to participate in destabilizing transactions or to bid/offer in a destabilizing manner. The specialist may also convert the order to participate in stabilizing transactions or to bid/offer in a stabilizing manner.

An ''I'' notation on a CAP order stands for ''immediate execution or cancel'' and instructs the specialist to cancel an elected portion of the percentage order that is not executed immediately at the price of the electing transaction or better. Any elected portion that is not immediately executed reverts to its status as a percentage order, subject to subsequent election or conversion.

The CAP–DI order guides the specialist to represent the order to ensure that the elected or converted portion goes along with the market, by not initiating a significant price change or lagging behind the market. CAP–DI orders are subject to a number of restrictions intended to minimize the specialist's discretion in handling such orders.[6] Elected and converted CAP–DI orders that are not executed revert to CAP–DI status.

Exchange Rule 13 defines two types of stop orders: stop limit orders and stop orders. A stop limit order to buy becomes a limit order executable at the limit price, or at a better price if obtainable, when a transaction in the security occurs at or above the stop price after the order is represented in the Trading Crowd. A stop limit order to sell becomes a limit order executable at the limit price or at a better price, if obtainable, when a transaction in the security occurs at or below the stop price after the order is represented in the Trading Crowd. Once elected, stop limit orders remain as limit orders on the Book if not executed immediately.

A stop order to buy becomes a market order when a transaction in the security occurs at or above the stop price after the order is represented in the market. A stop order to sell becomes a market order when a transaction in the security occurs at or below the stop price after the order is represented in the market. Once elected, stop market orders are executed.

Executions of elected or converted CAP–DI orders do not result in further elections of CAP–DI orders on the same side of the market. Executions of elected stop orders can elect CAP–DI orders at the same or better price. Executions of elected stop orders can also elect stop orders at other prices.

Automatic executions and auction market transactions systemically elect CAP–DI and stop orders. The size of the electing trade elects the same amount from each CAP–DI and stop order electable by that trade. For example, if 500 shares trade and two marketable CAP–DI orders and one marketable stop limit order are electable, 500 shares of each order are elected. However, today, once systemically elected, CAP–DI and stop orders must be manually executed and reported by the specialist. Similarly, specialists must manually execute and report converted CAP–DI orders. The specialist determines the number of shares converted on a CAP–DI order to quote or trade based on instructions from the entering broker.

Moreover, Exchange Rule 123A.30 provides that the specialist can trade on parity with elected or converted CAP–DI orders as long as the specialist does not trade for its own account in an amount in excess of that which each CAP–DI order would receive. Based on the example above, the specialist would have been able to trade 500 shares for his or her own account.

Exchange Rule 123A.40 provides, in part, that a specialist may be a party to the election of a stop order only: (i) when his or her bid or offer has the effect of bettering the market, when he guarantees that the stop order will be executed at the same price as the electing sale, and with Floor Official approval if the transaction is more than 0.10 point away from the prior transaction; or (ii) when the specialist purchases or sells stock for his or her own account solely for the purpose of facilitating completion of a member's order at a single-price, where the depth of the current bid or offer is not sufficient to do so. When the specialist is acting in this manner, he or she shall not be required to guarantee that the stop order will be executed at the same price as the electing sale.

The changes proposed below, which will systematize the execution and reporting of elected CAP–DI and stop orders and converted CAP–DI orders, will result in enhanced audit trail information, and reduce specialists' data entry workload and the associated chances for error. Existing Exchange rules governing the election and execution of CAP–DI and stop orders and the conversion and execution of converted CAP–DI orders remain unchanged, and the rules regarding execution of these orders will be incorporated into the Display Book to ensure appropriate executions.

*Systemic Execution of Elected CAP–DI and Stop Orders*

Currently, when a trade occurs, the system notifies the specialist what, if any, CAP–DI and stop orders have been elected by such trade. The specialist must then determine if there is any liquidity against which the elected orders (or portions thereof) can trade. If so, the specialist will manually execute and report a trade involving the elected CAP–DI and/or stop volume. The Exchange proposes to systematize this process, by having the Book automatically execute elected CAP–DI and stop volume to the extent possible. The Book will also automatically report such execution, including the relevant information regarding participants to the execution. Elected CAP–DI volume unable to trade will automatically revert

[5] For background on percentage orders and amendments to Rule 123A.30, *See* Securities Exchange Act Release Nos. 40722 (Nov. 30, 1998), 63 FR 67966 (SR–NYSE–97–09) (Dec. 9, 1998); 39009 (Sept. 3, 1997), 62 FR 47715 (September 10, 1997) (SR–NYSE–96–16); 24505 (May 22, 1987), 52 FR 20484 (June 1, 1987) (SR–NYSE–85–1); and 47614 (April 2, 2003), 68 FR 17140 (April 8, 2003) (SR–NYSE–2002–55).

[6] Securities Exchange Act Release No. 24505 (May 22, 1987), 52 FR 20484 (June 1, 1987) (SR–NYSE–85–1) (approving amendment to NYSE Rule 123A.30 permitting conversion of percentage orders on destabilizing ticks under certain restrictions).

to CAP–DI status and elected stop limit volume unable to trade will become a limit order on the Book. Elected stop market volume will be executed in the same manner as any market order. Additionally, where the specialist was a party to the election of stop orders, the elected stop orders will be systemically executed at the election price against the specialist.

*Examples—CAP order is systemically elected based on the size of the last sale and then systemically executed up to the available contra size, at the last sale price:*

1. The quote is 20.05 bid, offered at 20.07, 9,000 × 9,000. A CAP–DI order arrives to buy 10,000 shares at 20.15. A limit order arrives to buy 2,500 shares at 20.07 and is executed at the offer price, 20.07. As a result of the 2,500-share execution of the limit order, 2,500 shares of the CAP–DI order are elected and systemically executed at the last sale price, 20.07. 7,500 shares remain on the CAP–DI order and the market is autoquoted 20.05 bid, offered at 20.07, 9,000 × 4,000.

2. The quote is 20.05 bid, offered at 20.07, 1,000 × 1,000. A CAP–DI order arrives to buy 10,000 shares at 20.15. A limit order arrives to sell 1,500 shares at 20.05 and is executed at the bid price, 20.05. As a result of the 1,000-share execution, 1,000 shares of the CAP–DI order are elected. However, only 500 shares of the 1,000 shares elected are able to trade, as only 500 shares of contra-side interest (the stock offered) remains. The CAP–DI order systemically buys the 500 shares and the remaining 500 shares elected revert to unelected status. 9,500 shares remain on the CAP–DI order and the market is autoquoted 20.04 bid (the next best bid on the Book), offered at 20.07, 2,000 (the size associated with the bid) × 1,000.

3. The quote is 20.05 bid, offered at 20.07, 1,000 × 1,000. A stop order arrives to buy 1,000 shares at 20.05. A limit order arrives to sell 1,500 shares at 20.05 and is executed at the bid price, 20.05. As a result of the 1,000-share execution, 1,000 shares of the stop order are elected. However, only 500 shares of the 1,000 shares elected are able to trade, as only 500 shares of contra-side interest (the stock offered) remains. The stop order systemically buys the 500 shares and the remaining 500 shares elected revert to a market order and will trade at the next best price, 20.07. The market is autoquoted 20.04 bid (the next best bid on the Book), offered at 20.07, 2,000 (the size associated with the bid) × 500 (after 500 shares of the stop order are executed as a market order at 20.07).

*Systemic Handling of CAP–DI Order Converted to a Bid or Offer*

Exchange Rule 123A.30 permits specialists to, among other things, convert a CAP–DI order on a stabilizing or destabilizing tick to make a bid or offer in accordance with the parameters set forth in the rule. After conversion to a bid or offer, the CAP–DI order is able to participate in automatic executions in accordance with and to the extent provided by Exchange Rules 1000—1005.

Today, Exchange Rule 1001(a)(iii) provides, with respect to each automatic execution that includes specialist or Crowd orders, that the specialist is responsible for assigning the appropriate number of shares to each contra-side participant in accordance with Exchange Rule 72. This is because the Display Book does not have the contra-side information for these participants until it is manually entered by the specialist. This also applies to converted CAP–DI orders. The conversion is currently done manually by the specialist and the system does not incorporate any of the order information until it is entered by the specialist upon an execution.

The Exchange proposes to systemically capture converted CAP–DI order information to enable the systemic reporting of automatic executions involving converted CAP–DI volume. The system will do this by creating a limit order on the Book (''a child order'') which will be systemically linked for identification purposes to the original CAP–DI order (''the parent order''). The child order will be systemically decremented as executions occur with it.[7] As noted above, none of the rules governing the specialist's ability to convert CAP–DI orders or the way in which they trade are proposed to be amended.

*Automation of Parity Between Specialist and Elected CAP–DI Orders*

As noted above, Exchange Rule 123A.30[8] provides that a Floor broker may permit a specialist to trade on parity with CAP–DI orders. The rule currently provides that if a specialist is on parity with one or more CAP–DI orders, at no time may the specialist participate for its own account in an amount in excess of what each CAP–DI order would receive, except that the specialist may participate for its own account to an extent greater than any particular CAP–DI order where the size specified on such order has been satisfied. A specialist on parity with a CAP–DI order remains subject to the limitations in Exchange Rule 104.10 as to transactions for his or her own account effected on destabilizing ticks.

For example, assume the market in XYZ stock is 20.10 bid, offered at 20.13, 50,000 × 40,000, with the offer consisting of three CAP–DI sell orders of 10,000 shares each that the specialist had converted to trade at 20.13 and added 10,000 shares of interest for his or her own account. If a buyer for 36,000 shares enters the Crowd to trade with the offer, the specialist must split executions equally among them (9,000 for each of the three CAP–DI orders and the specialist receives 9,000 shares since he or she is on parity).

Now, assume the market in XYZ stock is 20.10 bid, offered at 20.13, 50,000 × 42,000,[9] with the offer consisting of three CAP–DI sell orders of 10,000 shares each that the specialist had converted to trade at 20.13 and added 12,000 shares of interest for his or her own account. If a buyer for 42,000 shares enters the Crowd to trade with the offer, the specialist must split executions equally among them (10,000 for each of the three CAP–DI orders in order to fully satisfy them), and the specialist receives 12,000 shares since he or she is on parity and there are 2,000 additional shares left over after satisfying the three CAP orders (10,000 shares each) and the specialist account for 10,000 shares.

The Exchange proposes to automate the specialist's participation in these situations, so that the system assigns the proper number of shares to the specialist when trading along with elected CAP–DI orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation

[7] Telephone call between Kelly Riley, Assistant Director, Division of Market Regulation, SEC and Jeffrey Rosenstrock, Principal Rule Counsel, NYSE on August 29, 2005.

[8] Rule 123A.30 is proposed to be amended in the hybrid market filing to provide that when a specialist algorithmically price improves an order, any CAP–DI orders that have been entered and that are capable of trading at that price will be automatically converted and will trade along with the specialist in accordance with Exchange rules governing executions of converted CAP–DI orders. *See* Securities Exchange Act Release No. 51906 (June 22, 2005), 70 FR 37463 (June 29, 2005) (Amendment No. 5 to SR–NYSE–2004–05).

[9] Telephone call between Kelly Riley, Assistant Director, Division of Market Regulation, SEC and Jeffrey Rosenstrock, Principal Rule Counsel, NYSE on August 30, 2005.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Exchange asserts that the proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act[12] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market, and provide an opportunity for investors' orders to be executed without the participation of a dealer.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change effects a change in an existing order entry or trading system that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting access to or availability of the system, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act,[13] and Rule 19b–4(f)(5)[14] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[15]

[12] 15 U.S.C. 78k–1(a)(1).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(5).

[15] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–57 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NYSE–2005–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–57 and should be submitted on or before September 30, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4920 Filed 9–8–05; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52361; File No. SR–PCX–2005–58]**

## Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Relating to Market Order Auction

August 30, 2005.

On April 22, 2005, the Pacific Exchange, Inc. (''PCX''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules governing the Market Order Auction of the Archipelago Exchange (''ArcaEx''), the equities trading facility of PCXE. On June 27, 2005, the Exchange amended the proposed rule change and on July 8, 2005, the Exchange further amended the proposed rule change. The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on July 29, 2005.[3] The Commission received no comment letters on the proposal.

The proposed rule change would clarify the Indicative Match Price definition as defined in PCXE Rule 1.1(r) which determines the price at which orders eligible for execution in the ArcaEx auctions are executed. The proposed rule change would also modify the Market Order Auction rules as described in PCXE Rule 7.35 and implement price collars based on a similar standard currently in place for ArcaEx's Closing Auction.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 52103 (July 21, 2005), 70 FR 43924.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's

Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that clarifying and improving the Market Order Auction pricing mechanism on ArcaEx should provide investors with a clearerunderstanding of how orders will be priced at the open and may provide greater assurance that orders will be priced at prices that are substantially close to where the stock is trading.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–PCX–2005–58), as amended, be hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4919 Filed 9–8–05; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52366; File No. SR–PCX–2005–101]**

## Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Pilot Program Applicable to Option Strategy Executions until March 1, 2006

August 31, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 25, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. The Exchange designated the proposed rule change as establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to amend its Schedule of Fees and Charges in order to extend the pilot program (''Pilot Program'') that applies to Option Strategy Executions until March 1, 2006. The text of the proposed rule change is available on the Exchange's Web site (*http://www.pacificex.com*), at the Office of the Secretary, PCX, and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to extend the Pilot Program that applies to Option Strategy Executions until March 1, 2006.[5] The transactions included as part of the Pilot Program include reversals and conversions,[6] dividend spreads,[7] box spreads,[8] short stock interest spreads,[9] and merger spreads.[10] Because the referenced Options Strategy Transactions are generally executed by professionals whose profit margins are generally narrow, the Pilot Program caps the transaction fees associated with such executions at $1,000 per strategy executed on the same trading day in the same option class. In addition, there is also a monthly cap of $50,000 per initiating firm for all strategy executions. The Exchange believes that by keeping fees low, the Exchange will be able to attract liquidity by accommodating these transactions. Extending the Pilot Program until March 1, 2006 will allow the Exchange to keep these fees low and thus continue to attract liquidity.

OTP Holders and OTP Firms who wish to benefit from the fee cap will be required to submit to the Exchange forms with supporting documentation (*e.g.*, clearing firm transaction data) to qualify for the cap.

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act,[11] in general, and Section 6(b)(4) of the Act,[12] in particular, in that it provides for the equitable allocation of dues, fees, and other charges among its members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii)

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release Nos. 51645 (May 2, 2005), 70 FR 24458 (May 9, 2005) (SR–PCX–2005–47) (establishing pilot program for reversals and conversions, dividend spreads, and box spreads until September 1, 2005) and 51787 (June 6, 2005), 70 FR 34174 (June 13, 2005) (SR–PCX–2005–65) (establishing pilot program for short stock interest spreads and merger spreads until September 1, 2005).

[6] Reversals and conversions are transactions that employ calls, puts and the underlying stock to lock in a nearly risk free profit. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

[7] Dividend spreads are trades involving deep in the money options that exploit pricing differences arising around the time a stock goes ex-dividend.

[8] Box spreads is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

[9] A short stock interest spread is a spread that uses two deep in the money put options of the same class followed by the exercise of the resulting long position in order to establish a short stock interest arbitrage position.

[10] A merger spread is a transaction executed pursuant to a strategy involving the simultaneous purchase and sale of options of the same class and expiration date, but with different strike prices followed by the exercise of the resulting long option position.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and paragraph (f)(2) of Rule 19b–4 thereunder[14] because it is establishing or changing a due, fee, or other charge applicable only to the Exchange's members. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- (Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–101 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–PCX–2005–101. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–101 and should be submitted on or before September 30, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4921 Filed 9–8–05; 8:45 am]

**BILLING CODE 8010–01–P**

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52371; File No. SR–PCX–2005–68]**

## Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Modify Rate Schedule Retroactively To January 1, 2002 To Cap the Fees on Multiple Options Issues Transfers

August 31, 2005.

On May 13, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify its rate schedule retroactively to January 1, 2002 to cap the fees on multiple options issues transfers. The Exchange amended the proposal on July 1, 2005.[3] The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on July 27, 2005.[4] The Commission did not receive comments on the proposal. This order approves the proposed rule change, as amended.

PCX proposes to cap the fees on multiple options issues transfers. Currently, PCX charges a Lead Market Maker (''LMM'') that has been allocated an options issue $1,000 per issue if the LMM transfers the options issue to another LMM.[5] PCX originally adopted the fee to help offset its administrative and technological costs related to transferring an options issue. While PCX believes it is still accurate to charge $1,000 for the transfer of one issue, when multiple issues are transferred as part of a single transaction, the overall costs of PCX associated with the transfer may be reduced. When multiple issues are transferred as part of a single transaction, PCX believes that charging the full $1,000 on every transferred issue with no limit to the total charges is not the original intent of the transfer fee.

PCX proposes to continue charging $1,000 per issue transferred, but cap the fee at $15,000 for the first one hundred issues transferred, and $5,000 for every one hundred (or any part of) additional issues transferred. To qualify for the rate cap, all transfers must be deemed to be part of a single transaction and meet the PCX Transfer of Issues Guidelines. The new fee cap would allow PCX to more accurately assess an LMM the technological and administrative costs associated with the transfer of allocated issues. PCX proposes to make this fee effective retroactive to January 1, 2002, the date the transfer fee was first effective, so that it would have the ability to make any adjustments it deems necessary to allow previous charges to properly reflect the true intent of the transfer fee. Further, PCX represented that it would review all past transfers to determine if any adjustments are warranted pursuant to the proposed rate schedule.

After careful review of the proposed rule change, as amended, 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.[6] Specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] in that it provides for the equitable

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original proposal.

[4] *See* Securities Exchange Act Release No. 52090 (July 20, 2005), 70 FR 43492.

[5] According to PCX, options issue transfers are conducted in accordance with PCX Transfer of Issues Guidelines. *See* PCX Regulatory Information Bulletin RBO–03–09 (August 11, 2003).

[6] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(4).

allocation of reasonable dues, fees, and other charges among the Exchange's members. The Commission believes that the proposal should allow the Exchange to more accurately charge LMMs the Exchange's true costs when multiple options issues are transferred. Further, the Commission believes that by making the proposal retroactive to January 1, 2002, the Exchange could make adjustments to past transfers in accordance with the original intent of the fee.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PCX–2005–68) and Amendment No. 1 are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–4928 Filed 9–8–05; 8:45 am]

**BILLING CODE 8010–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### State Court Decision Affecting Recordation of Artisan Liens

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** Consistent with Agency policy, the Federal Aviation Administration (FAA) gives notice of the holding in *Creation Aviation, Inc.,* vs. *Textron Financial Corporation,* Florida District Court of Appeal, Fourth District, No. 4D04–2178, decided on April 27, 2005. The Court in *Creston* held that Federal law pertaining to recording with the FAA Aircraft Registry did not preempt a Florida statute requiring that an artisan lien for work on an aircraft first be filed in the county where the work was performed in order to enforce the lien under Florida law. Accordingly, the FAA is advising the public that recording an artisan lien with the FAA Aircraft Registry only, may be insufficient to enforce an artisan lien under Florida law.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Standell, Aeronautical Center Counsel, Monroney Aeronautical Center (AMC–7), Federal Aviation Administration, 6500 S. MacArthur, Oklahoma City, OK 73169; Telephone (405) 954–3296.

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 44107, the FAA maintains an aircraft registry that records ''conveyances that affect an interest in civil aircraft of the United States.''

The FAA published notice in the **Federal Register** that the FAA Aircraft Registry would record artisan liens on aircraft that met the minimum requirements of state statute. The notice stated that, for aircraft, ''there is Federal preemption of place of filing: The FAA Aircraft Registry at Oklahoma City.'' 46 FR 61528, December 17, 1981. The sole purpose of that notice was to set out the criteria for recording artisan liens with the FAA Aircraft Registry.

Florida Statues, F.S.A. 329.01, requires all liens of affecting civil aircraft to be filed with the Federal Aviation Administration. F.S.A. 329.51 provides that aircraft liens are enforceable provided the lienor records a verified lien notice with the clerk of the circuit court in the county where the aircraft was located when services were furnished.

In *Creston,* a fixed base operator attempted to foreclose a mechanic's lien that had been filed and recorded with the FAA consistent with 49 U.S.C. 44107 and F.S.A. 329.01. However, the Florida Court of Appeal held that the fixed base operator's failure to file a notice of lien in the county where the work was performed rendered the lien unenforceable under state law.

The Florida Court of Appeal did not accept the fixed base operator's argument that state or local filing requirements contained in F.S.A. 329.51 were preempted by Federal law. The Court in *Creston* cited *Holiday Airlines Corporation* v. *Pacific Propeller, Inc.,* 620 F.2d 731 (1980), which had similar facts. The Court in *Holiday* held that a lien filed with the FAA was enforceable, notwithstanding a lienor's failure to file in the State of Washington. The Court held that the ''federal recording statute, and rules implementing it, clearly preempt the filing requirements of Washington law.'' On the other hand, the Court in *Holiday* held that ''matters touching on the validity of liens are determined by underlying State law.''

The Florida Court of Appeal accepted the argument that until a lien on a civil aircraft is recorded with the FAA Aircraft Registry, it is valid only against those persons with actual notice and their heirs and devises and that after the lien is filed with the FAA, it is valid against all persons. However, the Court determined that the State of Florida is not precluded from imposing requirements, including local filing requirements that affect the enforceability of aircraft liens in Florida.

Interested parties may wish to research state lien statutes to determine if local requirements affect enforceability of artisan liens recorded with the FAA.

Issued in Oklahoma City on September 1, 2005.

**Joseph R. Standell,**

*Aeronautical Center Counsel.*

[FR Doc. 05–17835 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2005–53]**

### Petitions for Exemption; Summary of Petitions Received

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

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before September 29, 2005.

**ADDRESSES:** You may submit comments [identified by DOT DMS Docket Number FAA–2005–22172 and FAA–2005–21814] by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- 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.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

*Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** John Linsenmeyer (202) 267–5174 or Susan Lender (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 1, 2005.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

**Petitions for Exemption**

*Docket No.:* FAA–2005–22172.

*Petitioner:* Cessna Aircraft Company.

*Section of 14 CFR Affected:* 14 CFR 21.231(a)(1).

*Description of Relief Sought:* Petitioner seeks an amendment to an exemption adding Delegation Option Authorization (DOA) for type, production, and airworthiness certification of new aircraft to an exemption permitting DOA authorization for derivatives of existing models.

*Docket No.:* FAA–2005–21814.

*Petitioner:* Redline Air Service.

*Section of 14 CFR Affected:* 14 CFR 43.3.

*Description of Relief Sought:* Redline Air Service (Redline) seeks an exemption that would allow a Redline pilot to change engine oil and engine oil filters without a mechanics certificate. Redline is located in a remote area of Alaska; flight time to a repair station for oil changes can represent an economic and sometimes a safety burden. Redline would establish a training program for Redline pilots with a repair station holding an Airframe and Powerplant mechanics certificate.

[FR Doc. 05–17908 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2005–55]**

### Petitions for Exemption; Dispositions of Petitions Issued

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

**ACTION:** Notice of disposition of prior petition.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the disposition of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Susan Lender (202) 267–8029 or John Linsenmeyer (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 2, 2005.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

**Disposition of Petitions**

*Docket No.:* FAA–2004–18676.

*Petitioner:* Quest Diagnostics, Inc.

*Sections of 14 CFR Affected:* 14 CFR 91.207(d)(4).

*Description of Disposition:* Quest Diagnostics, Inc. petitioned to operate certain aircraft without testing the emergency locator transmitter (ELT) for the presence of a sufficient signal radiated from its antenna. The FAA determined that testing the ELT for the presence of a sufficient signal radiated from its antenna is necessary to ensure the ELT functions properly in case of an emergency. The FAA is aware of the potential conflict between 14 CFR 91.207(d)(4) and 47 CFR 87.197. We are researching avenues to enable operators to comply with both rules. We recommended shielding the ELT antenna during testing or suppressing the antenna from emitting a signal. The FAA denied the exemption petition.

*Denial of Exemption, 08/29/2005, Exemption No. 8615.*

[FR Doc. 05–17909 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD 2005 22327]**

### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rodney McFadden, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–2647; FAX: 202–493–2180; or E-MAIL: *Rod.McFadden@dot.gov*. Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Information to Determine Seamen's Reemployment Rights—National Emergency.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133–0526.

*Form Numbers:* None.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information:* This collection is needed in order to implement provisions of the Maritime Security Act of 1996. These provisions grant reemployment rights and other benefits to certain merchant seamen serving aboard vessels used by the United States during times of national emergencies. The Maritime Security Act of 1996 establishes the procedures for obtaining the necessary MARAD certification for reemployment rights and other benefits.

*Need and Use of the Information:* MARAD will use the information to determine if U.S. civilian mariners are eligible for reemployment rights under the Maritime Security Act of 1996.

*Description of Respondents:* U.S. merchant seamen who have completed designated national service during a time of maritime mobilization need and are seeking reemployment with a prior employer.

*Annual Responses:* 50 responses.

*Annual Burden:* 50 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street Southwest, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

(Authority: 49 CFR 1.66.)

Dated: August 31, 2005.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05–17910 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD 2005 22325]**

### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Brenda Reed-Perry, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–0845; FAX: 202–366–3746; or E-MAIL: *Brenda.reed-perry@dot.gov.* Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Maritime Administration Service Obligation Compliance Report and Merchant Marine Reserve/U.S. Naval Reserve Annual Report.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133–0509.

*Form Numbers:* MA–930.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information:* The Maritime Education and Training Act of 1980, imposes a service obligation on every graduate of the U.S. Merchant Marine Academy and every subsidized State maritime academy graduate who received a student incentive payment. This mandatory service obligation is for the Federal financial assistance the graduate received as a student. In addition, this obligation requires the graduate to maintain a license as an officer in the merchant marine and to report annually on reserve status, training and employment.

*Need and Use of the Information:* This information collection is necessary to determine if a graduate of the U.S. Merchant Marine Academy or subsidized State maritime academy graduate is complying with the terms of the service obligation.

*Description of Respondents:* Graduates of the U.S. Merchant Marine Academy and every subsidized State maritime academy graduate who received a student incentive payment.

*Annual Responses:* 1744 responses.

*Annual Burden:* 872 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street Southwest, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

(Authority: 49 CFR 1.66.)

Dated: August 31, 2005.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05–17911 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD 2005 22326]**

### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ruth DeVelbis, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–2314, FAX: 202–366–9580, or e-mail: *ruth.develbis@dot.gov.* Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Records Retention Schedule.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133–0501.

*Form Numbers:* None.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information:* Section 801, Merchant Marine Act, 1936, as amended, requires retention of records pertaining to financial assistance programs for ship construction and ship operations. These records are required to be retained to permit proper financial review of pertinent records at the conclusion of a contract when the contractor was receiving government financial assistance.

*Need and Use of the Information:* The information is needed in order that MARAD may conduct financial reviews of pertinent records at the conclusion of a contract.

*Description of Respondents:* U.S. shipping companies receiving government financial aid.

*Annual Responses:* One response.

*Annual Burden:* 50 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, Southwest, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

(Authority: 49 CFR 1.66.)

Dated: August 31, 2005.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05–17912 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD 2005 22328]**

### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Thomas Olsen, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–2313, FAX: 202–366–9580; or E-mail: *Thomas.olsen@dot.gov.* Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

Title of Collection: Determination of Fair and Reasonable Rates for Carriage of Agriculture Cargoes on U.S.-flag Commercial Vessels.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133–0514.

*Form Numbers:* MA–1025, MA–1026, and MA–172.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: This data collection requires U.S.-flag operators to submit vessel operating costs and capital costs data to MARAD officials on an annual basis.

Need and Use of the Information: This information is needed by MARAD to establish fair and reasonable guideline rates for carriage of specific cargoes on U.S. vessels.

*Description of Respondents:* U.S. citizens who own and operate U.S.-flag vessels.

*Annual Responses:* 260 responses.

*Annual Burden:* 740 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street Southwest, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Privacy Act : Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

(Authority: 49 CFR 1.66.)

By order of the Maritime Administrator.

Dated: August 30, 2005.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05–17913 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2005–21925; Notice 2]**

### Continental Tire North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Continental Tire North America, Inc. (Continental) has determined that certain tires that it produced do not comply with S6.5 of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Continental has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance

Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on July 27, 2005, in the **Federal Register** (70 FR 43507). NHTSA received no comments.

Affected are a total of approximately 430 tires produced on May 24, 2005. One requirement of S6.5 of FMVSS No. 119, tire markings, is that the tire identification shall comply with 49 CFR part 574, ''Tire Identification and Recordkeeping,'' which includes the marking requirements of 574.5(b) DOT size code, and 574.5(c) DOT tire type. The subject tires are incorrectly marked for both size code and tire type. The markings read ''A3 3T 1WP XXXX'' when they should read ''A3 55 1N1 XXXX.''

Continental Tire explained:

[T]he curing mold used in the production of the tires was being serviced. During the service, the interchangeable plugs that contain the DOT size and type information came out of the mold. The individual replacing the plugs inserted plugs engraved with the incorrect information. The noncompliance was discovered after 430 tires had been cured in this mold.

Continental Tire believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Continental Tire stated that ''[a]ll other sidewall identification markings and safety information are correct, referring to recognizable size markings and load carrying capacities. A consumer or dealer examining the DOT Code could still determine the correct manufacturing plant and correct manufacturing date.''

NHTSA agrees with Continental that the noncompliance is inconsequential to motor vehicle safety. As Continental points out, the tires do have markings which provide the correct size and load carrying capacities, and the correct manufacturing plant and date can be determined. Therefore, there should be no confusion by the user of this information, and Continental should be able to identify the tires in the event of recall. Continental has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Continental's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 2, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

[FR Doc. 05–17902 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2005–21926; Notice 2]**

### Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that the markings on certain tires that it produced in 2004 and 2005 do not comply with S4.3(a) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New pneumatic tires.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43934). NHTSA received no comments.

Affected are a total of approximately 2,606 Cooper Discoverer AST II tires in the 265/70R16 size, produced between October 10, 2004 and April 16, 2005. S4.3, Labeling requirements, requires compliance with 49 CFR 574.5, ''Tire Identification and Record Keeping, Tire Identification Requirements.'' The size designation required by Part 574.5 was incorrectly marked on the subject tires, which were molded with the letters ''TY'' as the second grouping of symbols in the tire identification number. The correct stamping should have been ''C2.''

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that the purpose of the tire identification number marking requirements is to facilitate the ability of the tire manufacturer to identify the tires in the event of a recall. Cooper asserts that the incorrect size designation in this case does not affect the ability to identify defective or nonconforming tires. Cooper points out that the tire size is correctly stamped on the sidewalls of the subject tires, and states that the tires comply with all other requirements of FMVSS No. 109 and 49 CFR 574.5.

NHTSA agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. As Cooper points out, the tires do have sidewall markings which provide the correct size for the user of this information. In addition, the incorrect marking does not affect the ability to identify the tires in the event of recall. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 2, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

[FR Doc. 05–17903 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2005–21930; Notice 2]**

### Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it produced in 2005 do not comply with S4.3(e) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New pneumatic tires.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43934). NHTSA received no comments.

Cooper produced approximately 3,070 Cooper brand tires during the period from January 30, 2005 through May 21, 2005 that do not comply with FMVSS No. 109, S4.3(e). S4.3(e) of FMVSS No. 109 requires that ''each tire shall have permanently molded into or onto both

sidewalls * * * (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different.'' The noncompliant tires were marked ''tread 1 ply nylon + 2 ply steel + 1 ply polyester; sidewall 2 ply polyester.'' The correct marking should read ''tread 1 ply nylon, 2 ply steel + 2 ply polyester; sidewall 2 ply polyester.''

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that ''the incorrect number of tread plies on each tire does not present a safety-related defect. The subject tires, in fact, have 2 polyester tread plies.'' Cooper states that the tires comply with all other requirements of FMVSS No. 109.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR Sections 571.109 and 119, Part 567, Part 574, and Part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Cooper's statement that the incorrect markings in this case do not present a serious safety concern.[1] There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in the tire. In addition, the tires are certified to meet all the performance requirements of FMVSS No. 109 and all other informational markings as required by FMVSS No. 109 are present. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 2, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

[FR Doc. 05–17905 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

[1] This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2005–21929; Notice 2]**

### Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it manufactured during 2004 and 2005 do not comply with S6.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43935). NHTSA received no comments.

Cooper produced approximately 195 Power King brand tires during the period from May 15, 2005 through May 21, 2005 that do not comply with FMVSS No. 119, S6.5(f). S6.5(f) of FMVSS No. 119 requires that each tire shall be marked with ''[t]he actual number of plies * * * in the sidewall and, if different, in the tread area.'' The noncompliant tires were marked ''tread 2 ply steel + 2 ply polyester; sidewall 2 ply polyester.'' The correct marking should read ''tread 1 ply nylon, 2 ply steel + 2 ply polyester; sidewall 2 ply polyester.''

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that ''the incorrect number of tread plies on each tire does not present a safety-related defect. In addition to having the number of tread plies marked on the sidewall, the subject tires have an additional nylon tread ply.'' Cooper states that the tires comply with all other requirements of FMVSS No. 119.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR Sections 571.109 and 119, Part 567, Part 574, and Part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Cooper's statement that the incorrect markings in this case do not present a serious safety concern.[1] There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle

[1] This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

operation parameters on the number of plies in the tire. In addition, the tires are certified to meet all the performance requirements of FMVSS No. 119 and all other informational markings as required by FMVSS No. 119 are present. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 2, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

[FR Doc. 05–17906 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2005–21928; Notice 2]**

### Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it manufactured during 2004 and 2005 do not comply with S6.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43935). NHTSA received no comments.

Cooper produced approximately 15,692 Cooper brand tires during the period from October 3, 2004 through April 9, 2005 that do not comply with FMVSS No. 119, S6.5(f). S6.5(f) of FMVSS No. 119 requires that each tire shall be marked with ''[t]he actual number of plies * * * in the sidewall and, if different, in the tread area.'' The noncompliant tires were marked ''tread 2 ply steel + 3 ply polyester; sidewall 3 ply polyester.'' The correct marking should read ''tread 1 ply nylon, 2 ply steel + 3 ply polyester; sidewall 3 ply polyester.''

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that ''the incorrect number of tread plies on each tire does not present a safety-related defect. In addition to having the number of tread plies marked on the sidewall, the subject tires have an additional nylon tread ply.'' Cooper states that the tires comply with all other requirements of FMVSS No. 119.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR 571.109 and 119, Part 567, Part 574, and Part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Cooper's statement that the incorrect markings in this case do not present a serious safety concern.[1] There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in the tire. In addition, the tires are certified to meet all the performance requirements of FMVSS No. 119 and all other informational markings as required by FMVSS No. 119 are present. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 2, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

[FR Doc. 05–17907 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

[1] This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Withdrawal of Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; DaimlerChrysler

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice; withdrawal of petition for exemption.

**SUMMARY:** This notice withdraws the petition by DaimlerChrysler Corporation (DaimlerChrysler) for an exemption from the parts marking requirements of the vehicle theft prevention standard for the Jeep Liberty vehicle line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated March 30, 2005, DaimlerChrysler requested an exemption from the parts marking requirements of the theft prevention standard (49 CFR part 541) for the Jeep Liberty vehicle line, beginning with model year (MY) 2006. The petition requested an exemption from the parts marking requirements pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line. On July 12, 2005, the agency granted in full the petition of

DaimlerChrysler for exemption of the Jeep Liberty from the parts marking requirements beginning with the 2006 model year. (See 70 FR 40103). Subsequently, DaimlerChrysler requested the agency to withdraw its petition for exemption for the Jeep Liberty vehicle line.

This notice acknowledges DaimlerChrysler's request for withdrawal of its March 30, 2005 petition for exemption. Accordingly, the Jeep Liberty vehicle line remains subject to the parts-marking requirements of 49 CFR part 541.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: September 1, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 05–17843 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Withdrawal of Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Ford Motor Company

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice; withdrawal of petition for exemption.

**SUMMARY:** This notice withdraws the petition by Ford Motor Company (Ford) for an exemption from the parts marking requirements of the vehicle theft prevention standard for the Ford Thunderbird vehicle line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated December 20, 2004, Ford requested an exemption from the parts marking requirements of the theft prevention standard (49 CFR part 541) for the Ford Thunderbird vehicle line, beginning with model year (MY) 2006. The petition requested an exemption from the parts marking requirements pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line. The agency granted in full the petition of Ford for exemption of the Ford Thunderbird from the parts marking requirements beginning with the 2006 model year. (See 70 FR 12780).

Ford informed the agency by letter dated August 5, 2005, that it was withdrawing its petition for exemption for the Ford Thunderbird vehicle line. Ford also stated that it will discontinue production of the Thunderbird vehicle line effective the end of the 2005 MY. This notice acknowledges Ford's request for withdrawal of its December 5, 2004 petition for exemption. Accordingly, the Ford Thunderbird vehicle line will remain subject to the parts marking requirements of 49 CFR part 541 until production ends.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: September 1, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 05–17842 Filed 9–8–05; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–253578–96]**

### Proposed Collection; Comment Request for Regulation Project; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice and request for comments.

**SUMMARY:** This document contains corrections to a notice and request for comments, which was published in the **Federal Register** on Monday, August 22, 2005 (70 FR 49010). This notice relates to the Department of the Treasury's invitation to the general public and other Federal agencies to take the opportunity to comment on proposed and/or continuing information collections.

**FOR FURTHER INFORMATION CONTACT:** Allan Hopkins, (202) 622–6665 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The notice and request for comments that is the subject of these corrections is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

#### Need for Correction

As published, the comment request for REG–253578–96 contains errors which may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the comment request for REG–253578–96, which was the subject of FR Doc. 05–16609, is corrected as follows:

1. On page 49010 and 49011, columns 3 and 1 respectively, under the caption **SUMMARY**, lines 15 through 17 on page 40910, and lines 1 and 2 on page 40911, the language ''Group Health Plans; and temporary regulation (TD 8716) Interim Rules for Health Insurance Portability for Group Health Plans (54.9801–3T, 54.9801–4T, 54.98015T, and 54.9801–6T).'' is corrected to read ''Group Health Plans and Rules for Health Insurance Portability for Group Health Plans.''.

2. On page 49011, column 1, under the caption **SUPPLEMENTARY INFORMATION**, lines 1 through 4, the language ''*Title:* Notice of Proposed Rulemaking, Health Insurance Portability for Group Health Plans, and temporary regulation, Interim Rules for Health Insurance'' is corrected to read ''*Title:* Health Insurance Portability for Group Health Plans, and Rules for Health Insurance''.

**Cynthia E. Grigsby,**

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

[FR Doc. E5–4898 Filed 9–8–05; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Amended notice.

**SUMMARY:** The open meeting of the Area 7 committee of the Taxpayer Advocacy Panel that was published in the **Federal Register** on August 23, 2005, has been rescheduled. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mary Peterson O'Brien at 1–888–912–1227, or 206–220–6096.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, September 28, 2005 from 10 a.m. Pacific Time to 11:30 a.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary Peterson O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Mary Peterson O'Brien. Ms. O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: September 2, 2005.

**Martha Curry,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E5–4899 Filed 9–8–05; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Disability Benefits Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a meeting on September 15–16, 2005, in the Lincoln Ballroom, Fourth Floor, Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. The meeting is open to the public and will begin at 8:30 a.m. and end at 4:30 p.m. each day. The public is encouraged to visit the Commission's Web site at *http://www.va.gov/vetscommission* for transportation options to the Holiday Inn from the Silver Spring metro stop.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The agenda for the meeting will include briefings by each of the Veterans' Disability Benefits Commission Subcommittees, one or more Federally Funded Research and Development Center(s) [FFRDC(s)], and the Institute of Medicine (IOM) of the National Academy of Sciences. The purpose of these briefings will be to provide the Commission with recommendations on key issues and research questions for further study and analysis, followed by an overview of potential research projects and methodologies to assist the Commission with its charter and fulfill the requirements outlined in Public Law 108–136, the National Defense Authorization Act of 2004. (The Commission is required by this law to consult with the IOM concerning the medical aspects of contemporary disability compensation policies.) One or more FFRDC(s) will supplement the Commission's work with additional resources, surveying capabilities, research, study and analysis of the key issues and questions that the Commission will identify during this two-day event.

Interested persons may attend and present oral statements to the Commission. Time for oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may provide written comments for review by the Commission prior the meeting, by e-mail to: *veterans@vetscommission.intranets.com* or by mail to: Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: September 1, 2005.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 05–17847 Filed 9–8–05; 8:45 am]

**BILLING CODE 8320–01–M**

# Corrections

**Federal Register**

Vol. 70, No. 174

Friday, September 9, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF DEFENSE

### 48 CFR Part 252

**[DFARS Case 2005–D007]**

### Defense Federal Acquisition Regulation Supplement: Training for Contractor Personnel Interacting With Detainees

*Correction*

In In rule document 05–17347 beginning on page 52032 in the issue of Thursday, September 1, 2005, make the following corrections:

**252.212–7001 [Corrected]**

1. On page 52034, in the first column, in section 252.212–7001(b), in 252.237–7019, in the second line, ''(AUG)'' should read ''(SEPT)''.

2. On the same page, in the same column, in section 252.212–7001(c), in 252.237–7019, in the second line, ''(AUG)'' should read ''(SEPT)''.

[FR Doc. C5–17347 Filed 9–8–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

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## Part II

# The President

**Proclamation 7922—Death of William H. Rehnquist**

**Proclamation 7923—Honoring the Memory of the Victims of Hurricane Katrina**

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# Presidential Documents

**Title 3—**

## The President

**Proclamation 7922 of September 4, 2005**

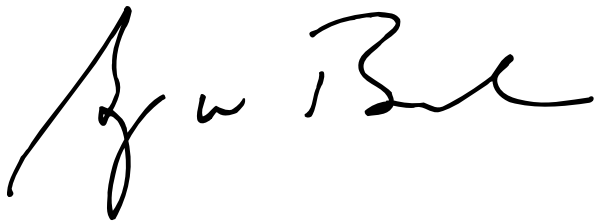
## Death of William H. Rehnquist

**By the President of the United States of America**

**A Proclamation**

As a mark of respect for William H. Rehnquist, Chief Justice of the United States, I hereby order, by the authority vested in me by the Constitution and laws of the United States of America, including section 7 of title 4, United States Code, that the flag of the United States shall be flown at half-staff at the White House and on all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, Tuesday, September 13, 2005. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of September, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–18037
Filed 9–8–05; 8:45 am]
Billing code 3195–01–P

# Presidential Documents

**Proclamation 7923 of September 4, 2005**

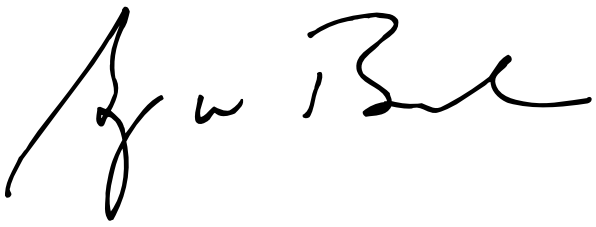
## Honoring the Memory of the Victims of Hurricane Katrina

**By the President of the United States of America**

**A Proclamation**

As a mark of respect for the victims of Hurricane Katrina, I hereby order, by the authority vested in me by the Constitution and laws of the United States of America, that the flag of the United States shall be flown at half-staff at the White House and on all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, Tuesday, September 20, 2005. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of September, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–18038
Filed 9–8–05; 8:45 am]
Billing code 3195–01–P

# Reader Aids

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

**H.R. 6/P.L. 109–58**

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