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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 52, and 140

RIN 3150–AH78

Price-Anderson Act Financial Protection Regulations and Elimination of Antitrust Reviews

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to conform with the requirements of the Energy Policy Act of 2005. The revised regulations include Congress's prescribed increase in the amount of the required annual financial contributions required from commercial reactors in the event of a nuclear accident to pay for third party liability under the Price-Anderson Act. Another revision provides Congress's accommodation for modular reactors, which permits a defined combination of these reactors to be considered a single reactor for the determination of financial obligations under the Price-Anderson Act. Additional revisions, essentially deletions, result from Congress's terminating NRC's authority and responsibility to conduct antitrust reviews of future applications to construct or operate a nuclear reactor.

DATES: This rule is effective on November 28, 2005.

FOR FURTHER INFORMATION CONTACT: Marjorie Nordlinger, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1616, e-mail *MSN@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Final Rule
III. Voluntary Consensus Standards
IV. Finding of No Significant Impact: Environmental Assessment
V. Paperwork Reduction Act Statement
VI. Regulatory Analysis
VII. Backfit Analysis
VIII. Congressional Review Act

I. Background

The Nuclear Regulatory Commission (NRC) is amending its regulations to conform with recently enacted provisions contained in the Energy Policy Act of 2005, Public Law 109–58. In that act, Congress amended Section 170 of the Atomic Energy Act (the Price-Anderson Act) to increase the amount reactor licensees must contribute annually to compensate the public for damages if a nuclear accident occurs. Congress also provided special treatment for potential licensees of modular reactors by defining what combination of reactors is entitled to be considered a single reactor under the Price-Anderson Act for determining the applicable financial requirements. In the same legislation, Congress eliminated NRC's authority and responsibility to conduct antitrust reviews of future applications for a license to construct or operate a nuclear reactor.

This rule revises the Commission's regulations solely to comply with the Energy Policy Act of 2005. The changes simply incorporate mandatory statutory requirements or eliminate authorities and actions under a Congressional mandate, which by its terms applies only to future nuclear reactor construction permits and operating license applications and has no effect on the Commissions' authority relative to existing nuclear reactor operating license antitrust conditions. Accordingly, good cause exists under 5 U.S.C. 553(d)(3) to publish this final rule without soliciting public comment because the Commission has no discretion in these matters and public comment would serve no useful purpose. The revisions are being published as a final rule that will become effective 30 days from the date of publication in the **Federal Register**.

II. Discussion of the Final Rule

A. Antitrust Amendments

The Atomic Energy Commission and its successor the Nuclear Regulatory Commission have had the authority and obligation to conduct antitrust reviews of applicants for licenses to construct and operate nuclear reactors. In determining whether to grant such a license, the Commission was required to make a finding whether the activities under the license would create or maintain a situation inconsistent with the Nation's antitrust laws. Sometimes the Commission has needed to conduct a lengthy hearing on antitrust issues before issuing its decision. In recent years, other Government agencies more specialized in financial matters have demonstrated oversight and authority sufficient to discern and address potential anticompetitive behavior of nuclear energy producers. In light of the redundant antitrust responsibilities of the Commission and those agencies, Congress enacted section 625 of the Energy Policy Act of 2005 which eliminated the Commission's antitrust authority with respect to future license applications. The final rule's changes in the regulations remove all antitrust review requirements and references to the discontinued antitrust review.

B. Price-Anderson Act Amendments

In the event of a serious nuclear accident with substantial offsite damages, the Price-Anderson Amendments Act of 1988 required each licensee of a commercial reactor (one with a rated capacity of 100,000 electrical kilowatts or more) to pay into a retrospective premium pool, as needed, $10 million annually per reactor up to the sum of $63 million as adjusted for inflation to pay for harm to person or property caused by the accident. By August 2003, that sum, as adjusted for inflation, had reached the amount of $95,800,000. In section 603 of The Energy Policy Act of 2005, Congress replaced the $63 million limit with the $95,800,000 current limit, already incorporated in the Commission's rules as the new base for inflation adjustment. Congress also decided that the $10 million annual payment which had remained unchanged since 1988 should be increased to $15 million and should be adjusted for inflation in the future. Accordingly, the Commission is changing the regulation to reflect the current $15 million amount the nuclear reactor licensees would pay annually if public liability damages exceeded the insurance required to be carried by the licensee.

In section 608 of the Energy Policy Act of 2005, Congress recognized that new designs of reactors known as modular reactors could result in

groupings of a smaller capacity reactor than the typical commercial reactor currently in use, but where each single modular reactor still exceeds the 100,000 electrical kilowatts that would trigger the financial obligations currently required of a large reactor. To make the small modular reactors economically feasible while maintaining for them an equitable obligation to assure available funds for the public, the Energy Policy Act provided that a prescribed combination of facilities should be considered as a single facility for the sole purpose of assessing financial obligations under the Price-Anderson Act. The Commission is amending its rules to include the description of the combination of modular reactors which is to be treated as a single reactor for assessing obligations to contribute to the pool that will pay for public harm if a serious nuclear accident occurs.

III. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this rule, the NRC is revising its regulations to reflect statutory mandates contained in the Energy Policy Act of 2005. This action does not constitute the establishment of a standard that contains generally applicable requirements.

IV. Finding of No Significant Impact: Environmental Assessment

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The basis for this determination is that the rule relates to liability under the Price-Anderson Act and the elimination of NRC's antitrust reviews. In addition, the changes to the regulations in Parts 2, 50, 52 and 140 are actions that fall within the categorical exclusions set out in 10 CFR 51.22(c)(1) and (3).

V. Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0011, 3150–0151, and 3150–0039.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

VI. Regulatory Analysis

A regulatory analysis has not been prepared for this regulation. This rule amends NRC regulations to be consistent with provisions in the Energy Policy Act of 2005. This rule does not involve an exercise of Commission discretion and, therefore, does not necessitate preparation of a regulatory analysis.

VII. Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule; and therefore, a backfit analysis is not required for this final rule because these amendments are mandated by the Energy Policy Act of 2005.

VIII. Congressional Review Act

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR parts 2, 50, 52, and 140.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

■ 1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)), sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871).

Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sections 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239).

Sections 2.200–2.206 also issued under secs. 161b, I, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201(b), (I), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133), and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154).

Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

■ 2. In § 2.101 paragraphs (a–1)(5) and (e) are removed, paragraphs (f) and (g) are redesignated as paragraphs (e) and (f) respectively, and paragraphs (a)(5), (a–1) introductory text, and (c) are revised to read as follows:

§ 2.101 Filing of application.

(a) * * *

(5) An applicant for a construction permit for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 of this chapter or is a testing facility may submit the information required of applicants by part 50 of the chapter in two parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, another part shall include any information required by § 50.34(a) and, if applicable, § 50.34a of this chapter. One part may precede or follow other parts by no longer than six (6) months. If it is determined that either of the parts as described above is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days. Whichever part is filed first shall also include the fee required by §§ 50.30(e) and 170.21 of this chapter and the information required by §§ 50.33, 50.34(a)(1) and 50.37 of this chapter. The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of part 50 of this chapter. The additional parts will be docketed upon a determination by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, that it is complete.

(a–1) *Early consideration of site suitability issues.* An applicant for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 of this chapter or is a testing facility, may request that the Commission conduct an early review and hearing and render an early partial decision in accordance with subpart F on issues of site suitability within the purview of the applicable provisions of parts 50, 51 and 100 of this chapter. In such cases, the applicant for the construction permit may submit the information required of applicants by the provisions of this chapter in three parts:

* * * * *

(c) Upon receipt and acceptance for docketing of the required portions of the application dealing with radiological health and safety and environmental matters, notice of receipt will be published in the **Federal Register** including an appropriate notice of hearing.

* * * * *

§ 2.102 [Amended]

■ 3. In § 2.102, paragraph (d) is removed.

■ 4. In § 2.104, footnote 4 and paragraph (d)(3) are removed, paragraph (d)(4) is redesignated as paragraph (d)(3), the introductory text of paragraph (d) and paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(d) In an application for a construction permit or an operating license for a facility on which a hearing is required by the Act or this chapter, the notice of hearing will, unless the Commission determines otherwise, state:

(1) A time of the hearing which will be as soon as practicable after compliance with section 189a of the Act and this part;

(2) The presiding officer for the hearing who shall be either an administrative law judge or an atomic safety and licensing board established by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel; and

* * * * *

■ 5. In § 2.105, paragraph (f) is removed and paragraph (e)(2) is revised to read as follows:

§ 2.105 Notice of proposed action.

* * * * *

(e) * * *

(2) If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the presiding officer who shall be an Atomic Safety and Licensing Board established by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the presiding officer will issue a notice of hearing or an appropriate order.

■ 6. In § 2.402, paragraph (a) is revised to read as follows:

§ 2.402 Separate hearings on separate issues; consolidation of proceedings.

(a) In the case of applications under appendix N of part 52 of this chapter for construction permits for nuclear power reactors of a type described in § 50.22 of this chapter, the Commission or the presiding officer may order separate hearings on particular phases of the proceeding, such as matters related to the acceptability of the design of the reactor, in the context of the site parameters postulated for the design or environmental matters.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 7. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 8. Section 50.8 paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.68, 50.69, 50.70, 50.71, 50.72, 50.74, 50.75, 50.80, 50.82, 50.90, 50.91, 50.120, and appendices A, B, E, G, H, I, J, K, M, N,O, Q, R, and S to this part.

* * * * *

§ 50.33a [Removed]

■ 9. Section 50.33a is removed.

■ 10. Section 50.80 paragraph (b) is revised to read as follows:

§ 50.80 Transfer of licenses.

* * * * *

(b) An application for transfer of a license shall include as much of the information described in §§ 50.33 and 50.34 of this part with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license. The Commission may require additional information such as data respecting proposed safeguards against hazards from radioactive materials and the applicant's qualifications to protect against such hazards. The application shall include also a statement of the purposes for which the transfer of the license is requested, the nature of the transaction necessitating or making desirable the transfer of the license, and an agreement to limit access to Restricted Data pursuant to § 50.37. The Commission may require any person who submits an application for license pursuant to the provisions of this section to file a written consent from the existing licensee or a certified copy of an order or judgment of a court of competent jurisdiction attesting to the person's right (subject to the licensing requirements of the Act and these regulations) to possession of the facility involved.

* * * * *

Appendix L to Part 50—[Removed and Reserved]

■ 11. Appendix L to part 50 is removed and reserved.

■ 12. In Appendix N to part 50, paragraph 2, is revised to read as follows:

Appendix N to Part 50—Standardization of Nuclear Power Plant Designs; Licenses To Construct and Operate Nuclear Power Reactors of Duplicate Design at Multiple Sites

* * * * *

2. Applications for construction permits submitted pursuant to this appendix must include the information required by §§ 50.33, 50.34(a) and 50.34a(a) and (b) and be submitted as specified in § 50.4. The applicant shall also submit the information required by § 51.50 of this chapter.

* * * * *

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

■ 14. Section 52.77 is revised to read as follows:

§ 52.77 Contents of applications; general information.

The application must contain all of the information required by 10 CFR 50.33, as that section would apply to applicants for construction permits and operating licenses.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 15. The authority citation for part 140 is revised to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576 as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Pub. L. 109–58.

■ 16. In § 140.11, paragraph (a)(4) is revised to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) * * *

(4) In an amount equal to the sum of $300,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges equal to the pro rata share of the aggregate public liability claims and costs, excluding costs payment of which is not authorized by section 170o.(1)(D) of the Act, in excess of that covered by primary financial protection) for each nuclear reactor which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more: Provided, however, that under such a plan for deferred premium charges for each nuclear reactor which is licensed to operate, no more than $95,800,000 with respect to any nuclear incident (plus any surcharge assessed under subsection 170o.(1)(E) of the Act) and no more than $15,000,000 per incident within one calendar year shall be charged. *Except that*, where a person is authorized to operate a combination of 2 or more nuclear reactors located at a single site, each of which has a rated capacity of 100,000 or more electrical kilowatts but not more than 300,000 electrical kilowatts with a combined rated capacity of not more than 1,300,000 electrical kilowatts, each such combination of reactors shall be considered to be a single nuclear reactor for the sole purpose of assessing the applicable financial protection required under this section.

* * * * *

Dated at Rockville, Maryland this 11th day of October, 2005.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. 05–21342 Filed 10–26–05; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA–2004–19630; Amendment No. 61–109]

RIN 2120–AI38

Second-in-Command Pilot Type Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: We are correcting errors in a final rule published in the **Federal Register** on August 4, 2005. That final rule revised pilot certification regulations by establishing a second-in-command (SIC) pilot type rating and associated qualifying procedures. We are also correcting cross references and other minor errors in the pre-existing

regulations that were inadvertently carried over.

DATES: These corrections are effective September 6, 2005.

FOR FURTHER INFORMATION CONTACT: John D. Lynch, Certification and General Aviation Operations 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:

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. domestic airspace and land in foreign countries to obtain the SIC pilot type rating. The amendments also established 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.

On September 9, 2005, the FAA published a final rule establishing a compliance date for the SIC pilot type rating final rule. See 70 FR 53560. 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.

Neither the effective date, nor the compliance date, of the final rule are affected by these corrections. These corrections are effective as if they had been included in the final rule. Accordingly, these corrections have the same effective date as the final rule, September 6, 2005.

Description of Corrections

As described below, the FAA is making non-substantive corrections to the SIC pilot type rating final rule.

14 CFR 61.55(a)

We are deleting the introductory phrase ''Except as provided in paragraph (f) of this section.'' That phrase erroneously excludes pilots employed by operators that conduct operations under subpart K of part 91, parts 121, 125, or 135 from the requirement to hold a SIC pilot type rating. In the preamble of the final rule, we did not exclude pilots conducting operations under subpart K of part 91, parts 121, 125, or 135 from the requirement to hold the SIC pilot type rating when operating an aircraft outside U.S. domestic airspace that takeoffs or lands in a foreign country. The entire purpose for the amendments under 14 CFR 61.55 was to conform U.S. pilot type rating requirements to the International Civil Aviation Organization's (ICAO) pilot type ratings standards (See ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A). This change conforms the regulatory language to the preamble discussion.

14 CFR 61.55(a)(2)

We are adding the words ''or privilege'' to acknowledge that those who hold an airline transport pilot certificate where instrument privileges are inferred also may qualify for the SIC pilot type rating. This action corrects an error in the pre-existing rule that was inadvertently carried over into the final rule adopted on August 4, 2005.

14 CFR 61.55(b)

We are correcting an erroneous cross reference in the introductory language of this paragraph to read ''Except as provided in paragraph (e) of this section.'' By adding the SIC pilot type rating requirements while retaining some of the original language, the August 4, 2005, final rule unintentionally created an exception. Pilots who have satisfactorily completed a proficiency check or competency check under subpart K of part 91, parts 121, 125, or 135 do not have to complete the familiarization training of paragraph (b).

14 CFR 61.55(b)(2)

We are deleting the cross reference in the introductory language because it is unnecessary.

14 CFR 61.55(d) and (e)

We are adding the phrase ''provided the training was completed within the 12 calendar months before the month of application for the SIC pilot type rating'' to both paragraphs (d) and (e). This will conform the regulatory text to the preamble discussion in the August 4, 2005, final rule. In the preamble to the final rule, we provided examples illustrating that completion of the required training had to occur within the 12 calendar months before the month of application for the SIC pilot type rating. This was clearly the intent of the final rule, yet the corresponding regulatory language was inadvertently omitted from the regulatory text.

14 CFR 61.55(f)

We are amending the introductory language of this paragraph to exempt certain pilots from the familiarization training requirements of 14 CFR 61.55(b). This action corrects an error in pre-existing 14 CFR 61.55(d) that was inadvertently carried over into the August 4, 2005, final rule.

Pilots employed by operators that conduct operations under subpart K of part 91 and parts 121, 125, or 135 do not have to complete the SIC familiarization training described under paragraph (b) of this section. Instead, pilots that are employed by operators that conduct operations under subpart K of part 91 and parts 121, 125, or 135 must comply with the requirements of paragraph (e) of this section to qualify for a SIC pilot type rating.

14 CFR 61.55(i)

We are deleting the introductory phrase ''Except as provided in paragraph (h) of this section.'' This action corrects an error in pre-existing 14 CFR 61.55(g) that was inadvertently carried over into the August 4, 2005, final rule, which redesignated paragraph (g) as paragraph (i).

We are adding the phrase ''The training required under paragraphs (b) and (d) of this section and the training and proficiency check required under paragraph (e) of this section.'' This clarifies that a flight simulator may be used in an approved training course conducted by a training center certificated under part 142 of this chapter or for the training and proficiency check under parts 121 or 135 of this chapter. This is a non-substantive correction because parts 121 and 135 already allow the use of a flight simulator in an approved training course and for the required proficiency/competency check.

14 CFR 61.55(j)

We are deleting the phrase ''who is qualifying under the terms of paragraph (g) of this section'' because it is

unnecessary. We also made editorial changes for the purpose of clarity.

Under our rules in effect before we adopted the August 4, 2005, final rule, certain pilots who received SIC training in an approved flight simulator did not have to complete at least one takeoff and landing in an aircraft of the type for which they were seeking the SIC qualification. See pre-existing 14 CFR 61.55(d). The August 4, 2005, final rule eliminated the exception. This had the unintentional effect of requiring the previously exempt simulator trainees to complete an actual takeoff and landing. This is a significant new requirement—one that we could not undertake without giving the public adequate notice and opportunity to comment. Thus, this correction adds a sentence to paragraph (j) of § 61.55 to re-establish the pre-existing exception. Pilots who complete a proficiency check under part 121 (*i.e.*, § 121.441) or competency check under subpart K, part 91 (*i.e.*, § 91.1065), part 125 (*i.e.*, § 125.287), or part 135 (*i.e.*, § 135.293) do not have to complete a takeoff and landing in an aircraft of the type for which they seek the SIC qualification.

Good Cause for Foregoing Public Notice and Comment

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before a rule takes effect. This is to comply with section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)). However, we can waive the public notice and comment procedure if we find, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest. We must provide a statement of the finding and the reasons for it.

The SIC pilot type rating requirements under the August 4, 2005, final rule were subject to notice and comment procedures. This correction notice makes changes to conform the regulatory text to the requirements described in the preamble of the August 4, 2005, final rule. This correction notice also changes incorrect references and corrects errors in the pre-existing regulations that were inadvertently carried over. This correction notice is intended to ensure that the August 4, 2005, final rule accurately reflects the SIC pilot type rating requirements. Therefore, we find it unnecessary to undertake further notice and comment procedures with respect to this correction notice.

Good Cause for Waiving the 30-Day Delay in Effective Date

We ordinarily provide a 30-day delay in the effective date of a final rule after the date of publication in the **Federal Register**. This is to comply with section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)). However, we can waive the 30-day delay if we find, for good cause, that the delay is impracticable, unnecessary, or contrary to the public interest. We must provide a statement of the finding and the reasons for it.

We find that it is in the public interest to ensure that the August 4, 2005, final rule accurately reflects the SIC pilot type rating requirements. A delay in the effective date of these corrections would be contrary to the public interest. We also find that it is in the public interest to apply the changes in the correction notice retroactively to September 6, 2005, the effective date of the August 4, 2005, final rule. There is a limited amount of time available for affected pilots to comply with the final rule. The compliance date is June 6, 2006. Any further delay in the effective date of these changes would reduce the amount of time available.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Aviation safety, and Reporting and recordkeeping requirements.

The Amendment

■ For the reasons stated above, the Federal Aviation Administration amends Chapter I of Title 14 of the Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Amend § 61.55 as follows:
■ a. Revise the introductory language of paragraph (a) as set forth below;
■ b. Revise paragraph (a)(2) as set forth below;
■ c. Revise the introductory language of paragraph (b) as set forth below;
■ d. Revise the introductory language of paragraph (b)(2) as set forth below;
■ e. Revise the introductory language of paragraph (d) as set forth below;
■ f. Revise the introductory language of paragraph (e) as set forth below;
■ g. Revise the introductory language of paragraph (f) as set forth below;
■ h. Revise paragraph (i) as set forth below; and
■ i. Revise paragraph (j) as set forth below:

§ 61.55 Second-in-command qualifications.

(a) A person may serve as a second-in-command of an aircraft type certificated for more than one required pilot flight crewmember or in operations requiring a second-in-command pilot flight crewmember only if that person holds:

* * * * *

(2) An instrument rating or privilege that applies to the aircraft being flown if the flight is under IFR; and

* * * * *

(b) Except as provided in paragraph (e) of this section, no person may serve as a second-in-command of an aircraft type certificated for more than one required pilot flight crewmember or in operations requiring a second-in-command unless that person has within the previous 12 calendar months:

* * * * *

(2) Except as provided in paragraph (g) of this section, performed and logged pilot time in the type of aircraft or in a flight simulator that represents the type of aircraft for which second-in-command privileges are requested, which includes—

* * * * *

(d) A person may receive a second-in-command pilot type rating for an aircraft after satisfactorily completing the second-in-command familiarization training requirements under paragraph (b) of this section in that type of aircraft provided the training was completed within the 12 calendar months before the month of application for the SIC pilot type rating. The person must comply with the following application and pilot certification procedures:

* * * * *

(e) A person may receive a second-in-command pilot type rating for the type of aircraft after satisfactorily completing an approved second-in-command training program, proficiency check, or competency check under subpart K of part 91, part 121, part 125, or part 135, as appropriate, in that type of aircraft provided the training was completed within the 12 calendar months before the month of application for the SIC pilot type rating. The person must comply with the following application and pilot certification procedures:

* * * * *

(f) The familiarization training requirements of paragraph (b) of this section do not apply to a person who is:

* * * * *

(i) The training under paragraphs (b) and (d) of this section and the training,

proficiency check, and competency check under paragraph (e) of this section may be accomplished in a flight simulator that is used in accordance with an approved training course conducted by a training center certificated under part 142 of this chapter or under subpart K of part 91, part 121 or part 135 of this chapter.

(j) When an applicant for an initial second-in-command qualification for a particular type of aircraft receives all the training in a flight simulator, that applicant must satisfactorily complete one takeoff and one landing in an aircraft of the same type for which the qualification is sought. This requirement does not apply to an applicant who completes a proficiency check under part 121 or competency check under subpart K, part 91, part 125, or part 135 for the particular type of aircraft.

Issued in Washington, DC, on October 21, 2005.

Rebecca B. MacPherson,

Assistant Chief Counsel, Regulations Division, Office of the Chief Counsel.

[FR Doc. 05–21463 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

RIN 1010–AD27

Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)—Waiver of Fees

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule; waiver of fees.

SUMMARY: In light of the interruption of operations of the MMS Gulf of Mexico Region (GOMR) in the wake of Hurricanes Katrina and Rita, this rule waives until January 3, 2006, the payment of certain existing cost recovery fees that would be paid to MMS.

EFFECTIVE DATE: This regulation is effective on October 27, 2005.

FOR FURTHER INFORMATION CONTACT: Angela Mazzullo, Offshore Minerals Management (OMM) Budget Office at (703) 787–1691.

SUPPLEMENTARY INFORMATION:

Background

MMS regulations currently charge cost recovery fees to lessees of Federal offshore oil and gas leases to offset the bureau's operating costs for specific administrative services provided to a particular lessee. These include pipeline right-of-way (ROW) grant applications, conversion of lease term pipelines to ROW pipelines, pipeline ROW assignments, record title/operating rights transfers, and filing of non-required documents.

Under current rules, these fees are established at the following rates under the following regulations:

Pipeline ROW grant application	$2,350	30 CFR 250.1015(a).
Conversion of lease term pipeline to ROW pipeline	300	30 CFR 250.1015(a).
Pipeline ROW assignment	60	30 CFR 250.1018(b).
Record title/operating rights transfer	185	30 CFR 256.64(a)(8).
Non-required document filing	25	30 CFR 256.64(a)(8).

On August 29, 2005, Hurricane Katrina came ashore on the Gulf of Mexico coast. The resultant flood of the City of New Orleans, Louisiana, forced the evacuation of the city and areas in the immediate vicinity. The evacuation area included MMS' GOMR office in Metairie, Louisiana. MMS has not been able to re-occupy the GOMR office and will not be able to do so for some time. While MMS GOMR personnel have resumed certain essential operations and services at a new temporary location in Houston, Texas, it is not possible to restore all functions and systems in that location in the immediate future. In addition, many MMS employees in the GOMR office have suffered severe property loss and personal and family dislocation, and will not be able to return to work immediately. When Hurricane Rita struck the Louisiana/Texas coast in September 2005, it further exacerbated these problems.

Among the operations that have been disrupted as a result of the hurricanes and the closure of the GOMR office in Metairie, is the collection and disposition of, and proper accounting for, cost recovery fees, including the fees identified above. Because very few of the documents identified are filed in either MMS' Pacific Region office or MMS' Alaska Region office, the computers that handle these payments are integrated with the GOMR office computers. Consequently MMS is temporarily unable to process payments that would be made to those offices.

Immediate Final Rule

Because the MMS presently cannot receive or handle cost recovery fee payments from lessees until it is able to restore or replace that part of its operations, MMS is suspending the operation of the provisions identified above until January 3, 2006.

The Administrative Procedure Act, at 5 U.S.C. 553(b), requires an agency to publish a proposed rule and seek public comment before promulgating a final rule, except

> (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

Under this provision, MMS for good cause finds that notice and public comment on this rulemaking is impracticable, unnecessary, and contrary to the public interest. The GOMR office's current situation cannot be changed or affected through public comment, and the need to suspend the operation of the cost recovery provisions is immediate.

The Administrative Procedure Act, at 5 U.S.C. 553(d) further provides:

> (d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—
>
> (1) A substantive rule which grants or recognizes an exemption or relieves a restriction;
>
> (2) Interpretative rules and statements of policy; or
>
> (3) As otherwise provided by the agency for good cause found and published with the rule.

As explained above, the need to suspend the operation of the cost recovery provisions is immediate and arises in much less than 30 days. MMS operations would be unnecessarily hindered if MMS were not to make this rule effective immediately. Therefore, MMS for good cause finds that this rule should take effect immediately.

If the GOMR office is not able to restore normal operations by January 3, 2006, MMS may consider extending the suspension of the cost recovery provisions.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This document is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This rule will not have an annual effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule waives for a limited time certain fees previously established based on cost recovery principles.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because the costs incurred are for specific MMS services and other agencies are not involved in these aspects of the OCS program.

(3) This rule will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This change will have no effect on the rights of the recipients of entitlements, grants, user fees, or loan programs. The fees waived by this rule are service fees based on cost recovery, and not user fees.

(4) This rule will not raise novel legal or policy issues.

Regulatory Flexibility Act (RFA)

MMS certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*).

This change will affect lessees and operators of leases in the OCS. This includes about 130 Federal oil and gas lessees and 115 holders of pipeline rights-of-way. Small lessees that operate under this rule will fall under the Small Business Administration's (SBA) North American Industry Classification System Codes (NAICS) 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. For these NAICS code classifications, a small company is one with fewer than 500 employees. Based on these criteria, an estimated 70 percent of these companies are considered small. This rule, therefore, affects a substantial number of small entities.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. MMS is simply waiving certain service-based fees, not increasing them. The total estimated fee revenue MMS would waive until January 3, 2006 is between $400,000 and $500,000.

Comments are important. The SBA Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the SBA without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This is not a major rule under the SBREFA (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Leasing on the U.S. OCS is limited to residents of the U.S. or companies incorporated in the U.S. This rule does not change that requirement.

Unfunded Mandates Reform Act (UMRA) of 1995

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required. This is because the rule will not affect State, local, or tribal governments, and the effect on the private sector is small.

Takings Implication Assessment (Executive Order 12630)

With respect to E.O. 12630, the rule will not have significant takings implications. A Takings Implication Assessment is not required. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

Federalism (Executive Order 13132)

With respect to E.O.13132, the rule will not have Federalism implications. It will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this change will not affect that role.

Civil Justice Reform (Executive Order 12988)

With respect to E.O. 12988, the Office of the Solicitor has determined that this rule will not unduly burden the judicial system, and meets the requirements of Sections 3(a) and 3(b)(2) of the E.O.

Paperwork Reduction Act (PRA) of 1995

This rulemaking relates to 30 CFR part 250, subpart J and to 30 CFR part 256, subpart J. The rulemaking affects the information collections for these regulations but will not change the approved burden hours, just the associated fees. Therefore, OMB has determined that there is no change in the information collection and that MMS does not need to make a formal submission by Form OMB 83–I for this rulemaking.

OMB has approved the information collections for the affected regulations as 30 CFR part 250, subpart J, 1010–0050 and 30 CFR part 256, subpart J, 1010–0006. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA) of 1969

The MMS has determined that this rule is administrative and involves changes addressing fee requirements. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the NEPA, pursuant to 516 DM 2.3A and 516 DM 2, Appendix 1, Item 1.10.

In addition, the rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means categories of actions which do not individually or cumulatively have a significant effect on the human environment and which have no such effect in procedures adopted by a Federal agency and therefore require neither an environmental assessment nor an environmental impact statement.

Effects on the Nation's Energy Supply (Executive Order 13211)

E.O. 13211 requires the agency to prepare a Statement of Energy Effects when it takes a regulatory action that is identified as a significant energy action. This rule is not a significant energy action, and therefore does not require a Statement of Energy Effects, because it:

(1) Is not a significant regulatory action under E.O. 12866,

(2) Is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and

(3) Has not been designated by the Administrator of the OIRA, OMB, as a significant energy action.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with E.O. 13175, this rule will not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

Clarity of This Regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Public lands—mineral resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulphur.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Intergovernmental relations, Oil and gas exploration, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: October 17, 2005.

Chad Calvert,

Acting Assistant Secretary—Land and Minerals Management.

■ For the reasons explained in the preamble, MMS amends 30 CFR parts 250 and 256 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

■ 2. Section 250.1015 is amended by adding a new paragraph (e) as follows:

§ 250.1015 Applications for pipeline rights-of-way grants.

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section, the requirements to pay filing fees under that paragraph are suspended until January 3, 2006.

■ 3. Section 250.1018 is amended by adding a new paragraph (c) as follows:

§ 250.1018 Assignment of pipeline right-of-way grants.

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this section, the requirement to pay a filing fee under that paragraph is suspended until January 3, 2006.

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

■ 4. The authority for part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*, 42 U.S.C. 6213.

■ 5. Section 256.64 is amended by adding a new paragraph (a)(9) as follows:

* * * * *

(a) * * *

(9) Notwithstanding the provisions of paragraph (a)(8) of this section, the requirements to pay a filing fee in connection with any application for approval of any instrument of transfer and to pay a fee in connection with documents not required to be filed are suspended until January 3, 2006.

* * * * *

[FR Doc. 05–21281 Filed 10–26–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024—AC93

Pictured Rocks National Lakeshore, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule designates areas where personal watercraft (PWC) may be used in Pictured Rocks National Lakeshore, Michigan. This final rule implements the provisions of the National Park Service (NPS) general regulations authorizing parks to allow the use of PWC by promulgating a special regulation. The NPS Management Policies 2001 require individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives.

DATES: This rule is effective October 27, 2005.

ADDRESSES: Mail inquiries to Superintendent, Pictured Rocks National Lakeshore, N8391 Sand Point Road, P.O. Box 40, Munising, Michigan 49862–0040. E-mail to *PIRO@den.nps.gov.*

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Jerry_Case@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of personal watercraft (PWC) use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall

management objectives. The regulation prohibits PWC use in all park units effective April 20, 2000, except a limited exception was provided for 21 parks, lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to give these 21 park units time to consider whether PWC use should be allowed. Accordingly, on April 22, 2002, Pictured Rocks National Lakeshore closed for PWC use.

Description of Pictured Rocks National Lakeshore

Pictured Rocks National Lakeshore is situated in the north-central section of Michigan's Upper Peninsula, along the southern shore of Lake Superior. The eastern half of the Upper Peninsula is bounded by Lakes Superior, Michigan, and Huron. There are a variety of other national parks in the upper Great Lakes, including Apostle Islands National Lakeshore and Isle Royale National Park on Lake Superior, and Sleeping Bear Dunes and Indiana Dunes National Lakeshores on Lake Michigan. Canadian provincial parks are also located on Lake Superior.

The national lakeshore stretches from Munising to Grand Marais, approximately 40 miles to the northeast. The shoreline consists of narrow sandy beaches, sandstone cliffs, and a perched sand dune system. The sandy shoreline is susceptible to erosion from natural weather conditions.

Pictured Rocks National Lakeshore was authorized in 1966. The lakeshore is noted for its multicolored sandstone cliffs, beaches, sand dunes, waterfalls, inland lakes, wildlife, and forested shoreline. Attractions include a lighthouse and former Coast Guard lifesaving stations, along with old farmsteads and orchards. The lakeshore is a year-round recreational destination where hiking, camping, hunting, nature study, and winter activities abound.

Purpose of Pictured Rocks National Lakeshore

As formulated during the Pictured Rocks National Lakeshore general management planning process, the purpose of the national lakeshore includes the following:

- Preserve a portion of the Great Lakes shoreline for its geographic, scientific, scenic, and historic features, and its associated ecological processes.
- Provide opportunities for public benefit in recreation, education, enjoyment, and inspiration.
- Protect the character and use of the shoreline zone while allowing economic utilization of the inland buffer zone's renewable resources.

Significance of Pictured Rocks National Lakeshore

As stated in the national lakeshore's Draft General Management Plan/Wilderness Study/Environmental Impact Statement, Pictured Rocks National Lakeshore is significant because:

1. Pictured Rocks National Lakeshore preserves and affords public access to a spectacular and diverse segment of the Lake Superior shoreline.
2. Unmatched in their scenic value, the 200-foot high Pictured Rocks cliffs rise perpendicularly from Lake Superior, creating a rock mosaic of form, color, and texture, which is enhanced by cascading waterfalls. Grand Sable Dunes, perched atop 300-foot-high sand banks above Lake Superior, is one of two perched dune systems on the Great Lakes; within these dunes live unique plant communities resulting from geomorphic processes.
3. Twelve miles of unspoiled and undeveloped Lake Superior beach contrast with the Pictured Rocks cliffs and Grand Sable Dunes.
4. Bedrock geology and glacial landforms provide significant topographic relief marked by streams, inland lakes, and a diversity of associated vegetation.
5. The shoreline offers extraordinary and inspirational scenic vistas of Lake Superior, which has the largest surface area of any fresh water lake on earth.
6. Pictured Rocks National Lakeshore offers a variety of affordable year-round recreational opportunities for appropriate public use.
7. Within a distinct area, the lakeshore contains a spectrum of cultural resources focused on the human use of Lake Superior and its shoreline.
8. Lying in a transition zone between boreal and eastern hardwood forest, the lakeshore's scientifically recognized assemblage of flora and fauna is representative of associations unique to the Lake Superior Basin.
9. Pictured Rocks National Lakeshore is the only national park system area with a legislated buffer zone.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''.

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''.

As with the United States Coast Guard, NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and Commerce Clauses of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' (16 U.S.C. 1a–2(h)). In 1996 the NPS published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Pictured Rocks National Lakeshore

PWC use in Pictured Rocks National Lakeshore began around 1990. Before the ban, use was only allowed on Lake Superior, and it was relatively low. Restrictions on inland lakes precluded PWC use on those lakes. Pictured Rocks National Lakeshore has jurisdiction on the surface water of Lake Superior extending 0.25 mile from the shoreline. This final rule would only apply to the waters under the lakeshore's jurisdiction. In addition, Michigan's Personal Watercraft Safety Act of 1998 (Public Act 116) stipulates regulations for PWC use. One of the regulations is that personal watercraft cannot operate within 200 feet of the shoreline unless traveling perpendicular to shoreline at no-wake speed.

Before the ban, PWC operation on Lake Superior was concentrated between Sand Point and Chapel Beach, along the Lake Superior shoreline. The eastern side of the park had little PWC use. Rivers and streams within Pictured Rocks National Lakeshore are not accessible to personal watercraft due to extremely small size, shallow depths, and rocky bottoms. On inland lakes within the Lakeshore boundaries, the size of powerboat engines is restricted to two- and four-stroke internal

combustion engines of 50 hp or less, essentially eliminating PWC use.

Before the ban was imposed, most PWC users at the park were from within 100 miles of the lakeshore. Based on staff observations, some users came from other parts of Michigan, Wisconsin, and Minnesota, and perhaps Ohio and Illinois. There are many other areas for water-based recreation in this portion of the Upper Peninsula, including State parks, national forests, and other lakes with public access. Such areas include other portions of Lake Superior (excluding the shore of Grand Island), many lakes within the Escanaba River and Lake Superior State Forests, several lakes within the Hiawatha National Forest, Manistique Lake, South Manistique Lake, and Lake Michigan.

To document actual PWC use and to provide peak usage information, staff conducted a survey at the Sand Point launch July 4–8, 2001. During the five-day survey, small craft warnings prohibited personal watercraft on two days. PWC use for the remaining three days ranged from 8 to 13 personal watercraft each day. Thus, the peak number of personal watercraft that were operating before the ban in the lakeshore was 13 per day—6.6 from the Sand Point launch and 6.6 from the Munising boat ramp.

Before the ban, because personal watercraft were also launched from the Munising boat ramp on the west end of the lakeshore, the city was contacted to determine launch numbers. However, specific data were not available. Based on discussions with lakeshore staff, the number of personal watercraft launched from Munising was assumed to be the same as the number launched from Sand Point. Based on the analysis of the survey and assumptions, 6.6 personal watercraft would be launched from the Munising boat ramp each day during July and August weekends. All of these personal watercraft would likely travel within the lakeshore's jurisdiction.

Grand Marais, on the east end of the lakeshore, also has boat launch facilities. According to city staff, very few personal watercraft are launched—perhaps 12 all summer, for an average of 1 personal watercraft every seven days. This analysis assumes that on average no personal watercraft would be launched from Grand Marais during July and August.

The low PWC numbers are primarily a result of the cold water temperature, cool ambient air temperature, changeable weather conditions, and heavy winds and wave action. The average PWC trip within Pictured Rocks National Lakeshore lasted between three and five hours, from mid morning to mid or late afternoon. State regulations restrict operations to the hours of 8 a.m. to one hour before sunset. Most PWC users cruised and sometimes raced along the shoreline, explored the rock cliffs up close, jumped the wakes of tour boats (which make 4–5 foot swells), and traveled to beach destinations and spent the day or afternoon on the beach. Fewer PWC users assembled in pontoons and did short trips or went to beach areas. A very small number may have done day trips between Munising and Grand Marais (40+ miles). Only a few users asked about PWC camping opportunities.

Before the ban, PWC users were distributed throughout the lakeshore. According to NPS staff, most personal watercraft were operated on the west end of the lakeshore. This is consistent with the launch locations and predicted launch numbers. Few PWC operators traveled the entire length of the lakeshore due to the long distance, rough waters, and potential for changing weather.

Generally, there is very little information specific to visitor concerns about PWC use. Visitor surveys were conducted for the winter of 1999–2000 and for the summer of 2000 (with questions specific to PWC use in the national lakeshore). A majority of the respondents to the survey supported or strongly supported restricting PWC use to designated areas. No PWC accidents have been observed or reported to NPS staff. Five incident reports have been documented, one for operating too close to other motorcraft, two for operating too close to swimmers, and two for operating illegally on inland lakes. There are no observations or reports related to natural resource concerns.

Notice of Proposed Rulemaking and Environmental Assessment

On November 15, 2004, the National Park Service published a Notice of Proposed Rulemaking (NPRM) for the operation of PWC at Pictured Rocks National Lakeshore (69 FR 65556). The proposed rule for PWC use was based on alternative B (one of three alternatives considered) in the Environmental Assessment (EA) prepared by NPS for Pictured Rocks National Lakeshore. The environmental assessment was available for public review and comment for the period August 1 through November 15, 2002. An errata sheet was prepared to address the changes to alternative B, the preferred alternative. To request a copy of the document and the errata sheet contact Superintendent, Pictured Rocks National Lakeshore, N8391 Sand Point Road, P.O. Box 40, Munising, MI 49862–0040. A copy of the Environmental Assessment and the errata sheet may also be found at *http://www.nps.gov/piro/pwc/pwc.htm*.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the management of PWC use at Pictured Rocks National Lakeshore to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Lakeshore's enabling legislation, purpose, mission, and goals. The assessment assumed alternatives would be implemented beginning in 2002 and considered a 10-year period, from 2002 to 2012.

The environmental assessment evaluated three alternatives addressing the use of personal watercraft at Pictured Rocks National Lakeshore. The errata sheet modified one of the alternatives, Alternative B. Each alternative is described below:

Alternative A—Under alternative A, PWC use would continue as was provided and managed within Pictured Rocks National Lakeshore before the ban. PWC use would be unrestricted on Lake Superior from the lakeshore's 0.25-mile jurisdictional boundary to the lakeshore's shoreline. Launch and retrieval of personal watercraft would be permitted only at the Sand Point boat ramp on Lake Superior. PWC users would be able to land anywhere along the shoreline. PWC users would continue to abide by Michigan's Personal Watercraft Safety Act of 1998 (Public Act 116) and related regulations.

Alternative B—Alternative B was modified by the errata dated October 2003. Under the modified alternative B, PWC use would be allowed to operate on the waters of Lake Superior within the boundaries of Pictured Rocks National Lakeshore from the western boundary of the lakeshore up to the east end of Miners Beach.

PWC use would be allowed under the following conditions: Personal watercraft may only be launched from a designated launch site at Sand Point, PWC users may beach their craft only at Sand Point Beach and Miners Beach, and PWC users may not launch or operate in any other area of the lakeshore. The superintendent of the park may temporarily limit, restrict, or terminate access to areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. PWC use would be restricted at specific locations during the permitted use of ethnographic resources. Boat patrols would be conducted in the vicinity of

the ethnographic resource use in order to reduce the potential for PWC-related intrusion into the ceremonial activity. PWC users would continue to abide by Michigan's Personal Watercraft Safety Act of 1998 (Public Act 116) and related regulations, as identified in alternative A. This alternative would allow PWC use along the Lake Superior shoreline within the western end of the park, covering approximately 8 miles of shoreline. The numbers of personal watercraft would not be restricted.

No-Action Alternative—Under the no-action alternative, the National Park Service would take no action to reinstate the use of personal watercraft at Pictured Rocks National Lakeshore and no special rule would be promulgated to continue personal watercraft use. Under this alternative, NPS would continue to prohibit personal watercraft use at Pictured Rocks National Lakeshore begun on April 22, 2002.

As stated in the NPRM, alternative B is the park's preferred alternative because it best fulfills the park responsibilities as trustee of the sensitive habitat; ensures safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attains a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences. This final rule contains regulations to implement alternative B at Pictured Rocks National Lakeshore.

Summary of Comments

A proposed rule was published in the **Federal Register** for public comment on November 15, 2004, with the comment period lasting until January 14, 2005 (69 FR 65556). The National Park Service (NPS) received 600 timely written responses regarding the Environmental Assessment (EA) and proposed regulation. Of the responses, 387 were form letters in 6 different formats, and 213 were separate letters. Of the 213 separate letters, 202 were from individuals, 8 from organizations, one from a congressional affiliation, and 2 from government agencies. Within the following discussion, the term ''commenter'' refers to an individual, organization, or public agency that responded. The term ''comments'' refers to statements made by a commenter.

General Comments

1. One commenter stated that the Environmental Assessment (EA) failed to use the best data available and picked alternative B without adequate scientific justification.

NPS Response: Where data was lacking, best professional judgment prevailed, using assumptions and extrapolations from scientific literature, other park units where personal watercraft (PWC) are used, and personal observations of park staff. The NPS believes that the EA is in full compliance with the court-ordered settlement and that the Finding of No Significant Impact (FONSI) shows that modified alternative B (Continued PWC use under special NPS regulation with management restrictions) is the preferred alternative and that decision has been adequately analyzed and explained.

2. The American Land Alliance suggested that the EA fails to analyze the surrounding opportunities for PWC use in the Upper Peninsula, because there are ample opportunities outside the park for PWC use, including state and private lands.

NPS Response: The location of nearby launching facilities is described in several sections of the EA and includes the Munising boat ramp and Grand Marais public launch, as well as the lakeshore's Sand Point launch. The EA notes that there are many other areas for water-based recreation in the central Upper Peninsula, including state parks, national forests, and other lakes with public access (See page 51 of the EA, Affected Environment—Visitor Use and Experience). There is a text change on the errata sheet adding other areas available for water-based recreation.

3. One commenter stated that the labeling of the alternative prohibiting PWC as the ''no-action alternative'' is misleading since PWC have been used without restriction for many years at the lakeshore. The commenter suggested issuing a revised EA with a clear designation of a No PWC alternative, and providing a new comment period after the revised EA is released.

NPS Response: The NPS Director's Order #12 states that a full range of alternatives must be examined and that ''the alternatives carried forward for analysis must meet project objectives to a large degree, although not necessarily completely.'' Under a full range of alternatives, the no-action alternative is developed as a viable choice in the range of alternatives and it sets a baseline of existing impact continued into the future against which to compare impacts of action alternatives. The No-Action alternative is a continuation of existing conditions and activities, which at the time the environmental analyses were being conducted was a ban on personal watercraft.

4. Two commenters stated that the EA fails to meet the requirements of NEPA because a reasonable range of alternatives was not evaluated.

NPS Response: A summary of the personal watercraft litigation is contained under ''Personal Watercraft Regulatory Framework'' in the ''Purpose and Need'' chapter of the EA. The NPS had to comply with the court order, which resulted from Bluewater v. Stanton, and assess the impacts of personal watercraft on those resources specified by the judge, as well as other resources that could be affected. NPS believes a reasonable range of alternatives was evaluated. After analyses were done for every applicable impact topic with the best available data and input from the public was analyzed, Pictured Rocks National Lakeshore management selected modified alternative B as its preferred alternative. Implementation of Alternative B in the final rule will allow PWC use west of Miners Beach.

5. Several commenters stated that allowing PWC use with additional restrictions violates the park's enabling legislation and NPS mandate to protect resources from harm.

NPS Response: No part of the settlement agreement or NPS analysis of PWC use has violated or overturned Pictured Rocks National Lakeshore's enabling legislation. Both the personal watercraft settlement agreement and the authorizing legislation for Pictured Rocks National Lakeshore were considered when developing alternatives for the EA. The objective of the EA, as described in the ''Purpose and Need'' chapter of the EA, was derived from the enabling legislation for Pictured Rocks National Lakeshore. As further stated in this chapter, a special analysis on the management of personal watercraft was also provided under each alternative to meet the terms of the settlement agreement between Bluewater Network and the NPS.

As a result, the alternatives presented in the EA protect resources and values while providing recreational opportunities at Pictured Rocks National Lakeshore. As required by NPS policies, the impacts associated with personal watercraft and other recreational uses are evaluated under each alternative to determine the potential for impairment to park resources. The NPS finds that implementation of the modified preferred alternative (alternative B) in the final rule will not result in impairment of park resources and values for which the Pictured Rocks National Lakeshore was established.

6. One commenter suggested that the EA does not comply with the court settlement with Bluewater Network, and

is out of compliance with the agreement.

NPS Response: A summary of the NPS rulemaking and associated personal watercraft litigation is provided in Chapter 1, Purpose of and Need for Action, Background, of the EA. NPS believes it has complied with the court order and has assessed the impacts of personal watercraft on those resources specified by the judge, as well as other resources that could be affected. This analysis was completed for every applicable impact topic with the best available data, as required by Council on Environmental Quality regulations (40 CFR 1502.22). Where data was lacking, best professional judgment prevailed using assumptions and extrapolations from scientific literature, other park units where personal watercraft are used, and personal observations of park staff.

The NPS believes that the EA is in full compliance with the court-ordered settlement and that the FONSI shows that the decision to implement modified alternative B (Continued PWC use under special NPS regulation with management restrictions) as the preferred alternative in the final rule has been adequately analyzed and explained.

7. One commenter stated that PWC have not been recognized by the U.S. Coast Guard as Class A vessels, and that the Coast Guard has refrained from defining PWC.

NPS Response: The NPS has chosen to define PWC and our definition is as follows: Personal watercraft refers to a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull.

8. One person commented that the EA incorrectly references the Michigan Personal Watercraft Safety Act of 1998 regarding the prohibition of PWC 'through submerged and emergent vegetation.'

NPS Response: The statement in the EA was incorrect and has been updated on the errata sheet as follows: Guiding Regulations and Policies, second paragraph, change last sentence to read ''Personal watercraft are not allowed to operate in waters where the water depth is less than two feet unless the watercraft is being operated at slow, no-wake speed or is being docked or launched.''

9. Several commenters stated that the preferred alternative is likely to violate the Organic Act by sacrificing full protection of park resources if PWC use is allowed within the park. Further, the draft regulations appear to violate the NPS mandate to fully protect park resources by allowing the use of damaging PWC on park waters.

NPS Response: The ''Summary of Laws and Policies'' section in the ''Environmental Consequences'' chapter of the EA summarizes the three overarching laws that guide the National Park Service in making decisions concerning protection of park resources. These laws, as well as others, are also reflected in the NPS Management Policies. An explanation of how the Park Service applied these laws and policies to analyze the effects of personal watercraft on Pictured Rocks National Lakeshore resources and values can be found under ''Impairment Analysis'' in the ''Methodology'' section of the EA.

Impact thresholds are not arbitrary; rather, they are established by a review of applicable literature, consultation with subject matter experts, applicable regulatory standards, and best professional judgment. The methods for establishing specific thresholds are disclosed under each impact topic.

The National Park Service has determined that, under the modified preferred alternative (alternative B), as implemented in this final rule, there will be no major negative impacts on park resources or values.

10. One commenter stated that PWC use estimates used in the EA are inaccurate. Specifically, the launch points within the lakeshore are unmonitored, so the number of PWC that use the lakeshore, along with trends in PWC use, are unknown.

NPS Response: See Errata Sheet, Table 11, for the EA: The totals have been corrected and do not substantially change NPS conclusions.

The 2000 and 2001 data indicate a 1% increase in PWC registration. While PWC registration increased by as much as 19% in 1996, the past five years of data exhibit a substantial decreasing trend in PWC registration in the state. This trend is also confirmed by industry sales data (*http://www.pwia.org/Abo_PWC.htm*). In consultation with park staff and through review of national data, the NPS believes that a 2% annual increase in PWC use at the lakeshore is appropriate.

Historical use of PWC is described on pages 51 and 52 of the ''Affected Environment'' section of the EA. The NPS used all available data to extrapolate PWC use trends within the lakeshore. PWC visitor use trends were determined using data available from the park, discussions with staff, as well as discussions with the Cities of Munising and Burt Township, which oversee local public launch facilities. The best practicable data was used and the NPS is confident that the analysis provides a reasonable evaluation of potential PWC use within the lakeshore.

11. One commenter stated that there is an error in Table 12: Peak Daily Visitor Use Numbers in the EA, because the whole chart is based on an overly simplistic interpretation of the PWC/Motorboat relationship. When segment three states that there will be zero ''PWC users,'' the model accidentally extrapolates that there will be zero ''other motorboats'' as well. In addition, the model should have predicted some amount of growth in kayaking and canoeing over the next 10 years.

NPS Response: Alternative B and the no-action alternative assume that all motorized craft would be excluded from areas designated as primitive under a draft or final general management plan. The potential primitive area would extend 0.25 mile into Lake Superior from the shoreline, between Spray Falls and 1.25 miles east of Sevenmile Creek. The modified preferred alternative (alternative B), as implemented in this final rule, further restricts PWC use by discontinuing PWC use east of Miners Beach.

The number of sea kayakers and canoeists was estimated to increase 5% over the next ten years. A more accurate estimate, per recent discussions with park staff, would be an increase of 5% per year over the next 10 years. Thus, the number of canoeists/kayakers is estimated to increase from 45 persons in 2002 to 73 persons in 2012. These visitors would be distributed throughout the lakeshore. Although this is a relatively large increase in use as compared to the numbers evaluated in the EA, it would not change the evaluation that was completed. As indicated in the Visitor Experience section (page 107 of the EA), most non-motorized craft are concentrated closer to shore, such that interactions between these users and PWC would be infrequent. Additionally, PWC present near the shore are required to travel at flat-wake speed and would have minimal impact on non-motorized watercraft in that area.

Comments Regarding Water Quality

12. One commenter stated that impacts to water quality from PWC are underestimated. Polycyclic Aromatic Hydrocarbons (PAHs) can remain suspended in the water column or deposited in sediment for years after initial deposition. Even minor, short-

term oil spills can cause detrimental damage to aquatic wildlife. Exposure to hydrocarbon (HC) pollution can interfere with biological processes of the lakeshore's plants and wildlife.

NPS Response: The protection of water quality within the Pictured Rocks National Lakeshore has been addressed in the EA in a conservative evaluation of surface water quality impacts. Estimated minimum threshold volumes of water were determined for the PWC use areas where concentrations of gasoline constituents discharged from personal watercraft and other outboard engines could potentially be toxic to aquatic organisms or humans. Using the estimated threshold volumes, volumes of the areas being evaluated, PWC and other motorboat high-use-day loadings of chemicals identified as constituents of gasoline, and water quality benchmarks, it is possible to identify potentially unacceptable impacts to human health or the environment. Chronic water quality benchmarks protective of aquatic populations and protective of human health were acquired from various sources, including USEPA water quality criteria. Potential impacts to wildlife and plants from personal watercraft were addressed in other sections of the EA.

This comment appears to have several errors in its assertions regarding the water quality impact section of the EA: None of the three alternatives is expected to have a ''moderate to major'' impact as stated in the comment. All water quality impacts from personal watercraft are expected to be negligible to minor. Despite the fact that estimated water concentrations of individual PAHs are well below water quality benchmarks, cumulative impacts from PWC and motorboat use were judged to be ''minor to moderate'' when the potential for phototoxicity from total PAHs is considered.

This comment also misquotes the EA as follows: ''* * * most PWC gas and oil spills 'volatize' into the atmosphere * * *''. The EA for Pictured Rocks National Lakeshore considers the range of organic compound behavior in water on page 65 of the EA:

> Many organic pollutants that are initially dissolved in the water volatilize to the atmosphere, especially if they have high vapor pressures, are lighter than water, and mixing occurs at the air/water interface. Other compounds that have low vapor pressure, low solubility, and high octanol/water partition coefficients tend to adhere to organic material and clays and eventually adsorb onto sediments.

13. One commenter stated that the analysis represents an outdated look at potential emissions from an overstated PWC population of conventional two-stroke engines, and underestimated the accelerating changeover to four-stroke and newer two-stroke engines. The net effect is that the analysis overestimates potential PWC HC emissions, including benzene and PAHs, to the water. In addition, the water quality analysis uses assumptions that result in overestimation of potential PWC HC emission to the water. For example, the analysis states that benzo(a)pyrene concentrations in gasoline can be ''up to 2.8 mg/kg.''

NPS Response: The NPS recognizes that the assumption of all personal watercraft using 2-stroke engines in 2002 is conservative but believes it was appropriate to be protective of park resources. The assumption is consistent with emission data available in California Air Resources Board (CARB) (1998) and Bluewater Network (2001). The emission rate of 3 gallons per hour at full throttle is a mid-point between 3 gallons in two hours (1.5 gallons per hour; NPS 1999) and 3.8 to 4.5 gallons per hour for an average 2000 model year personal watercraft (Personal Watercraft and Bluewater Network 2001). The assumption also is reasonable in view of the initiation of production line testing in 2000 (EPA 1997) and expected full implementation of testing by 2006 (EPA 1996).

Reductions in emissions used in the water quality impact assessment are in accordance with the overall hydrocarbon emission reduction projections published by the EPA (1996). EPA (1996) estimates a 52% reduction by personal watercraft by 2010 and a 68% reduction by 2015. The 50% reduction in emissions by 2012 (the future date used in the EA) is a conservative interpolation of the emission reduction percentages and associated years (2010 and 2015) reported by the EPA (1996) but with a one-year delay in production line testing (EPA 1997).

The estimate of 2.8 mg/kg for benzo(a)pyrene in gasoline used in the calculations is considered conservative, yet realistic, since it is within the range of concentrations measured in gasoline, according to Gustafson *et al.* (1997).

14. One commenter stated that the ''cleaner and quieter'' PWC will still cause significant damage to the environment and wildlife because PWC produce pollutants such as PAHs that are toxic to plants and animals even at minute levels.

NPS Response: Personal watercraft and outboard motorboat engines discharge both unburned and burned gasoline and oil. In fact, it was shown in the EA that because more outboards than personal watercraft are used in the lakeshore, the outboards contributed more of the organic compounds evaluated (PAHs and benzene) than personal watercraft. The new engine technology, including four-stroke engines and two-stroke direct injection engines, substantially reduces the emissions of most pollutants to the water and the air. As older personal watercraft are replaced with new, cleaner models, the emission rates of pollutants will decrease.

It is agreed that some research indicates that PAH toxicity can be enhanced by exposure to ultraviolet radiation in oligotrophic lakes having high light penetration (Oris *et al.* 1998). Limited data indicate that, under these conditions, PAHs may have toxic effects on fish and zooplankton at very low concentrations (less than 1 μg/L). Conversely, some PAHs may be degraded via photodegradation or microbial degradation (Fasnacht and Blough 2002; Albers 2002). Impacts to water quality from the emission of selected PAHs present in gasoline emissions (benzo(a)pyrene, naphthalene, and 1-methyl naphthalene) were evaluated in the EA. Also, the potential for increased toxic effects of PAHs is recognized and discussed qualitatively in the impact analyses, where appropriate.

15. One commenter stated that Lake Superior was designated by the U.S. and Canada Joint Commission as a zero discharge body of water, and the considerable amount of pollution discharged by PWC comprises more than ''zero'' discharge.

NPS Response: The impacts of both noise and discharge of burned and unburned fuel by personal watercraft were evaluated in the EA. In 1991, an International Joint Commission recommended that Lake Superior be a ''zero discharge'' demonstration zone (GLC 2003). However, the latest listing (March 2003) of priorities by the Great Lakes Commission in ''2003 Great Lakes Program: Restore the Greatness'' does not mention zero discharge as a priority for the coming year. The only current reference to zero discharge found on the Great Lakes Commission Web site (*http://www.glc.org*) is for zero discharge of aquatic nuisance species that are often carried in ship ballast water that is dumped after the ships enter the Great Lakes. Zero discharge of fuel from recreational boating does not appear to be an achievable objective since one of every three registered recreational vessels in the United States is found in the Great Lakes (GLC 2003). In response to the EPA emission reduction regulations (EPA 1996, 1997),

the discharge of fuel and its associated pollutants by personal watercraft and other motorboats is being reduced. The net effect of this reduction is factored into the EA impact analysis of water quality.

Comments Regarding Air Quality

16. One commenter stated that the analysis does not properly account for the rapid engine conversion that is occurring due to the phase-in of cleaner running engine technologies.

NPS Response: A conservative approach was used in the analysis, since the numbers of PWC that have already converted to four-stroke engines are not known. In addition, the Environmental Protection Agency (EPA) model takes into account the reduction in emissions over time. Even with the conservative approach, the analysis for alternative B presented in the EA indicates that current PWC use at Pictured Rocks National Lakeshore would result in negligible to moderate impacts to air quality.

17. One commenter indicated that direct-injected two-stroke engines are dirtier than four-stroke engines.

NPS Response: The comment is correct in stating the relationships between emissions of two-stroke direct injection and four-stroke PWC engines. EPA NONROAD model factors differ from those of the California Air Resources Board (CARB). As a result of the EPA rule requiring the manufacturing of cleaner PWC engines, the existing carbureted two-stroke PWC will, over time, be replaced with less-polluting PWC models. This replacement, with the anticipated resultant improvement in air quality, is parallel to that experienced in urban environments as the automobile fleet becomes cleaner over time.

18. One commenter stated that the analysis fails to mention the impact of PWC permeation losses on local air quality.

NPS Response: Permeation losses of volatile organic compounds (VOCs) from personal watercraft were not included in the calculation of air quality impacts primarily because these losses are insignificant relative to emissions from operating watercraft. Using the permeation loss numbers in the comment (estimated to be half the total of 7 grams of losses per 24 hours from the fuel system), the permeation losses per hour from fuel systems are orders of magnitude less than emissions from operating personal watercraft. Therefore, including permeation losses would have no effect on the results of the air quality impact analyses. Also, permeation losses were not included because of numerous related unknown contributing factors, such as the number of personal watercraft refueling at the lakeshore and the location of refueling (inside or outside of the airshed).

19. One commenter stated that none of the air quality monitoring sites used as part of the analysis are located at the lakeshore, and that the most recent data available to the NPS are from 1999.

NPS Response: The statewide air quality monitoring sites are located near areas where air quality is known or likely to be impaired. As the comment states, data used in the EA were obtained from the 1999 Air Quality Report which, at time of preparation, was the best published regional source of general air quality information. Current site-specific background air monitoring data were also reviewed, available from the State of Michigan's website *http://www.michigan.gov/deq/0,1607,7–135–3310_4104---,00.html.* The closest monitoring site is for $PM_{2.5}$ located at Traverse City, Michigan. It is agreed that monitoring sites distant from the location do not provide representative data for Pictured Rocks National Lakeshore; however, they are the nearest available sources of data. The absence of closer State monitoring sites is indicative of the good overall air quality in the area and attainment status with respect to all national ambient air quality standards. No health or environmental risks are identified by the Michigan Department of Environmental Quality that would warrant more frequent or intensive monitoring in the area. The EA analyzed air impacts by assessing the effects of predicted pollutant emissions, rather than measuring ambient air conditions, due to the lack of available site-specific monitoring data and cost and uncertainty factors inherent in obtaining and interpreting such data. In this context, the NPS takes the position that ''appropriate consideration'' has been given to air quality impacts from PWC.

20. One commenter stated that the EA fails to analyze new four-stroke engine technology. The PAH concentrations derived from worst-case modeling are orders of magnitude below the permissible exposure limits established by the Occupational Safety and Health Administration (OSHA) and National Institute for Occupational Safety and Health (NIOSH); therefore, continued PWC use would not pose any adverse health risks for park visitors under worst-case airborne PAH concentrations.

NPS Response: The criteria for analysis of impacts from PWC to human health are based on the National Ambient Air Quality Standards (NAAQS) for criteria pollutants, as established by the U.S. EPA under the Clean Air Act, and on criteria pollutant annual emission levels. This methodology was selected to assess air quality impacts for all NPS EAs to promote regional and national consistency, and identify areas of potential ambient standard exceedances. PAHs are not assessed specifically as they are not a criteria pollutant. However, they are indirectly included as a subset of Total Hydrocarbons (THC), which are assessed because they are the focus of the EPA's emissions standards directed at manufacturers of spark ignition marine gasoline engines (See 61 FR 52088; October 4, 1996). Neither peak exposure levels nor NIOSH nor OSHA standards are included as criteria for analyzing air quality related impacts, except where short-term exposure is included in a NAAQS.

As stated above, the methodology for assessing air quality impacts was based on a combination of annual emission levels and the NAAQS, which are aimed at protection of the public. OSHA and NIOSH standards are intended primarily for workers and others exposed to airborne chemicals for specific time periods. The OSHA and NIOSH standards are not as suitable for application in the context of local and regional analysis of a park or recreational area as are the ambient standards, nor are they intended to protect the general public from exposure to pollutants in ambient air.

The ''Kado Study'' (Kado *et al.* 2000) presented the outboard engine air quality portion of a larger study described in Outboard Engine and Personal Watercraft Emissions to Air and Water: A Laboratory Study (CARB 2001). In the CARB report, results from both outboards and personal watercraft (two-stroke and four-stroke) were reported. The general pattern of emissions to air and water shown in CARB (2001) was two-stroke carbureted outboards and personal watercraft having the highest emissions, and four-stroke outboard and personal watercraft having the lowest emissions. The only substantive exception to this pattern was in nitrogen oxide (NO_X) emissions to air: Two-stroke carbureted outboards and personal watercraft had the lowest NO_X emissions, while the four-stroke outboard had the highest emissions. Therefore, the pattern of emissions for outboards is generally applicable to personal watercraft and applicable to outboards directly under the cumulative impacts evaluations.

21. One commenter expressed concern that PWC emissions were declining faster than forecasted by the

EPA. As the Sierra Report documents, in 2002, HC+ NO_X emissions from the existing fleet of PWC were already 23% lower than they were before the EPA regulations became effective, and will achieve reductions greater than 80% by 2012.

NPS Response: The U.S. EPA's data incorporate into the 1996 Spark Ignition Marine Engine rule were used as the basis for the assessment of air quality, and not the Sierra Research data. It is agreed that these data show a greater rate of emissions reductions than the assumptions in the 1996 rule and in the EPA's NONROAD Model, which was used to estimate emissions. However, the level of detail included in the Sierra Research report has not been carried into the EA for reasons of consistency and conformance with the model predictions. Most states use the EPA's NONROAD Model for estimating emissions from a broad array of mobile sources. To provide consistency with state programs and with the methods of analysis used for other similar NPS assessments, the NPS has elected not to base its analysis on focused research such as the Sierra Report for assessing PWC impacts.

It is agreed that the Sierra Research report provides data on ''worst case'' scenarios. However worst case or short-term scenarios were not analyzed for air quality impacts in this or other NPS EAs.

It is agreed that the relative quantity of HC+ NO_X are a very small proportion of the county-based emissions and that this proportion will continue to be reduced over time. The EA takes this into consideration in the analysis.

CARB certified PWC may be used; however, the degree of certainty of overall use of this engine type nationwide is not well established. For consistency and conformity in approach, the NPS has elected to rely on the assumptions in the 1996 S.I. Engine Rule, which are consistent with the widely used NONROAD emissions estimation model. The outcome is that estimated emissions from combusted fuel may be in the conservative range, if compared to actual emissions.

Comments Regarding Soundscapes

22. One commenter stated that continued PWC use in the Pictured Rocks National Lakeshore will not result in sound emissions that exceed the applicable federal or state noise abatement standards, and technological innovations by the PWC companies will continue to result in substantial sound reductions.

NPS Response: The NPS concurs that on-going and future improvements in engine technology and design will likely further reduce the noise emitted from PWC. However, given the ambient noise levels at the lakeshore, it is unlikely that the improved technology could reduce all impacts to negligible adverse, particularly at the Sand Point launch.

23. One commenter cited noise testing conducted at Glen Canyon National Recreation Area (NRA) that indicated the maximum noise levels for PWC were actually lower than the maximum noise levels for other motorized vessels. In particular, the levels for PWC at 25 meters (82 feet) were approximately 68 to 76 A-weighted decibels (dB), whereas the levels for other motorized vessels at 82 feet were approximately 64 to 86 A-weighted decibels.

NPS Response: A correction has been included in the errata sheet to indicate that one PWC would emit 68 to 76 A-weighted dB at 82 feet. The reasons for assuming that PWC operate in pairs at the National Lakeshore are stated in the EA, and are based on staff observation and safety issues related to operating small watercraft at the park. Based on the PWC noise levels from the Glen Canyon study, two PWC would emit 66 to 77 dB at 82 feet, 65 to 75 dB at 100 feet, and 59 to 69 dB at 200 feet. The noise levels of two PWC traveling together would be less than the NPS noise limit of 82 dB at 82 feet for all alternatives. Given that ambient sound levels range from 22 dBA to 55 dBA in the lakeshore, the operation of PWC 200 feet from shore would still have negligible to minor adverse effects on the soundscape. In most locations natural sounds would prevail and motorized noise would be very infrequent or absent. At destinations such as the Sand Point launch and Miners Castle, natural sounds would predominate but motorized noise could be heard occasionally throughout the day. The correction noted above will not change the impact determinations identified in the original analysis.

24. One commenter stated that the EA has no site-specific support regarding the conclusion that PWC will inflict ''short-term negligible impacts'' upon the lakeshore's soundscapes and ''negligible adverse impacts'' upon visitor experience. The commenter stated that most of the public comments received on the lakeshore's draft General Management Plan (GMP) complained about PWC noise and urged that the machines be banned.

NPS Response: The effects of PWC on soundscapes were evaluated for site-specific areas, such as Sand Point, and general use areas, such as backcountry locations. The effects of PWC noise were determined to be negligible adverse to minor adverse, depending on the alternative and location. While many comments on the GMP were related to PWC noise, commenters also mentioned noise from chain saws, snowmobiles, and cars. Additionally, the visitor use survey conducted in the summer of 2000 provided the following results: on a scale of 1 (not a problem) to 5 (very serious problem), backcountry visitors ranked ''PWC disturbing backcountry experience'' as 1.6 (no problem to slight problem). Frontcountry users identified PWC disruption as 1.4 on the same scale. Overall, more than 80% of the 228 persons responding to this question indicated that PWC operation within the lakeshore was ''no problem.'' The NPS is confident that the soundscape analysis portrays an accurate description of the effects of PWC operation within the lakeshore.

25. One commenter stated that the impact of PWC on non-motorized visitors was grossly underestimated.

NPS Response: As stated previously, the summer visitor survey indicated that over 80% of the respondents, including backcountry visitors, identified PWC disturbance as ''no problem.'' Approximately 8% of the 228 respondents identified PWC disturbances as a ''serious or very serious'' problem. The NPS recognizes that the degree to which a visitor is disturbed is a function of the timing, duration, and character of the PWC activity, as well as the visitor's personal perceptions of PWC use. Based on the data evaluated, the NPS is confident that the impact evaluation provides a reasonable estimate of PWC impacts on soundscapes and visitor experience.

Comments Regarding Wildlife

26. One commenter stated that PWC use and human activities associated with their use may not be any more disturbing to wildlife species than any other type of motorized or non-motorized watercraft. The commenter cites research by Dr. Rodgers, of the Florida Fish and Wildlife Conservation Commission, whose studies have shown that PWC are no more likely to disturb wildlife than any other form of human interaction, and that PWC posed less of a disturbance than other vessel types. Dr. Rodgers' research clearly shows that there is no reason to differentiate PWC from motorized boating based on claims on wildlife disturbance.

NPS Response: The NPS agrees that some research indicates that personal watercraft are no more apt to disturb wildlife than are small outboard motorboats; however, disturbance from both PWC and outboard motor boats does occur. Dr. Rodgers recommends

that buffer zones be established for all watercraft, creating minimum distances between boats (personal watercraft and outboard motorboats) and nesting and foraging waterbirds. As part of the Michigan Personal Watercraft Safety Act, PWC operating within 200 feet of the shoreline of any Great Lake must travel perpendicular to the shore and operate at a flat-wake speed. With this restriction in mind, impacts to wildlife and wildlife habitat under all three alternatives were judged to be negligible at most locations along the shoreline.

In addition, the EA was not conducted to determine if personal watercraft caused more environmental damage to park resources than other boats, but rather to determine if personal watercraft use was consistent with the national lakeshore's enabling legislation and management goals and objectives. The alternatives listed and the determination of their consequences was based upon the best information available.

27. One commenter stated that PWC cause lasting impacts to fish and wildlife. Two-stroke engines have been shown to produce pollutants that cause significant damage to aquatic plants and fish.

NPS Response: It is anticipated that more combustion-efficient engines in personal watercraft will reduce pollutant emissions to air and water in the same manner that increased efficiencies in automobile engines, combined with catalytic converters and other technologies, decreased the amount and types of automobile exhaust emissions. EPA-sponsored evaluations of different personal watercraft engine designs and emissions concluded that emission reductions would result with implementation of the EPA emission standards for marine engines. The modified preferred alternative provides for further protection of wildlife in the lakeshore. Phasing in of new personal watercraft technology under the modified preferred alternative (alternative B) will reduce impacts to aquatic and shoreline species by reducing the discharge of fuel components into the water. These reductions should indirectly benefit wildlife by reducing some of the contaminant loading of surface waters.

PAH toxicity to fish and wildlife species is a complicated topic because PAHs consist of dozens of different chemical compounds, each of which has substantially different toxicity characteristics in water, sediment, and soils, and toxicity varies dramatically among different fish and wildlife species. The ecological toxicity analysis for PAHs reported in the EA explains the chemical, physical, and biological conditions that were used to conduct the assessment of PAH effects to fish species.

Comments Regarding Threatened and Endangered Species

28. One commenter stated that the EA lacks site-specific data on PWC impacts to threatened and endangered species.

NPS Response: The scope of the EA did not include site-specific surveys for species with the potential to occur at Pictured Rocks National Lakeshore. Potential for the occurrence and the location of special status species at Pictured Rocks National Lakeshore was based on existing surveys and studies conducted in the park in addition to input by park staff and federal and state agencies responsible for special status species management and protection.

Identification of state and federally listed species was accomplished through discussions with park staff and informal consultation with U.S. Fish and Wildlife Service. Primary steps in assessing impacts on listed species were to determine (1) which species are found in areas likely to be affected by management actions described in the PWC alternatives, (2) current and future use and distribution of PWC by alternative, (3) habitat loss or alteration caused by the alternatives, and (4) displacement and disturbance potential of the actions and the species' potential to be affected by PWC activities.

The information used in the analysis was obtained through best professional judgment of park staff and experts in the field and by conducting a literature review.

Documentation of the occurrence and locations of federal and state rare, threatened and endangered species at Pictured Rocks National Lakeshore was provided by National Park Service through several studies and surveys that have been conducted at the park. A list of federal and state protected species is provided in Table 6 in the EA.

29. The U.S. Fish and Wildlife Service commented that the Grand Sable Dunes site was last verified by the Michigan Natural Features Inventory (MNFI) in 1989, and recommended that the current presence of Pitcher's thistle be verified.

NPS Response: The location of Pitcher's thistle described in the EA is based on discussion with park staff and is current. Park staff will advise the MNFI as requested.

30. The U.S. Fish and Wildlife Service (USFWS) commented that the ''not likely to adversely affect'' determination for both action alternatives for the gray wolf, bald eagle, and Pitcher's thistle suggests that there are beneficial, insignificant, or discountable effects of the proposed actions on these species. These effects are not clear in the EA. The USFWS stated that the EA seems to make a better case that the alternatives would have no effect on these three species, and suggested the park considers these determinations and provides support when the park requests Section 7 consultation with the USFWS office.

NPS Response: The determination of ''not likely to adversely affect'' was made based on the fact that, while PWC may provide access to locations where threatened/endangered species may be present, the likelihood of having an effect is extremely unlikely to occur. The errata has been updated to reflect a ''no effect'' determination for the gray wolf and Pitcher's thistle. After further analysis and discussions with U.S. Fish and Wildlife Service staff, the ''not likely to adversely affect'' determination for the bald eagle will remain, since the bald eagle's use of the shoreline is limited and known nest sites are located east of Miners Beach, where PWC use would be prohibited. The errata has been updated with further information to support this determination.

31. The U.S. Fish and Wildlife Service suggested that the extent to which bald eagles use the Lake Superior shoreline within Pictured Rocks National Lakeshore be described. If any such use occurs or can be expected to occur in the future, the park should clarify whether PWC use in the lakeshore could affect bald eagles.

NPS Response: Based on discussions with park staff, the bald eagle's use of the Lake Superior shoreline within Pictured Rocks National Lakeshore is limited. Known nest sites are located east of Miners Beach, where PWC use would be prohibited under the preferred alternative. The errata has been updated to reflect this.

32. The U.S. Fish and Wildlife Service stated that NPS must complete Section 7 consultation with the USFWS prior to completing a FONSI. The USFWS concurs that the only federally listed species currently on or near Pictured Rocks National Lakeshore are the piping plover, gray wolf, bald eagle, and Pitcher's thistle.

NPS Response: As indicated on page 96 of the Environmental Consequences section of the EA, Section 7 consultation would be initiated if the NPS determined that actions in the preferred alternative would be ''likely to adversely affect'' one or more of the federally listed threatened or endangered species identified in the lakeshore. The modified preferred

alternative (alternative B) will have no effect on piping plover, Pitcher's thistle, gray wolf, or Lake Huron tansy, and is not likely to adversely affect the common loon, bald eagle or the peregrine falcon. The errata has been updated to reflect a ''no effect'' determination for the gray wolf. The USFWS concurred with this determination after submitting this comment.

33. One commenter stated that the EA inadequately describes the impacts from PWC to osprey and bald eagle, and underestimates the impacts to the peregrine falcon and common loon, along with other species.

NPS Response: The NPS concurs that some studies have shown that PWC operation in proximity to nesting osprey and other wildlife species can have adverse affects. Studies also indicate that the timing, duration, and character (aggressiveness of PWC operation) of these interactions are important factors in determining the effect. As discussed in the EA (pages 20 and 96–101), state regulations require that PWC operating within 200 feet of the shore must be running perpendicular to the shore at flat-wake speeds. This state regulation minimizes the potential for adverse affects on shoreline wildlife at the lakeshore.

34. The U.S. Fish and Wildlife Service stated that piping plovers currently do not nest on Pictured Rocks National Lakeshore, but at nearby at Grand Marais. Nesting occurred there in 2002 and has occurred there annually for more than 10 years. As the EA indicates, there is the potential for piping plover to use the Pictured Rocks National Lakeshore beach, at least for foraging, if not nesting. The piping plover breeding population has increased in recent years. As the population expands, piping plover may be found in previously unexpected areas. The USFWS recommended annual efforts to survey Pictured Rocks National Lakeshore for the bird. The USFWS also recommended that when the park requests Section 7 consultation, it refer to the appropriate information in the EA that supports the conclusion that interactions between piping plovers and PWC would be extremely limited.

NPS Response: Pictured Rocks National Lakeshore staff will continue to monitor and document piping plover activities within the lakeshore. PWC would not be allowed in the Grand Sable segment, where potential piping plover habitat exists. If plovers ever become established in the western end of the lakeshore, then mitigating actions could be required to minimize any adverse effect from PWC use. The modified preferred alternative will result in ''no effect'' on future populations of piping plover that may inhabit the lakeshore.

Comments Regarding Shoreline/ Submerged Aquatic Vegetation

35. One commenter stated that since PWC lack an exposed propeller, they are much more environmentally friendly in shallow water environments. Further, Michigan law prohibits PWC from operating in less than two feet of water and in areas where aquatic rooted vegetation is visible in sensitive wetland areas.

NPS Response: The NPS recognizes that scientists do not agree on the potential for impacts to aquatic vegetation from personal watercraft. However, because of their design, personal watercraft can potentially operate in shallower water than conventional outboard motorboats, and it is not possible to know if all operators fully adhere to manufacturer's recommendations. As described in the EA (pages 103–104), impacts to sensitive shoreline vegetation are expected to be negligible for all alternatives and both years evaluated (2002 and 2012).

Comments Associated With Visitor Experience

36. One commenter stated that the EA failed to adequately assess the safety threat posed to park visitors by PWC use, and failed to analyze existing accident data available from the U.S. Coast Guard.

NPS Response: Incidents involving watercraft of all types, including personal watercraft, are reported to and logged by National Park Service staff. A very small proportion of incidents on the lake are estimated to go unreported. The accident data for the three-year period of 1999 through 2001 displays a consistent pattern and differs from nationally reported results for all watercraft. In the ''Visitor Conflicts and Visitor Safety'' section of the ''Affected Environment'' chapter of the EA, it is reported that personal watercraft represent 26 percent of the watercraft on the lake but did not exceed 18 percent of all watercraft accidents over the three-year time period. While personal injury rates for personal watercraft were somewhat higher, they did not exceed 24 percent of all watercraft personal injuries—approximately equal to their representation in the population of all watercraft.

37. One commenter stated that keeping PWC 200 feet from shore is not sufficient to prevent serious loss to those seeking solitude and/or a natural experience. What happens if the number of PWC users increases over the years to a level that is intolerable?

NPS Response: The best available data was used to determine existing and future PWC use in the lakeshore, and was based on a visitor survey, discussion with park staff, and discussion with local launch site operators in Grand Marais and Munising. The analysis indicates that PWC use would have minor adverse impacts to backcountry visitors who seek solitude within the lakeshore. The selection of the modified preferred alternative (alternative B) would result in negligible to moderate beneficial impacts on soundscapes and visitor experience for non-PWC users.

38. One commenter indicated that the EA fails to include the numbers of comments received about PWC noise and offers no comparison of those comments with others regarding noise produced by other recreational pursuits, such as tour boats. Were the noise comments regarding PWC use any more positive or negative than those related to other lakeshore user groups?

NPS Response: The comments received for the GMP regarding noise disturbance from PWC, motorboats, and other recreational users have not been quantified. However, the summer visitor survey conducted in 2000 provides specific data about noise issues within the lakeshore. Over 80% of the survey respondents, including backcountry visitors, identified PWC disturbance as ''no problem.'' Approximately 8% of the 228 respondents identified PWC disturbances as a ''serious or very serious'' problem. Likewise, approximately 6% of those surveyed identified motorized boats on Lake Superior ''disturbing my backcountry experience'' as a ''serious or very serious'' problem; 4% indicated that too many commercial tour boats on Lake Superior shoreline as a ''serious or very serious problem''; and 1% indicated noise from airplanes as a ''serious or very serious problem.'' Overall, only 2.6% of those surveyed indicated that too much noise on Lake Superior shoreline was a ''serious or very serious problem.''

39. One commenter stated that the 1998 Boating Accident Report Database (BARD) estimates reported in the EA are outdated, and that more recent BARD data shows that, despite the increasing number of PWC in use, the number of reported PWC-associated accidents has been declining every year since 1997.

NPS Response: Incidents involving watercraft of all types, including personal watercraft, are reported to and logged by National Park Service staff. A

very small proportion of incidents on the lake are estimated to go unreported. The accident data for the three-year period of 1999 through 2001 displays a consistent pattern and differs from nationally reported results for all watercraft. In the ''Visitor Conflicts and Visitor Safety'' section of the ''Affected Environment'' chapter of the EA, it is reported that personal watercraft represented 26 percent of the watercraft on the lake but did not exceed 18 percent of all watercraft accidents over the three-year time period. While personal injury rates for personal watercraft were somewhat higher, they did not exceed 24 percent of all watercraft personal injuries—approximately equal to their representation in the population of all watercraft.

40. One commenter stated that, according to Coast Guard statistics, PWC represent roughly 10 percent of all boats, yet are involved in approximately 30 percent of all boating accidents. In addition, nearly 80 percent of PWC accidents are the result of a collision with objects such as another boat, swimmer, or dock.

NPS Response: The concern about PWC operation and safety is discussed in the EA, which provides similar national statistics (page 16) and statistics from the park itself (page 51). Some of the provisions of the preferred alternative, such as increasing the number of areas with flat-wake restrictions, were included to provide a higher level of safe PWC operations and to lessen potential conflicts with other park users.

Comments Associated With Visitor Conflicts and Safety

41. One commenter stated that the accident data used in the analysis was outdated and incorrect because PWC accidents are reported more often than other boating accidents.

NPS Response: We disagree. Incidents involving watercraft of all types, including personal watercraft, are reported to and logged by National Park Service staff. A very small proportion of watercraft accidents at Fire Island National Seashore are estimated to go unreported.

42. One commenter suggested that all boaters should abide by the restrictions, and that there is no justification for imposing any additional restrictions or requirements on PWC operators based on safety considerations.

NPS Response: The proposed alternatives did not impose additional restrictions or requirements on PWC based solely on safety considerations. The final rule, implementing modified preferred alternative (alternative B), will discontinue PWC use east of Miners Beach. The selection of modified alternative B is based on the evaluation of all issues analyzed in the EA and the public comments received regarding the proposed action.

43. Several commenters stated that the NPS analysis downplayed the threat PWC pose to the visiting public, specifically regarding PWC fire hazards.

NPS Response: According to the National Marine Manufacturers Association, PWC manufacturers have sold roughly 1.2 million watercraft during the last ten years. Out of 1.2 million PWC sold, the U.S. Coast Guard received only 90 reports of fires/explosions in the years from 1995–1999. This is less than 1% of PWC boats reporting problems associated with fires/explosions. As far as the recall campaigns conducted by Kawasaki and Bombardier, the problems that were associated with fuel tanks were fixed. Kawasaki conducted a recall for potentially defective fuel filler necks and fuel tank outlet gaskets on 23,579 models from the years 1989 and 1990. The fuel tank problems were eliminated in Kawasaki's newer models, and the 1989 and 1990 models are most likely not in use anymore, since life expectancy of a PWC is only five to seven years, according to PWIA. Bombardier also recalled its 1993, 1994, and 1995 models to reassess possible fuel tank design flaws. However, the number of fuel tanks that had to be recalled was a very small percent of the 1993, 1994, and 1995 fleets because fuel tank sales only amounted to 2.16% of the total fleet during this period. The replacement fuel tanks differed from those installed in the watercraft subject to the recall in that the replacement tanks had revised filler neck radiuses, and the installation procedure now also requires revised torque specifications and the fuel system must successfully complete a pressure leak test. Bombardier found that the major factor contributing to PWC fires/explosions was over-torquing of the gear clamp. Bombardier was legally required by the U.S. Coast Guard to fix 9.72% of the recalled models. Out of 125,349 recalls, the company repaired 48,370 units, which was approximately 38% of the total recall, far exceeding their legal obligation to repair units with potential problems.

Further fuel tank and engine problems that could be associated with PWC fires have been reduced significantly since the National Marine Manufacturers Association (NMMA) set requirements for meeting manufacturing regulations established by the U.S. Coast Guard. Many companies even choose to participate in the more stringent Certification Program administered by the NMMA. The NMMA verifies boat models annually, or whenever a new product is put on the market, to determine that they satisfy not only the U.S. Coast Guard Regulations, but also the more rigorous standards based on those established by the American Boat and Yacht Council.

Comments Associated With Cultural Resources

44. One commenter suggested that the NPS consider requiring permits or other approval for ceremonial activities, so that motorized boaters can be given adequate advance notice of any specific time/location restrictions on vessel usage. This will better enable PWC users and other boaters to respect these observances, reduce the potential for user conflicts, and assist in enforcement efforts.

NPS Response: Historically, tribal groups pursuing traditional activities in the park have been very small and permits have not been issued. In addition, past observances have occurred in seasons of the year when PWC use is light or non-existent. If and when the ceremonial activities become larger in scope or number, the park will initiate more formal permitting.

Comments Regarding Socioeconomics

45. One commenter stated that there is no discussion of the economic costs of continued PWC operation upon the lakeshore's wildlife, public safety, and visitor use. In addition, it is questionable to assume that a PWC ban will automatically result in a decrease in park visitation. The commenter states that the EA also incorrectly assumes that a PWC ban will reduce the consumer surplus of other motorized boaters.

NPS Response: The socioeconomic study did not address the future potential costs of environmental damage. The study examined the potential effect that the ban would have on the local economy, and the potential effects on socio-economically disadvantaged groups. The comment is correct in stating that the same level of analysis was not given to the future environmental costs.

The number of recreational visits at Pictured Rocks National Lakeshore in calendar year 2000 was 424,533, which is a 4.6% reduction from 1999. The most recent available visitation data was used at the time the EA was written. A variety of factors influence visitor use numbers at national parks; therefore, it is not possible to precisely ascertain

specific reasons for increases or decreases in visitation.

46. One commenter stated that the analysis of socioeconomic effects of the different alternatives failed to consider the possibility that the no-action alternative could have positive economic effects upon those renting kayaks or providing guiding services.

NPS Response: The evaluation concentrated on the effects of PWC management on the local economy. No data is available indicating that the presence of PWC has decreased the lakeshore visitation by kayakers or other visitors. Thus, a conclusion cannot be made that banning PWC would increase use by other groups. According to the visitor survey (summer 2000), most visitors identified issues associated with PWC operation within the lakeshore as ''no problem or slight problem.'' This indicates that banning PWC would not have a substantial effect on visitor experience or visitor satisfaction. The NPS concurs that a ban on PWC would allow local businesses to target their marketing and services to an audience that is sensitive to PWC use.

Comments Related to Enforcement

47. Several commenters stated that additional staff would be required to adequately address the increased enforcement needed under the final rule.

NPS Response: The NPS used the best available data to evaluate potential conflicts between PWC and other park visitors. The NPS concurs that it is likely that some violations are not reported, particularly those that may be considered minor infractions by the general public. The evaluation in the EA assumed that some violations would occur and noted that staffing was insufficient to properly police existing boating activities, with or without PWC use in the lakeshore.

The analysis indicated that increased staffing would be necessary to more adequately monitor watercraft on Lake Superior. The NPS believes that operation of PWC in the lakeshore will not require more staff than that required for increased monitoring of all watercraft because (1) the number of PWC operating within the lakeshore is small in comparison to the number of other motorboats and watercraft, (2) the location of PWC operation is separated from most other visitors (excluding motorboats) and (3) the increased patrols necessary to monitor all boating traffic will increase the observed presence of policing such that all infractions will likely decrease.

Changes to the Final Rule

Based on the preceding comments and responses, the NPS has made no substantive changes to the proposed rule language with regard to PWC operations.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The National Park Service has completed the report ''Economic Analysis of Personal Watercraft Regulations in Pictured Rocks National Lakeshore'' (RTI, International, November 2004).

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies or controls. This rule is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirement of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on a report entitled report ''Economic Analysis of Personal Watercraft Regulations in Pictured Rocks National Lakeshore'' (RTI, International, November 2004), copies of which are available from the address in the **ADDRESSES** section.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. This final rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83–I is not required.

National Environmental Policy Act

As a companion document to the NPRM, NPS issued the Personal Watercraft Use Environmental Assessment for Pictured Rocks National Lakeshore and subsequent errata sheet. The environmental assessment was available for public review and comment for the period August 1 through November 15, 2004. A Finding of No Significant Impact (FONSI) was signed on September 9, 2005. To request a copy of these documents contact Superintendent, Pictured Rocks National Lakeshore, N8391 Sand Point Road, P.O. Box 40, Munising, MI 49862–0040. A copy of the Environmental Assessment, errata sheet, and FONSI may also be found at *http://www.nps.gov/piro/pwc.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects.

Administrative Procedure Act

This final rule is effective upon publication in the **Federal Register**. In accordance with the Administrative Procedure Act, specifically, 5 U.S.C. 553(d)(1), this rule, 36 CFR 7.32(d), is exempt from the requirement of publication of a substantive rule not less than 30 days before its effective date.

As discussed in this preamble, the final rule is a part 7 special regulation for Pictured Rocks National Lakeshore that relieves the restrictions imposed by the general regulation, 36 CFR 3.24. The general regulation, 36 CFR 3.24, prohibits the use of PWC in units of the national park system unless an individual park area has designated the use of PWC by adopting a part 7 special regulation. The proposed rule was published in the **Federal Register** (69 FR 51788) on August 23, 2004, with a 60-day period for notice and comment consistent with the requirements of 5 U.S.C. 553(b). The Administrative Procedure Act, pursuant to the exception in paragraph (d)(1), waives the section 553(d) 30-day waiting period when the published rule ''grants or recognizes an exemption or relieves a restriction.'' In this rule the NPS is authorizing the use of PWCs, which is otherwise prohibited by 36 CFR 3.24. As a result, the 30-day waiting period before the effective date does not apply to Pictured Rocks National Lakeshore final rule.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the National Park Service amends 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under DC Code 8–137 (1981) and DC Code 40–721 (1981).

■ 2. Amend § 7.32 by adding paragraph (d) to read as follows:

§ 7.32 Pictured Rocks National Lakeshore.

* * * * *

(d) *Personal Watercraft (PWC).* (1) PWC are allowed on the waters within Pictured Rocks National Lakeshore, from the western boundary of the lakeshore to the east end of Miners Beach.

(2) PWC may be launched only from a designated launch site at Sand Point.

(3) PWC users may beach their craft only at Sand Point Beach and Miners Beach.

(4) The Superintendent may temporarily limit, restrict, or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: October 19, 2005.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–21426 Filed 10–26–05; 8:45 am]

BILLING CODE 4312–52–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 2005–9]

Preregistration of Certain Unpublished Copyright Claims

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulation.

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

EFFECTIVE DATE: November 15, 2005.

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

SUPPLEMENTARY INFORMATION: On April 27, 2005, President Bush signed the Family Entertainment and Copyright Act (''FECA''). Pub. L. No. 109–9, 119 Stat. 218. Title I of FECA is the Artists' Rights and Theft Prevention Act of 2005, or ''ART Act,'' which among other things addresses copyright infringement of works committed prior to their authorized commercial distribution, or pre–release infringement. Section 104 directs the Copyright Office to conduct a rulemaking proceeding to establish a procedure for preregistration of unpublished works that are being prepared for commercial distribution.

Specifically, Section 104 provides that ''Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.'' 17 U.S. C. 408(f)(1). Preregistration is a new procedure in the Copyright Office that permits such an action to serve as a place–holder for limited purposes – notably where a copyright owner needs to sue for infringement while a work is still being prepared for commercial release.

Congress also assigned the Register to determine which works are eligible for preregistration by directing that ''the regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.'' 17 U.S.C. 408(f)(2). Thus, falling in one or more of the classes so determined by the Register is a precondition to eligibility for preregistration, and applications for works that do not appear to fall within these classes should not be entertained.

On July 22, 2005, the Register of Copyrights initiated this rulemaking

proceeding pursuant to the ART Act's Section 408(f)(2) with publication of a Notice of Proposed Rulemaking (''NOPR''). 70 FR 42286. The Copyright Office received ten initial comments and five reply comments related to proposals of one or more classes of works or to general preregistration procedure. The Office also received a large number of comments in response to a Supplemental Notice of Proposed Rulemaking published August 4, 2005, which sought information relating to browser compatibility for those expected to file the electronic preregistration form. The Office made this inquiry after learning that persons attempting to use the Office's new online preregistration system, which was still in development, may have difficulties if they used web browsers other then Microsoft Internet Explorer.

In order to preregister, applicants must use the Office's online preregistration system, which will be accessible from the Copyright Office's home page at http://www.copyright.gov. While the Office is attempting to address browser compatibility issues, initially some applicants may experience difficulties if they are using browsers other than Internet Explorer. For applicants who are unable to use the online preregistration system, information will be available on the Copyright Office website on how to preregister their works.

In order to comply with the ART Act's requirement that regulations to establish procedures for preregistration be issued by October 24, the Office is now issuing the following interim regulations. It is anticipated that final regulations, which will be identical or very similar to the interim regulations, will be published within the next few weeks, along with a more detailed discussion of the comments received in response to the notice of proposed rulemaking and of the Office's responses to those comments. For further information in the meantime, please refer to the July 22 notice of proposed rulemaking, as supplemented by the following brief explanation.

The Register's determination today adopts the liberalized classes named and discussed below. The Register has now carefully reviewed the record in this rulemaking proceeding to determine the classes of works that have had a history of infringement prior to authorized commercial distribution. Based on that review of the comments, it appears that the case has been made for eligibility for preregistration of the following classes of works upon their fulfillment of the conditions specified in 37 CFR 202.16:

(i) Motion pictures;

(ii) Sound recordings;

(iii) Musical compositions;

(iv) Literary works being prepared for publication in book form;

(v) Computer programs (including videogames); and

(vi) Advertising or marketing photographs.

Many copyright owners urged that much or all of the information provided on applications for preregistration be maintained as confidential records by the Copyright Office. The Register cannot accept the proposition that the public should be denied access to the preregistration records. As an office of public record administering a system of registration and recordation the purpose of which is to provide information regarding copyright ownership to the public, the Copyright Office is not disposed to receive and maintain private information. The Office is subject to the Freedom of Information Act (''FOIA''), and it may or may not be able to refuse release of records based on applicable FOIA exceptions. To preclude accessibility to information related to a preregistration is inconsistent with the very concept of preregistration and registration systems.

The Office does not believe that the alleged risks of making such information public pose serious danger to copyright owners. The information required to preregister a work need not be detailed and need not include confidential information. To the extent that a title is demanded, it is sufficient to provide a ''working title''; moreover, the risk of cybersquatting can easily be mitigated if the copyright owner obtains the applicable domain name prior to or simultaneously with preregistration. Information such as anticipated release dates is not immutable; it should be understood that when a preregistration made at an early stage in a work's preparation states an *anticipated* date of release, that date is at best a prediction and is hardly a binding commitment.

Accordingly, the preregistration record will be a public record, and information from the preregistration records will be available on the Copyright Office Web site.[1]

The Office has abandoned its proposal that, in order to be eligible for preregistration, a work must already be subject to a contract for distribution of the work with an established distributor of works. However, a person preregistering a work must certify, under penalty of law, that the work is in fact being prepared for commercial distribution and that the applicant has a reasonable expectation that the work will be commercially distributed to the public.

Commenters also asserted that distribution is already extensively occurring online, and in some genres, exclusively so. Therefore, the Office will not limit the coverage of this regulation to work being prepared for commercial distribution in physical format. Any class of work that the Register determines has had a history of pre–release infringement may be preregistered without regard to whether the work is intended to be distributed in physical formats or is intended for online distribution.

Additional information relating to preregistration may be found in the help pages of the Office's online preregistration system, which will be accessible from the Copyright Office's home page at http://www.copyright.gov. The online preregistration system, which is in its final stages of preparation, will go online, and preregistration will be available, on November 15.

List of Subjects in 37 CFR Part 202

Claims, Copyright, Registration requirements.

Interim Regulation

■ In consideration of the foregoing, the Copyright Office issues this interim rule amending part 202 of 37 CFR, chapter II, in the manner set forth below:

PART 202 – PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

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

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

■ 2. The heading of Part 202 is revised to read as set forth above.

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

§ 202.16 Preregistration of copyrights.

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

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

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

[1] Due to the ongoing conversion of the online copyright catalog to a Voyager database, preregistration records will probably not be available online until sometime in December.

(i) Motion pictures;
(ii) Sound recordings;
(iii) Musical compositions;
(iv) Literary works being prepared for publication in book form;
(v) Computer programs (including videogames); or
(vi) Advertising or marketing photographs.

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

(i) The claimant, in a statement certified by the authorized preregistering party, has a reasonable expectation that the work will be commercially distributed to the public; and

(ii) Preparation of the work has commenced and at least some portion of the work has been fixed in a tangible medium of expression, as follows:

(A) For a motion picture, filming of the motion picture must have commenced;

(B) For a sound recording, recording of the sounds must have commenced;

(C) For a musical composition, at least some of the musical composition must have been fixed either in the form of musical notation or in a copy or phonorecord embodying a performance of some or all of the work;

(D) For a literary work being prepared for publication in book form, the actual writing of the text of the work must have commenced;

(E) For a computer program, at least some of the computer code (either source code or object code) must have been fixed; and

(F) For an advertising or marketing photograph, the photograph (or, in the case of a group of photographs intended for simultaneous publication, at least one of the photographs) must have been taken.

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

(i) Unpublished;

(ii) Being prepared for commercial distribution; and

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

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

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

(3) *Application form*. An application for preregistration is made using Electronic Form PRE. The application must be submitted electronically on the Copyright Office website at: http://www.copyright.gov.

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

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

(ii) *Method of payment*. (A) Copyright Office deposit account. The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services and for those who file applications electronically. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits in that account. Deposit Account holders can charge preregistration fees against the balance in their accounts instead of using credit cards for each request of service. For information on Deposit Accounts, please download a copy of Circular 5, ''How to Open and Maintain a Deposit Account in the Copyright Office,'' or write the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559.

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

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

(6) *Description*. No deposit of the work being preregistered should be submitted with an application for preregistration. The preregistration applicant should submit a detailed description, of not more than 2,000 characters (approximately 330 words), of the work as part of the application. The description should be based on information available at the time of the application sufficient to reasonably identify the work. Generally, the Copyright Office will not review descriptions for adequacy, but in an action for infringement of a preregistered work, the court may evaluate the adequacy of the description to determine whether the preregistration actually describes the work that is alleged to be infringed, taking into account the information available to the applicant at the time of preregistration and taking into account the legitimate interest of the applicant in protecting confidential information.

(i) For motion pictures, such a description should include the following information to the extent known at the time of filing: the subject matter, a summary or outline, the director, the primary actors, the principal location of filming, and any other information that would assist in identifying the particular work being preregistered.

(ii) For sound recordings, the identifying description should include the following information to the extent known at the time of filing: the subject matter of the work or works recorded, the performer or performing group, the genre of the work recorded (e.g., classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip–hop, blues, jazz), the titles of the musical compositions being recorded, the principal recording location, the composer(s) of the recorded musical compositions embodied on the sound recording, and any other information that would assist in identifying the particular work being preregistered.

(iii) For musical compositions, the identifying description should include the following information to the extent known at the time of filing: the subject matter of the lyrics, if any, the genre of the work (for example, classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip–hop, blues, jazz), the performer, principal recording location, record label, motion picture, or other information relating to any sound recordings or motion pictures that are being prepared for commercial distribution and will include the musical composition, and any other detail or characteristic that may assist in identifying the particular musical composition.

(iv) For literary works in book form, the identifying description should include to the extent known at the time of filing: the genre of the book, e.g., biography, novel, history, etc., and should include a brief summary of the work including, the subject matter (e.g., a biography of President Bush, a history of the war in Iraq, a fantasy novel); a description (where applicable) of the plot, primary characters, events, or other key elements of the content of the work; and any other salient characteristics of the book, e.g., whether it is a later edition or revision of a previous work, as well as any other detail which may assist in identifying the literary work in book form.

(v) For computer programs (including videogames), the identifying description should include to the extent known at the time of filing, the nature, purpose and function of the computer program, including the programming language in which it is written, any particular organization or structure in which the program has been created; the form in which it is expected to be published, e.g. as an online–only product; whether there have been previous versions (and identification of such previous versions); the identities of persons involved in the creation of the computer program; and, if the work is a videogame, also describe the subject matter of the videogame and the overall object, goal or purpose of the game, its characters, if any, and the general setting and surrounding found in the game.

(vi) For advertising or marketing photographs, the description should include the subject matter depicted in the photograph or photographs, including information such as the particular product, event, public figure, or other item or occurrence which the photograph is intended to advertise or market. To the extent possible and applicable, the description for photographs should give additional details which will assist in identifying the particular photographs, such as the party for whom such advertising photographs are taken; the approximate time periods during which the photographs are taken; the approximate number of photos which may be included in the grouping; any events associated with the photographs; and the location and physical setting or surrounding depicted in the photographs. The description may also explain the general presentation, e.g., the lighting, background scenery, positioning of elements of the subject matter as it is seen in the photographs, and should provide any locations and events, if applicable, associated with the photographs.

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

(8) *Certification*. The person submitting an application for preregistration must certify on the application that he or she is the author, copyright claimant, or owner of exclusive rights, or the authorized agent of the author, copyright claimant, or owner of exclusive rights, of the work submitted for this preregistration; that the information given in this application is correct to the best of his or her knowledge; that the work is being prepared for commercial distribution; and that he or she has a reasonable expectation that the work will be commercially distributed to the public.

(9) *Effective date of preregistration*. The effective date of a preregistration is the day on which an application and fee for preregistration of a work, which the Copyright Office later notifies the claimant has been preregistered or which a court of competent jurisdiction has concluded was acceptable for preregistration, have been received in the Copyright Office.

(10) *Notification of preregistration*. Upon completion of the preregistration, the Copyright Office will provide the claimant official notification by email of the preregistration.

(11) *Certification of preregistation*. A certified copy of the official notification may be obtained in physical form from the Certification and Documents Section of the Information and Reference Division at the address stated in § 201.1(a)(3) of this chapter.

(12) *Public record of preregistration*. The preregistration record will also be available to the public on the Copyright Office website, *http://www.copyright.gov.*

(13) *Effect of preregistration.* Preregistration of a work offers certain advantages to a copyright owner pursuant to 17 U.S.C. 408(f), 411 and 412. However, preregistration of a work does not constitute prima facie evidence of the validity of the copyright or of the facts stated in the application for preregistration or in the preregistration record. The fact that a work has been preregistered does not create any presumption that the Copyright Office will register the work upon submission of an application for registration.

(14) *Petition for recognition of a new class of works*. At any time an interested party may petition the Register of Copyrights for a determination as to whether a particular class of works has had a history of copyright infringement prior to authorized release that would justify inclusion of that class of works among the classes of works eligible for preregistration.

Dated: October 19, 2005

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 05–21381 Filed 10–26–05; 8:45 am]

BILLING CODE 1410–30–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2005–21048]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Honda Motor Co., Ltd. (Honda), to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child restraint systems.'' Honda requested that FMVSS No. 213 be amended to limit the weight of all child restraint systems used with the 3-year-old dummy. Honda stated that such an amendment would assure the proper operation of weight-based occupant detection systems used to meet the air bag suppression requirements of FMVSS No. 208, ''Occupant crash protection.''

FOR FURTHER INFORMATION CONTACT:

For Non-Legal Issues: Mr. Tewabe Asebe, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–2365.

For Legal Issues: Mr. Chris Calamita, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–2992, Facsimile: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On May 12, 2000, NHTSA issued a final rule for advanced air bags, amending FMVSS No. 208 to, among other things, minimize injuries to small adults and young children due to air bag deployment (65 FR 30680). To address the risk air bags pose to young children in child restraint systems, the agency amended FMVSS No. 208 to include a number of alternative tests, one of which requires the front passenger air

bag system to automatically suppress when a child or child in a child restraint system is present. Some manufacturers rely on weight-based technology to comply with the automatic air bag suppression requirement. Weight-based technologies utilize load cells or other sensors designed into the vehicle seat. With this option, the vehicle air bag in the right front passenger seat is suppressed when a child or a child in a child restraint system is placed on the seat. If an adult occupies the front passenger seat, the feature enables the air bag deployment. The threshold for enabling the air bag deployment is dependent on the design and calibration of the suppression system used.

The agency selected certain child restraint systems to be used for compliance testing of the air bag suppression systems. The selected child restraint systems are included as an appendix (Appendix A, ''Selection of child restraint systems'') in FMVSS No. 208. The list of child restraint systems is periodically updated to reflect child restraint systems currently on the market. On November 19, 2003, the agency updated the list of child restraint systems in Appendix A of FMVSS No. 208 (68 FR 65179). FMVSS No. 208 requires that vehicles be certified for compliance using any of the child restraint systems in Appendix A.

II. The Petition

On February 11, 2004, the agency received a petition for rulemaking from Honda requesting that NHTSA amend FMVSS No. 213 to limit the weight of all child restraint systems, including rear-facing, forward-facing, and convertible type restraints used by 3-year-old children and produced in accordance with FMVSS No. 213, for the purpose of maintaining the appropriate air bag deployment for small occupants. Honda suggested that, based on available child restraint system designs, ''perhaps a weight limit of about 8.5 kilograms (kg) (18.7 lb) may be appropriate.''

As Honda's petition specifically addresses the air bag suppression requirements for child restraints used with the 3-year-old dummy, NHTSA notes that manufacturers choosing to certify to FMVSS No. 208 S21.2, Option-Automatic suppression feature, must demonstrate compliance when using any of the child restraints listed in sections C and D of FMVSS No. 208 Appendix A. These child restraints include (1) forward-facing toddler and forward-facing convertible seats, and (2) forward-facing toddler/belt positioning-booster seats and belt-positioning booster seats.

In its petition, Honda stated that it agrees with NHTSA that it is very important to periodically update the child restraint system list in Appendix A of FMVSS No. 208. However, Honda claimed that the weight of certain child restraint system models recommended for 3-year-old children in the updated list were heavier than others. Honda proposed to limit the child restraint system mass to about 8.5 kg (18.7 pounds). Specifically, the petitioner stated:

> A current, popular system for automatic suppression of the air bag for the infant and small child is seat weight detection. If increasingly heavier CRSs are added to the market endlessly, the stable and reliable performance of small occupant detection systems cannot be achieved. Consequently, future air bag suppression systems designed to prevent deployment with infants or small children in very heavy future CRSs could also suppress deployment for small adults such as the AF5 (5th percentile adult female). We are also concerned that older vehicles already on the road with suppression systems calibrated to the lower weights of older CRS specifications will fail to recognize newer, heavier designs. This means the air bag could deploy for an infant or small child in a very heavy CRS in vehicles calibrated to lighter weight CRSs that were on the market at the time the vehicle suppression system was designed.
>
> Therefore, we believe NHTSA should amend the FMVSS No. 213, ''Child Restraint Systems,'' to limit the weight of all C3Y (Three-year-old Child Dummy) CRSs (including rear-facing, forward-facing and convertible type CRSs) produced in accordance with FMVSS 213 for the purpose of maintaining the appropriate airbag deployment for small occupants. Based on the CRS designs available, perhaps a weight limit of about 8.5 kilograms may be appropriate.
>
> Based on the wide variety of CRS designs already on the market, Honda does not believe this simple requirement would unduly limit CRS designs or performance. A lighter CRS weight would assist in assuring the proper operation of weight-based air bag suppression systems and would add to consumer convenience and usage by being easier to carry and install in a vehicle.

III. Data

Honda provided the mass distribution for the child restraint systems in Appendix A of FMVSS No. 208. The weight distribution for these restraints ranged from about 1.5 kg (3.3 pounds) for Evenflo Right Fit to about 7.9 kg (17.4 pounds) for Britax Expressway ISOFIX, with an average weight of about 4.6 kg (11 pounds). Honda proposed to limit the child restraint system weight to about 8.5 kg (18.7 pounds). It is important to note that as currently written, FMVSS No. 213 is a performance standard, and as such, does not specify any weight limit on particular child restraint system designs.

While Honda's petition provided the weight of the child restraint systems currently included in Appendix A of FMVSS No. 208, NHTSA obtained the weight of a number of varying restraint designs, either currently available or available in recent years, including infant beds, infant seats with and without a base, convertible child seats, forward-facing only seats, combination child and booster seats, and booster seats child restraints.[1] From this list, NHTSA examined the weights of those restraints that could possibly be included in sections C and D of FMVSS No. 208 Appendix A, and therefore relevant to the subject petition (*e.g.*, forward-facing toddler, forward-facing convertible seats, forward-facing toddler/belt positioning-booster seats, and belt-positioning booster seats). While the vast majority of these child restraint systems weigh less than the Britax Expressway ISOFIX (currently, the heaviest child restraint system included in Appendix A of FMVSS No. 208), NHTSA found at least seven child restraint systems heavier than the Britax Expressway ISOFIX. Further, six of these are heavier than the 8.5 kg limit suggested by Honda in its petition.

IV. Analysis

Appendix A of FMVSS No. 208 specifies a list of child restraint systems that may be used by NHTSA to test the air bag suppression systems of a vehicle that has been certified as complying with S19, S21, or S23 of FMVSS No. 208. When selecting a child restraint system to be included in Appendix A, the agency considers a number of different factors. These factors are outlined in the agency's November 2003, final rule as follows:

> In deciding whether to amend Appendix A, NHTSA will consider a number of factors, such as whether a particular restraint has been a high volume model, whether it has mass and dimensions that are representative of many restraints on the market, whether its mass and dimensions represent outliers, and whether a variety of restraint manufacturers are represented in the appendix. This approach will allow us to limit Appendix A to those restraints that represent large portions of the CRS market, while including exceptionally large or small restraints. We believe a combination of restraints is needed to assure the robustness of automatic suppression systems under real world conditions.

Specifically with respect to Honda's concern about the increasing weight of

[1] SafetyBeltSafe U.S.A. provided the weights of these varying child restraints to NHTSA. A list of the restrint make/models and weights has been submitted separately to this docket.

child restraint systems, the heaviest child restraint system selected for inclusion in Appendix A, as amended in the November 19, 2003 final rule, is about 0.5 kg (1.1 lbs) heavier than the heaviest child restraint system removed from Appendix A. However, as noted earlier, the Britax Expressway ISOFIX is lighter than at least seven other child restraint systems either currently available or available in recent years that could be included in sections C and D of FMVSS No. 208 Appendix A. Importantly, NHTSA notes that there is no single established weight threshold for all weight-based air bag suppression systems on the market. The design of these systems may vary depending on a number of different parameters, as long as the system adequately suppresses the air bag when tested in accordance with the requirements of FMVSS No. 208.

Honda stated that for weight-based occupant detection systems used for air bag suppression, if increasingly heavier child restraint systems are added to the market endlessly, the stable and reliable performance of small occupant detection systems could not be achieved. NHTSA does not believe that the addition of the Britax Expressway ISOFIX, the heaviest child restraint system included in Appendix A of FMVSS No. 208 to date, serves as an indication that child restraints are becoming heavier. As noted earlier, NHTSA has identified at least nine child restraint systems that are above the 8.5 kg mass limit proposed by Honda. However, as FMVSS No. 213 does not require child restraint systems to meet specific weight limits, NHTSA does not weigh the restraints as part of its annual compliance test program. As such, the agency has no historical data to show that there is a trend towards increasingly heavier child restraint systems as implied by Honda. Further, Honda did not provide such data in support of its petition.

The agency did estimate that, in order to comply with the requirement that all child restraint systems have hardware enabling the restraint to attach to the universal child restraint anchorage system required in vehicles as a result of FMVSS No. 225, ''Child restraint anchorage systems,'' each child restraint system would have an incremental weight increase ranging from less than 0.45 kg (1 pound) to 1.36 kg (3 pounds) depending on the type of attachment hardware used.[2] To date, virtually all child restraint systems have adopted the use of flexible-type attachment hardware, which only marginally increases the weight of the child restraint system. Notably, the heaviest child restraint system in Appendix A of FMVSS No. 208-the Britax Expressway ISOFIX-is a restraint that utilizes a rigid lower attachment system to connect to the vehicle anchorages and is designed for forward-facing use. These rigid anchorages are typically heavier than the flexible attachment hardware that is predominant in current designs. However, we note that the Britax Expressway ISOFIX, at 7.9 kg (17.4 lb), is still significantly lighter than the heaviest child restraint system examined by NHTSA-the Britax Super Elite (a forward-facing seat for children weighing between 22 and 80 pounds, equipped with a 5-point harness restraint system) at 11.6 kg (25.6 lb).

Honda stated that based on the wide variety of child restraint system designs already on the market, the company does not believe a weight limit requirement would unduly limit child restraint system design or performance. However, Honda did not present evidence to support this claim. Absent such evidence, there is no way for the agency to confirm Honda's assertion. As noted earlier, FMVSS No. 213-as with the other FMVSSs-is a performance standard. The agency does not believe that it is appropriate to impose design-restrictive requirements that may hinder the development of safety features for use in future child restraint system designs. For example, NHTSA is conducting ongoing research in the area of improved side impact protection for children in crashes in response to the Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act. NHTSA does not want to put constraints on potential innovative designs that could improve safety for children in this or other areas in the future, and believes that imposing design-restrictive parameters for child restraints-such as imposing a weight limit as suggested in the subject petition-could potentially preclude the development of safety advances. While FMVSS No. 213 does not currently specify weight limits on child restraint designs, the agency notes, as did Honda, that lighter weight child restraint systems can be considered more user-friendly in that they are easier to move from one vehicle to another and from one seating position to another in the same vehicle if needed.

Honda stated that it is concerned that older vehicles that are already on the road, with suppression systems calibrated to the lower weights of older child restraint systems, will fail to recognize newer and heavier child restraint systems. Honda stated that the air bag could deploy for an infant or small child in a very heavy child restraint system in vehicles calibrated to lighter weight child restraint systems that were on the market at the time the vehicle suppression system was designed. NHTSA notes that the mass of the Britax Expressway ISOFIX is only 0.5 kg (1.1 lb) more than the previous heaviest child restraint system included in Appendix A. This is a very nominal increase (approximately 3 percent) in child restraint mass, and the agency would expect that the margin of safety designed into the occupant detection systems used to control air bag suppression systems is sufficient to address such small changes in child restraint system mass. This is especially important given that the agency has identified a number of child restraints either currently available or available in the recent past that are heavier- and in some cases, significantly heavier-than the Britax Expressway ISOFIX.

While Honda proposed to limit child restraint system design mass to about 8.5 kg (18.7 lb), it did not provide any rationale or supporting data to justify this 8.5 kg limit. This, coupled with the fact that there is no single established weight threshold for all weight-based air bag suppression systems on the market, does not support the adoption of Honda's proposed amendment. The agency does not have a rationale to restrict the mass of child restraint systems to a limit of 8.5 kg at this time.

While NHTSA does not believe that amendments are necessary at this time, the agency shares Honda's concern. As noted earlier, the agency does not weigh child restraints as part of the FMVSS No. 213 compliance test program. However, the agency does now weigh these seats for use in (1) developing future upgrades to Appendix A of FMVSS No. 208 and (2) the agency's Child Restraint Ease of Use Ratings Program. In addition, we will continue to monitor developments on this matter through the Society of Automotive Engineers-Child Restraint Systems Standard Committee, whose members include motor vehicle and motor vehicle equipment manufacturers, and child restraint systems manufacturers. This committee has been and continues to be in dialog on this subject, and we will ensure that the concerns are well communicated.

VI. Conclusion

The agency has clearly noted the composition of Appendix A is intended to represent large portions of the child restraint system market, while including

[2] Final Economic Assessment, FMVSS No. 213, FMVSS No. 225, Child Restraint Systems, Child Restraint Anchorage Systems. Docket No. NHTSA–1998–3390–27, Page 44, February 1999.

exceptionally large or small restraints. This combination of restraints is needed to assure the robustness of automatic suppression systems under real world conditions. It is also important to note that when Appendix A was amended in November 2003, the Britax Expressway ISOFIX was unique in design, in that it was the only child restraint system available with rigid Lower Anchors and Tethers for Children (LATCH) attachments. While the agency has identified a small percentage of child restraint systems that weigh more than the Britax Expressway ISOFIX, the inclusion of heavier child restraint system designs is not inconsistent with the intent of Appendix A of FMVSS No. 208. Further, while the Britax Expressway ISOFIX is approximately 0.5 kg (1.1 lb) heavier than the heaviest child restraint system that was removed from Appendix A as amended in the November 2003 final rule, the agency does not consider this to be an indication that child restraint system designs are increasing in weight.

As noted earlier, FMVSS No. 213 is a performance standard, and does not specify particular design constraints such as mass and/or dimensions. Honda did not provide any rationale for its proposal to limit child restraint system designs to a maximum of 8.5 kg (18.7 lb). NHTSA has not identified any real-world data to support the need to limit the weight of child restraint systems, and specifically as it relates to the performance of occupant detection systems for automatic air bag suppression. Further, specification of a child restraint system mass limit, when considered in conjunction with the mass of the dummy used in air bag suppression testing, would effectively establish a weight threshold for weight-based air bag suppression systems. It is not the intent of the agency to specify such a threshold. Each vehicle manufacturer is responsible for meeting the requirements of FMVSS No. 208 when using any of the child restraint systems listed in Appendix A.

In consideration of the foregoing, NHTSA is denying Honda's petition for rulemaking to amend FMVSS No. 213 to adopt a design weight limit for child restraint systems used with the 3-year-old dummy. In accordance with 49 CFR Part 552, this completes the agency's review of the petition.

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

Issued on: October 13, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–21465 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.050922245–5276–02; I.D. 092005A, 100505D]

RIN 0648–AT89

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule.

SUMMARY: NMFS issues this temporary rule to allow shrimp fishermen to continue to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in inshore and offshore waters from the Florida/Alabama border, westward to the boundary shared by Matagorda and Brazoria Counties, Texas, and extending offshore 50 nautical miles, as initially authorized in rules published on September 28 and October 14, 2005. This action is necessary because environmental conditions resulting from Hurricanes Katrina and Rita persist on the fishing grounds, preventing some fishermen from using TEDs effectively.

DATES: Effective from October 24, 2005, through 11:59 p.m, local time, November 23, 2005.

ADDRESSES: Requests for copies of the Environmental Assessment on this action should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–551–5794.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic area, Gulf area, and summer flounder sea turtle protection area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, the flounder TED, and one type of soft TED the Parker soft TED (see 50 CFR 223.207).

TEDs incorporate an escape opening, usually covered by a webbing flap, which allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon specific testing protocols (50 CFR 223.207(e)(1)). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

The regulations governing sea turtle take prohibitions and exemptions provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 223.206(d)(3)(ii) specify that the NOAA Assistant Administrator for Fisheries (AA) may authorize compliance with tow time restrictions as an alternative to the TED requirement if the AA determines that the presence of algae, seaweed, debris, or other

special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable. The provisions of 50 CFR 223.206(d)(3)(i) specify the maximum tow times that may be used when tow time limits are authorized as an alternative to the use of TEDs. Each tow may be no more than 55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31, as measured from the time that the trawl doors enter the water until they are removed from the water. These tow time limits are designed to minimize the level of mortality of sea turtles that are captured by trawl nets not equipped with TEDs.

Recent Events

On September 12, 2005, the NMFS Southeast Regional Administrator received requests from the Marine Fisheries Division of the Alabama Department of Conservation and Natural Resources (ALDCNR) and the Louisiana Department of Wildlife and Fisheries (LADWF) to allow the use of tow times as an alternative to TEDs in inshore and offshore waters because of excessive storm-related debris on the fishing grounds as a result of Hurricane Katrina. NMFS received a similar request from the Mississippi Department of Marine Resources (MDMR) on September 13. On September 27, 2005, the NMFS Southeast Regional Administrator received requests from the Louisiana Department of Wildlife and Fisheries (LADWF) and the Texas Parks and Wildlife Department (TPWD) to allow the use of tow times as an alternative to TEDs in inshore and offshore waters because of excessive storm-related debris on the fishing grounds as a result of Hurricane Rita. Subsequent to these requests, NMFS issued 30–day exemptions to the TED requirements from September 23 through October 23, 2005, and October 11 through November 10, 2005, for waters affected by Hurricanes Katrina and Rita, respectively (70 FR 56593 and 70 FR 60013, respectively).

On October 11, 2005, the NMFS Southeast Regional Administrator received requests from the ALDCNR, MDMR, LADWF, and the TPWD for an additional 30–day period allowing the use of restricted tow times as an alternative to TEDs in inshore and offshore waters because of excessive storm-related debris that is still present on the fishing grounds as a result of Hurricanes Katrina and Rita. After an investigation, NMFS has determined that this debris is still affecting fishermen's ability to use TEDs effectively, which is not expected to dissipate anytime soon. When a TED is clogged with debris it can no longer catch shrimp effectively nor can it effectively exclude turtles. NMFS has investigated the continuing problems with debris and has determined that shrimp fisherman may continue to use limited two times as an alterative to TEDs in inshore and offshore waters in the affected area off Alabama westward through Texas.

Special Environmental Conditions

The AA finds that debris washed into inshore and offshore waters by Hurricanes Katrina and Rita off Alabama, westward to the boundary shared by Matagorda and Brazoria Counties, Texas, and extending offshore 50 nautical miles, has created ongoing special environmental conditions that make trawling with TED-equipped nets impracticable. Therefore, the AA issues this notification to extend the two previous authorizations for the use of restricted tow times as an alternative to the use of TEDs in inshore and offshore waters off Alabama, westward to the boundary shared by Matagorda and Brazoria Counties, Texas, and extending offshore 50 nautical miles, through 11:59 p.m. on November 23, 2005. Tow times must be limited to no more than 55 minutes measured from the time trawl doors enter the water until they are retrieved from the water through October 31, 2005, and no more than 75 minutes from the time trawl doors enter the water until they are retrieved, November 1 through November 23, 2005; thus, the permitted tow time will change part way through this exemption period.

Continued Use of TEDs

NMFS encourages shrimp trawlers in the affected areas to continue to use TEDs if possible, even though they are authorized under this action to use restricted tow times.

NMFS' gear experts have provided several general operational recommendations to fishermen to maximize the debris exclusion ability of TEDs that may allow some fishermen to continue using TEDs without resorting to restricted tow times. To exclude debris, NMFS recommends the use of hard TEDs made of either solid rod or of hollow pipe that incorporate a bent angle at the escape opening, in a bottom-opening configuration. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can trap debris either on or in front of the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: the webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris. The use of the double cover flap TED will also aid in debris exclusion.

All of these recommendations represent legal configurations of TEDs for shrimpers fishing in the affected areas. This action does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this rule applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 223.206(d)(2) who are operating in inshore and offshore waters affected by Hurricanes Katrina and Rita off Alabama, westward to the boundary shared by Matagorda and Brazoria Counties, Texas, and extending offshore 50 nautical miles, through November 23, 2005. Through this temporary rule, shrimp trawlers may choose either restricted tow times or TEDs to comply with the sea turtle conservation regulations, as prescribed above.

Alternative to Required Use of TEDs; Termination

The AA, at any time, may withdraw or modify this temporary authorization to use tow time restrictions in lieu of TEDs through publication of a notice in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times, synchronized tow times, or withdrawal of the authorization if the AA determines that the alternative authorized by this rule is not sufficiently protecting turtles or no longer needed. The AA may also terminate this authorization if information from enforcement, state authorities, or NMFS indicates

compliance cannot be monitored effectively. This authorization will expire automatically at 11:59 p.m., local time, on November 23, 2005, unless it is explicitly extended through another notification published in the **Federal Register**.

Classification

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

The AA has determined that this action is necessary to respond to special environmental conditions to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and applicable regulations.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this rule. The AA finds that unusually high amounts of debris has created ongoing special environmental conditions that make trawling with TED-equipped nets impracticable. Prior notice and opportunity to comment are impracticable and contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing the affected industry relief from the effects of Hurricanes Katrina and Rita in a timely manner.

The AA finds that there is good cause to waive the 30–day delay in effective date pursuant to 5 U.S.C. 553(d)(3) to provide alternatives to comply with the sea turtle regulations in a timely manner. Many fishermen may be unable to operate under the special environmental conditions created by Hurricanes Katrina and Rita without an alternative to using TEDs. Providing a 30–day delay in effective date would prevent the agency from providing the affected industry relief from the effects of Hurricanes Katrina and Rita in a timely manner. For the reasons stated above, the AA finds that this temporary rule should not be subject to a 30–day delay in effective date, pursuant to 5 U.S.C. 553(d)(1).

Since prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.* are inapplicable.

The AA prepared an Environmental Assessment (EA) for this rule. Copies of the EA are available (see **ADDRESSES**).

Dated: October 24, 2005.

James W. Balsiger,

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

[FR Doc. 05–21485 Filed 10–24–05; 2:28 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 207
Thursday, October 27, 2005

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22749; Directorate Identifier 2005–NM–188–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Raytheon Model Hawker 800XP airplanes. This proposed AD would require inspecting to determine if the correct fuse is installed on the hydraulic over-temperature switch on panel ZK in the rear equipment bay, and replacing the existing fuse if necessary. This proposed AD results from a report of the installation of an incorrect fuse on the over-temperature switch on panel ZK in the rear equipment bay during airplane maintenance. We are proposing this AD to prevent a short circuit in the fuse and consequent heat damage to associated wiring and surrounding equipment, which could result in smoke or fire on the airplane.

DATES: We must receive comments on this proposed AD by December 12, 2005.

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

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

Contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas, 67201–0085 for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22749; Directorate Identifier 2005–NM–188–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report of the installation of an incorrect fuse on the over-temperature switch on panel ZK in the rear equipment bay on Raytheon Model Hawker 800XP airplanes. The manufacturer indicated that, during airplane maintenance, a 20-amp fuse, instead of the required 3-amp fuse, may have inadvertently been installed on fuse F1 of the ZK panel. This condition, if not corrected, could result in a short circuit in the fuse and consequent heat damage to associated wiring and surrounding equipment, which could result in smoke or fire on the airplane.

Relevant Service Information

We have reviewed Raytheon Service Bulletin SB 24–3724, dated May 2005. The service bulletin describes procedures for inspecting to determine if a 20-amp fuse is installed on the hydraulic over-temperature switch on panel ZK in the rear equipment bay, and replacing any 20-amp fuse with a 3-amp fuse. The service bulletin also recommends reporting compliance with the service bulletin and contacting the manufacturer if signs of damage are found on associated terminals and wires.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletin.''

Differences Between the Proposed AD and Service Bulletin

Where the service bulletin specifies contacting the manufacturer if any sign

of damage is found on associated terminals and wires, this proposed AD would require that, before further flight, you must contact the FAA for applicable repair actions. Then, before further flight, accomplish the applicable repair actions specified by the FAA in accordance with a method approved by the FAA.

Although the Accomplishment Instructions of the service bulletin describe procedures for reporting compliance with the service bulletin, this proposed AD would not require that action.

The service bulletin refers only to an ''inspection'' to ensure that a 20-amp fuse is not installed. We have determined that the procedures in the service bulletin should be described as a ''general visual inspection.'' Note 1 has been included in this proposed AD to define this type of inspection.

Clarification of Service Bulletin Note

The Raytheon service bulletin includes a note in the Accomplishment Instructions to inform operators to contact Raytheon ''should any difficulty be encountered'' in accomplishing the service bulletin. We have included Note 2 in this proposed AD to clarify that any deviation from the instructions provided in the service bulletin must be approved as an alternative method of compliance under paragraph (g) of this proposed AD.

Costs of Compliance

There are about 138 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 110 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $65 per work hour. Required parts cost is negligible. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $14,300, or $130 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company: Docket No. FAA–2005–22749; Directorate Identifier 2005–NM–188–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 12, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Raytheon Model Hawker 800XP airplanes, certificated in any category, serial numbers 258541, 258556, and 258567 through 258713 inclusive.

Unsafe Condition

(d) This AD results from a report of the installation of an incorrect fuse on the over-temperature switch on panel ZK in the rear equipment bay during airplane maintenance. We are issuing this AD to prevent a short circuit in the fuse and consequent heat damage to associated wiring and surrounding equipment, which could result in smoke or fire on 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.

Inspect and Replace if Necessary

(f) Within 50 flight hours or 30 days after the effective date of this AD, whichever is first: Do a general visual inspection to determine if a 20-amp fuse is installed on the hydraulic over-temperature switch on panel ZK in the rear equipment bay in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 24–3724, dated May 2005. If a 20-amp fuse is installed, before further flight, replace with a 3-amp fuse in accordance with the Accomplishment Instructions of 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 enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 2: A note in the Accomplishment Instructions of the Raytheon service bulletin instructs operators to contact Raytheon if any difficulty is encountered in accomplishing the service bulletin. However, any deviation from the instructions provided in the service bulletin must be approved as an alternative method of compliance (AMOC) under paragraph (g) of this AD.

Repair Approval

(g) Where the Raytheon Service Bulletin SB 24–3724, dated May 2005, says to contact the manufacturer if any sign of damage is found on associated terminals and wires: Before further flight, contact the Manager, Wichita Aircraft Certification Office, FAA, for applicable repair actions; then, before further flight, accomplish the applicable repair actions specified according to a method approved by the Manager, Wichita Aircraft Certification Office.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on October 18, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21438 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22791; Directorate Identifier 2005–NM–083–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–100A and –200A Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146–100A and –200A series airplanes. This proposed AD would require inspecting the nose landing gear (NLG) assembly to determine the part number of the NLG main fitting subassembly. For subject NLG main fitting subassemblies, this proposed AD would also require determining the total number of accumulated landings on a subject NLG main fitting subassembly, and eventually replacing the NLG assembly. This proposed AD results from a report indicating that the airplane maintenance manual contains incorrect safe-life limit information for certain NLG assemblies. We are proposing this AD to ensure that affected NLG fitting subassemblies are removed from service before they reach their approved safe-life limit. Operating with an NLG fitting subassembly that is beyond its approved safe-life limit could result in failure of the NLG and consequent loss of directional control on the ground and major structural damage to the airplane.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22791; Directorate Identifier 2005–NM–083–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited Model BAe 146–100A and –200A series airplanes. The CAA advises that Chapter 5 of the airplane maintenance manual (AMM) may contain incorrect safe-life limit information for certain nose landing gear (NLG) assemblies. Operating with an NLG fitting subassembly that is beyond its approved safe-life limit could lead to fatigue cracking of the main fitting of the NLG. This condition, if not corrected, could result in failure of the NLG and consequent loss of directional control on the ground and major structural damage to the airplane.

Relevant Service Information

BAE Systems has issued Service Bulletin ISB.32–169, dated October 4, 2004. The service bulletin describes procedures for inspecting the NLG assembly to determine the part number of the NLG main fitting subassembly. If a subassembly having a subject part number is installed, the service bulletin specifies determining the total accumulated landings on the subassembly (since it was new or overhauled); eventually replacing the NLG assembly with a new, serviceable, or overhauled NLG assembly; and returning the replaced NLG assembly to Messier-Dowty or an overhaul facility. (For the purposes of this proposed AD, a serviceable NLG is one on which the part number of the NLG main fitting subassembly has been identified and the number of landings has been determined if necessary.) Accomplishing the actions specified in

the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directive G–2005–0001, dated January 12, 2005, to ensure the continued airworthiness of these airplanes in the United Kingdom.

BAE Systems Service Bulletin ISB.32–169 refers to Messier-Dowty Service Bulletin 146–32–155, dated July 16, 2004, as an additional source of service information for inspecting to determine the part number of the NLG main fitting subassembly, determining the number of accumulated landings on the NLG main fitting subassembly, and replacing the NLG assembly.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in BAE Systems Service Bulletin ISB.32–169, described previously.

Costs of Compliance

This proposed AD would affect about 18 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $1,170, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2005–22791; Directorate Identifier 2005–NM–083–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146–100A and –200A series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report indicating that the airplane maintenance manual contains incorrect safe-life limit information for certain nose landing gear (NLG) assemblies. We are issuing this AD to ensure that affected NLG fitting subassemblies are removed from service before they reach their approved safe-life limit. Operating with an NLG fitting subassembly that is beyond its approved safe-life limit could result in failure of the NLG and consequent loss of directional control on the ground and major structural damage to 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.

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of BAE Systems Service Bulletin ISB.32–169, dated October 4, 2004.

(1) The service bulletin refers to Messier-Dowty Service Bulletin 146–32–155, dated July 16, 2004, as an additional source of service information for inspecting to determine the part number of the NLG main fitting subassembly, determining the number of accumulated landings on the NLG main fitting subassembly, and replacing the NLG assembly.

(2) Although the service bulletin specifies to submit certain information to the manufacturer and to return replaced NLG assemblies to the manufacturer or other overhaul facility, this AD does not require that action.

Inspection To Determine Part Number

(g) Within 30 days after the effective date of this AD: Inspect the nose landing gear (NLG) assembly to determine the part number of the NLG main fitting subassembly, in accordance with the service bulletin. If the part number of the NLG main fitting subassembly is not listed in paragraph 1.A.(2) of the service bulletin: This paragraph requires no further action. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the NLG main fitting subassembly can be conclusively determined from that review.

Replacement of NLG

(h) If the part number of the NLG main fitting subassembly is listed in paragraph 1.A.(2) of the service bulletin: Determine the total accumulated landings on the subassembly (since the subassembly was new or overhauled); and replace the NLG with a new, serviceable, or overhauled subassembly; in accordance with the service bulletin. (For the purposes of this AD, a serviceable NLG is one on which the NLG main fitting

subassembly has been identified, the number of landings has been determined, and the number of landings does not exceed the limits specified in this AD, as applicable.) Do the actions specified in this paragraph at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, or within 500 landings after the effective date of this AD, whichever is later. A review of airplane maintenance records is acceptable in lieu of this inspection if the total accumulated landings on the subassembly (since the subassembly was new or overhauled) can be conclusively determined from that review.

(1) If the NLG has not been overhauled previously: Prior to the accumulation of 35,000 total landings on the NLG.

(2) If the NLG has been overhauled previously: Within 8,000 landings since the most recent overhaul.

Parts Installation

(i) After the effective date of this AD, no person may install an NLG that is equipped with a main fitting subassembly having a part number listed in paragraph 1.A.(2) of the service bulletin, unless all of the applicable actions in paragraphs (g) and (h) of this AD have been done.

Alternative Methods of Compliance (AMOCs)

(j)(1) 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.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(k) British airworthiness directive G–2005–0001, dated January 12, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 18, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21437 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22792; Directorate Identifier 2005–NM–084–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146–RJ Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model Avro 146–RJ airplanes. This proposed AD would require reviewing the airplane's maintenance records to determine if certain tasks of the Bae146/Avro RJ Maintenance Planning Document have been accomplished. This proposed AD would also require doing repetitive detailed inspections of the external fuselage skin adjacent to the longeron at rib 0 from frame 29 to frame 31 and repairing any damage if necessary. This proposed AD results from issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. We are proposing this AD to detect and correct cracking of the fuselage skin, which could result in structural failure of the fuselage.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number ''FAA–2005–22792; Directorate Identifier 2005–NM–084–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited Model Avro 146–RJ airplanes. The CAA advises that, to ensure continued structural integrity of the fuselage skin, it has reduced the initial threshold for inspecting the fuselage skin adjacent to the longeron at rib 0 between frames 29 and 31 for cracking. Cracking of the fuselage skin, if not detected and corrected, could result in structural failure of the fuselage.

Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.53–177, dated June 29, 2004. The ISB describes procedures for doing repetitive detailed inspections of the external fuselage skin adjacent to the longeron at rib 0 from frame 29 to frame

31; repairing any damage if found; and contacting the manufacturer if damage is beyond the repair limits. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directive G–2005–0009, dated March 9, 2005, to ensure the continued airworthiness of these airplanes in the United Kingdom.

The ISB refers to the following service information as additional sources of service information:

- Supplemental Structural Inspection 53–20–138 of the Maintenance Review Board Report, Revision 10, dated May 2004, for inspecting the external fuselage skin.
- BAE Systems (Operations) Limited Structural Repair Manual (SRM) for repairing certain damage.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the CAA approve would be acceptable for compliance with this proposed AD.

Clarification of Inspection Terminology

The ''detailed visual inspection'' specified in British airworthiness directive G–2005–0009, dated March 9, 2005, and BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–177, dated June 29, 2004, is referred to as a ''detailed inspection'' in this proposed AD. We have included the definition for a detailed inspection in a note in the proposed AD.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Records examination	1	$65	None	$65	36	$2,340.
Repetitive detailed inspection	4	65	None	260	36	$9,360, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2005–22792; Directorate Identifier 2005–NM–084–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. We are issuing this AD to detect and correct cracking of the fuselage skin, which could result in structural failure of the fuselage.

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.

Maintenance Records Check

(f) Within 30 days after the effective date of this AD, review the airplane's maintenance records to determine if Tasks 532038–DVI–10000–1 and –2 of the Bae146/Avro RJ Maintenance Planning Document have been accomplished before the effective date of this AD. If review of the airplane's maintenance records cannot conclusively determine that Tasks 532038–DVI–10000–1 and –2 have been accomplished, do the detailed inspection specified in paragraph (g) of this AD at the applicable compliance time specified in paragraph (g)(1) or (g)(2) of this AD. If review of the airplane's maintenance records can conclusively determine that Tasks 532038–DVI–10000–1 and –2 have been accomplished, do the detailed inspection specified in paragraph (g) of this AD at the compliance time specified in paragraph (g)(3) of this AD.

Detailed Inspection and Corrective Action

(g) At the applicable compliance time specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, do a detailed inspection of the external fuselage skin adjacent to the longeron at rib 0 from frame 29 to frame 31, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–177, dated June 29, 2004. If any damage is found during any inspection required by this AD, before further flight, repair in accordance with the service bulletin; except where the service bulletin specifies to repair with an approved BAE Systems repair scheme, before further flight, repair the damage according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

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.''

Note 2: BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–177, dated June 29, 2004, refers to Supplemental Structural Inspection 53–20–138 of the Maintenance Review Board Report, Revision 10, dated May 2004, as an additional source of service information for inspecting the external fuselage skin. The service bulletin also refers to BAE Systems (Operations) Limited Structural Repair Manual (SRM) as an additional source of service information for repairing certain damage.

(1) For airplanes on which Tasks 532038–DVI–10000–1 and –2 of the Bae146/Avro RJ Maintenance Planning Document have not been accomplished but that have accumulated 22,000 total flight cycles or less as of the effective date of this AD: Inspect before accumulating 22,000 total flight cycles or within 6 months after the effective date of this AD, whichever is later. Thereafter repeat the detailed inspection at intervals not to exceed 12,000 flight cycles.

(2) For airplanes on which Tasks 532038–DVI–10000–1 and –2 of the Bae146/Avro RJ Maintenance Planning Document have not been accomplished but that have accumulated more than 22,000 total flight cycles as of the effective date of this AD: Inspect before accumulating 24,000 total flight cycles or within 6 months after the effective date of this AD, whichever is first. Thereafter repeat the detailed inspection at intervals not to exceed 12,000 flight cycles.

(3) For airplanes on which Tasks 532038–DVI–10000–1 and –2 of the Bae146/Avro RJ Maintenance Planning Document have been accomplished before the effective date of this AD: Inspect within 12,000 flight cycles after the most recent inspection. Thereafter repeat the detailed inspection at intervals not to exceed 12,000 flight cycles.

No Reporting Requirement

(h) 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)

(i)(1) 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.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) British airworthiness directive G–2005–0009, dated March 9, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 18, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21436 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22793; Directorate Identifier 2005–NM–161–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD would require replacing the Gask-O-Seal in the coupling of the refuel/defuel shut-off valves. This proposed AD results from a report that Gask-O-Seals that did not incorporate an integral restrictor to limit fuel flow rate and fuel pressure during refueling were installed on certain airplanes. We are proposing this AD to prevent a buildup of excessive static charge, which could create an ignition source inside the fuel tank.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, 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) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22793; Directorate Identifier 2005–NM–161–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. TCCA advises that incorrectly identified Gask-O-Seals have been installed on certain production airplanes and have been delivered as part of a modification kit for Bombardier Service Bulletin 601R–28–053, dated July 12, 2004. The incorrectly identified Gask-O-Seal did not incorporate an integral restrictor to limit fuel flow rate and fuel pressure during refueling. This condition, if not corrected, could result in a buildup of excessive static charge, which could create an ignition source inside the fuel tank.

Relevant Service Information

Bombardier has issued Alert Service Bulletin A601R–28–064, dated April 21, 2005. The alert service bulletin describes procedures for replacing the Gask-O-Seal, part number (P/N) 202297, in the coupling of the refuel/defuel shut-off valves with a new Gask-O-Seal, P/N 601R62085–1. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF–2005–18, dated June 9, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in Canada 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, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Replacement	1	$65	$0	$65	720	$46,800

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2005–22793; Directorate Identifier 2005–NM–161–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, as specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airplanes having serial numbers 7003 through 7067 inclusive and 7069 through 7939 inclusive on which Bombardier Service Bulletin 601R–28–053, dated July 12, 2004, has been accomplished.

(2) Airplanes having serial numbers 7940 through 7988 inclusive.

Unsafe Condition

(d) This AD results from a report that Gask-O-Seals that did not incorporate an integral restrictor to limit fuel flow rate and fuel pressure during refueling were installed on certain airplanes. We are issuing this AD to prevent a buildup of excessive static charge, which could create an ignition source inside the fuel tank.

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.

Replacement

(f) Within 550 flight hours after the effective date of this AD, replace the Gask-O-Seal in the coupling of the refuel/defuel shut-off valves by doing all the actions specified in the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–064, dated April 21, 2005.

Parts Installation

(g) As of the effective date of this AD, no person may install a Gask-O-Seal, part number 202297, on any airplane.

Alternative Methods of Compliance (AMOCs)

(h)(1) 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.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) Canadian airworthiness directive CF–2005–18, dated June 9, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 18, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21435 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22794; Directorate Identifier 2005–NM–097–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes; Model A320–111 Airplanes; and Model A320–200, A321–100, and A321–200 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A318–100 and A319–100 series airplanes; Model A320–111 airplanes; and Model A320–200, A321–100, and A321–200 series airplanes. This proposed AD would require repetitive detailed inspections of the trimmable horizontal stabilizer actuator (THSA) attachments for proper clearances, and any crack, damage, or metallic particles; related corrective actions if necessary; and a report of the inspection results to the manufacturer. This proposed AD results from a report that during lab testing to verify the performance of the THSA's secondary load path with a simulated failure of the THSA's primary load path, the secondary load path's nut did not jam (as it was supposed to do.) We are proposing this AD to ensure the integrity of the THSA's primary load path, which if failed, could result in latent (undetected) loading and eventual failure of the THSA's secondary load path and consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number ''FAA–2005–22794; Directorate Identifier 2005–NM–097–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on all Airbus Model A318–100, A319–100, A320, and A321 series airplanes. The DGAC advises that, during lab testing to verify the performance of the secondary load path of the trimmable horizontal stabilizer actuator (THSA) with a simulated loss of the THSA's primary load path, the secondary load path's nut did not jam the THSA (as it was supposed to do). The THSA was designed to jam in the event of a primary load path failure, to indicate to the flightcrew that a component of the THSA (the primary load path) had failed and would need repair. Without the jamming of the secondary load path's nut, there would be no indications of failure of the THSA primary load path, and it is possible that the airplane would continue to be unknowingly operated with a failed component and continuous loading of the secondary load path. The secondary load path is not designed to tolerate continued loading during multiple flights. In the event of a secondary load path failure in addition to a primary load path failure, the flightcrew would not be able to control the position of the THSA. This condition, if not corrected, could result in uncontrolled movement of the horizontal stabilizer and consequent loss of control of the airplane.

Relevant Service Information

Airbus has issued Service Bulletin A320–27–1164, Revision 02, dated March 30, 2005. The service bulletin describes procedures for repetitive detailed inspections of the THSA attachments for proper clearances, and for any crack, damage, or metallic particles; related corrective actions if necessary; and a report of the inspection results to the manufacturer. The detailed inspections involve doing a check for the clearances between the secondary nut trunnions and junction plates at the lower THSA attachment; and doing a visual inspection of the upper THSA attachment structure/area for any crack, damage, or metallic particles. The corrective actions involve replacing the THSA if any clearance is not correct, or if any crack or damage is found; and contacting the manufacturer for further instructions if any metallic particles are found. The DGAC mandated the service information and issued French airworthiness directive F–2005–051, dated March 30, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions if any metallic particles are found, but this proposed AD would require you to repair the THSA using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the DGAC approve would be acceptable for compliance with this proposed AD.

The service bulletin refers only to a ''check'' and a ''visual inspection'' for inspections of the THSA attachments for proper clearances; and for any crack, damage, or metal particles. We have determined that the procedures for both actions in the service bulletin should be described as ''detailed inspections.'' Note 1 has been included in this proposed AD to define this type of inspection.

Interim Action

This 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 problem, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

Costs of Compliance

This proposed AD would affect about 700 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $45,500, or $65 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–22794; Directorate Identifier 2005–NM–097–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes, Model A320–111 airplanes, Model A320–211, –212, –214, –231, –232, and –233 airplanes, Model A321–111, –112, and –131 airplanes, and Model A321–211 and –231 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report that during lab testing to verify the performance of the trimmable horizontal stabilizer actuator's (THSA's) secondary load path with a simulated failure of the THSA's primary load path, the secondary load path's nut did not jam (as it was supposed to do.) We are issuing this AD to ensure the integrity of the THSA's primary load path, which if failed, could result in latent (undetected) loading and eventual failure of the THSA's secondary load path and consequent uncontrolled movement of the horizontal stabilizer and 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.

Repetitive Inspections and Corrective Action

(f) Within 20 months since first flight, or within 600 flight hours after the effective date of this AD, whichever occurs later, do detailed inspections of the THSA attachments for proper clearances and any crack, damage, or metallic particles, and do related corrective actions as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1164, Revision 02, dated March 30, 2005, except as described in paragraph (g) of this AD. Do corrective actions before further flight. Thereafter, repeat the inspections at intervals not to exceed 20 months.

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.''

(g) If any metallic particles are detected during the inspection required by paragraph (f) of this AD: Before further flight, repair the damage according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Inspection Reports

(h) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (f) of this AD to Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

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

(2) If any inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) French airworthiness directive F–2005–051, dated March 30, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 18, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21434 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22810; Directorate Identifier 2005–NM–143–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–203, –204, and –222 Airplanes, and Model A310–300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A310–203, –204, and –222 airplanes, and Model A310–300 series airplanes. This proposed AD would require a one-time rototest inspection for cracking of the frame foot and adjacent frames and skin in the area surrounding the frame foot run-outs from fuselage frames (FR) 43 through FR 46, and repair if necessary. The proposed AD also requires modification of certain fastener holes. This proposed AD results from a structural evaluation of Model A310 airplanes for widespread fatigue damage of the frame foot run-outs from FR 43 through FR 46. The evaluation revealed that, on in-service airplanes, undetected cracking in this area can lead to the rupture of the frame foot and subsequent cracking of the adjacent frames and fuselage skin. We are proposing this AD to prevent fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and result in reduced structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22810; Directorate Identifier 2005–NM–143–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A310–203, –204, and –222 airplanes, and Model A310–300 series airplanes. The DGAC advises that a structural evaluation for widespread fatigue damage of the frame foot run-outs from fuselage frame (FR) 43 through FR 46 was done on the subject airplanes. The evaluation revealed that, on in-service airplanes, undetected cracking in this area can lead to the rupture of the frame foot and subsequent cracking of the adjacent frames and fuselage skin. Such cracking would require an extensive repair and could have an impact on pressure loading strength capacity of the structure. These conditions, if not corrected, could result in reduced structural integrity of the fuselage.

Relevant Service Information

Airbus has issued Service Bulletin A310–53–2124, dated April 4, 2005. The service bulletin describes procedures for performing a one-time rototest inspection to find cracking of the frame foot and adjacent frames and skin in the area surrounding the frame foot run-outs from FR 43 through FR 46, and repair of cracking within certain limits. If the cracking is outside the limits specified in the service bulletin, the service bulletin procedures recommend contacting the manufacturer for repair instructions. The service bulletin also describes procedures for modification of certain fastener holes. The modification includes cold expanding the fastener holes most susceptible to fatigue, which are located between FR 43 and FR 46 on the center box and on the upper fuselage bent sections, and installing new fasteners. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–078, dated May 11, 2005, to ensure the continued airworthiness of these airplanes in France.

Section 1.E., Compliance, of the service bulletin specifies compliance times for the actions in the service bulletin. The thresholds for the one-time inspection and modification range from between 22,200 flight cycles or 51,700 flight hours, whichever is first, to 26,800 flight cycles or 77,700 flight hours, whichever is first, depending on the configuration of the airplane. The service bulletin also includes a grace period of 3,000 flight cycles for airplanes that have exceeded certain flight-hour or flight-cycle thresholds, depending on the configuration of the airplane.

FAA's Determination and Requirements of the Proposed AD

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

type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Among Proposed AD, French Airworthiness Directive, and Service Bulletin.''

Differences Among Proposed AD, French Airworthiness Directive, and Service Bulletin

The applicability of the French Airworthiness Directive excludes airplanes on which Airbus Service Bulletin A310–53–2124 has been accomplished in service. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD would include a requirement to accomplish the actions specified in that service bulletin. This proposed AD would ensure that the actions specified in the service bulletin and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved.

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the DGAC approve would be acceptable for compliance with this proposed AD.

Costs of Compliance

This proposed AD would affect about 59 airplanes of U.S. registry. The proposed actions would take about 31 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $1,730 per kit (two kits per airplane). Based on these figures, the estimated cost of the proposed AD for U.S. operators is $323,025, or $5,475 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–22810; Directorate Identifier 2005–NM–143–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310–203, –204, and –222 airplanes, and Model A310–304, –322, –324, and –325 airplanes; certificated in any category; except those airplanes on which Airbus Modification 13023 has been accomplished in production.

Unsafe Condition

(d) This AD results from a structural evaluation of Model A310 airplanes for widespread fatigue damage of the frame foot run-outs from frame (FR) 43 through FR 46. We are issuing this AD to prevent fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and result in reduced structural integrity of the fuselage.

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/Repair/Modification

(f) At the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD, perform a one-time rototest inspection for cracking of the frame foot and adjacent frames and skin in the area surrounding the frame foot run-outs from fuselage frame FR 43 through FR46 by doing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Except as required by paragraph (g) of this AD, repair any cracking before further flight in accordance with the Accomplishment Instructions of the service bulletin. Before further flight after performing the inspection, modify the fastener holes located between FR 43 and FR 46 on the center box and on the upper fuselage bent sections in accordance with the Accomplishment Instructions of the service bulletin.

(1) Before the accumulation of the total flight-cycle or flight-hour threshold, whichever is first, specified in the Accomplishment Timescale table in paragraph 1.E.(2), ''Compliance'' of the service bulletin.

(2) At the earlier of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Before the accumulation of the total flight-cycle or flight-hour threshold, whichever is first, specified in Notes 01, 02, and 03 in paragraph 1.E.(2), ''Compliance'' of the service bulletin, after the effective date of this AD.

(ii) Within 3,000 flight cycles after the effective date of this AD.

Repair Per FAA or Direction Générale de l'Aviation Civile (DGAC)

(g) For any cracking found during any inspection required by this AD for which the

service bulletin specifies to contact the manufacturer for an appropriate repair: Before further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the DGAC (or its delegated agent).

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) French airworthiness directive F–2005–078, dated May 11, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 20, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21428 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22812; Directorate Identifier 2005–NM–134–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, and A340–300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. This proposed AD would require repetitive detailed inspections for cracking in the aft web of support rib 6 between certain bottom skin stringers on both wings; high frequency eddy current inspections for cracking of the attachment holes of the fuel pipes, and repair if necessary. This proposed AD would also provide for an optional modification, which would extend a certain inspection threshold. This proposed AD results from a report of significant cracking found in the aft web of support rib 6 on both wings. We are proposing this AD to prevent cracking in the aft web of support rib 6, which could result in overloading of adjacent ribs and the surrounding wing structure and consequent reduced structural integrity of the wing.

DATES: We must receive comments on this proposed AD by November 28, 2005.

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

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

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number ''FAA–2005–22812; Directorate Identifier 2005–NM–134–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. The DGAC advises that a report was received indicating significant cracking in the aft web of support rib 6 on the left and right wings on a Model A330 series airplane. When the cracking was found, during an 8C-check, the airplane had accumulated 10,441 total flight cycles and 40,153 total flight hours. The cracking was located in the lower part of the rib 6 aft hole between bottom skin stringers 18 and 20. The cracking extended from the fuel pipe fastener holes to the lower edge of the rib 6 hole and into the refuel pipe hole where the cracking had gone through the full thickness of the rib. Subsequent inspections on several Model A330 and A340 series airplanes revealed similar cracking in the same area. These conditions, if not corrected, could result in overloading of adjacent ribs and the surrounding wing structure and consequent reduced structural integrity of the wing.

Relevant Service Information

Airbus has issued Service Bulletins A330–57–3085 (for Model A330 series airplanes) and A340–57–4093 (for Model A340 series airplanes), both Revision 01, both dated March 25, 2005. The service bulletins describe procedures for detailed inspections for cracking in the aft web of support rib 6 between bottom skin stringers 18 and 20 on both wings, and high frequency eddy current (HFEC) inspections for cracking

of the attachment holes of the fuel pipe (including a rototest inspection of the attachment holes of the fuel pipe mounting). The service bulletins also recommend contacting the manufacturer for repair instructions if any cracking is found, and reporting inspection information to the manufacturer. If no cracking is found, the service bulletins specify accomplishing the optional modification specified in Service Bulletin A330–57–3087 or A340–57–4095, as applicable.

The compliance thresholds for the initial inspections specified in Service Bulletin A330–57–3085 range from between 8,000 and 19,200 flight cycles or between 25,000 and 57,800 flight hours. The compliance thresholds for the initial inspections specified in Service Bulletin A340–57–4093 range from between 8,000 and 12,200 flight cycles or between 30,200 and 53,500 flight hours.

Airbus has also issued Service Bulletins A330–57–3087 (for Model A330 series airplanes) and A340–57–4095 (for Model A340 series airplanes), both dated February 15, 2005. The service bulletins describe procedures for modifying the fuel pipe connector and the fastener holes of support rib 6. The modification includes, among other things, enlarging and cold expanding certain attachment holes of the fuel pipe connector, installing interference bolts, and a HFEC inspection (rotating probe test) of the fastener holes for cracking. If no cracking is found during the inspections specified in Service Bulletin A330–57–3085 or A340–57–4093, this optional modification may be done.

The DGAC mandated the service information and issued French airworthiness directives F–2005–071 and F–2005–072, both dated April 27, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under Differences Among the Proposed AD, Service Information, and French Airworthiness Directives.

Differences Among the Proposed AD, Service Information, and French Airworthiness Directives

Service Bulletins A330–57–3085 and A340–57–4093 and the French airworthiness directives specify to contact the manufacturer for repair instructions and an inspection schedule if any crack or damage is found; this proposed AD requires you to repair any cracking (and obtain a schedule for subsequent inspections) by using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair and inspection schedule we or the DGAC approve is acceptable for compliance with this proposed AD.

Figure 4, Sheet 1, ''Inspection Flow Chart,'' of Service Bulletins A330–57–3085 and A340–57–4093 specifies initial inspection thresholds for airplanes on which the actions in those service bulletins have been accomplished, or Airbus Modification 53882 was done during production. This proposed AD would require you to perform the initial inspection at the earliest of those thresholds or within 6 months after the effective date of the AD, whichever is later. We have included a 6-month grace period to ensure that any airplane that is close to or has passed the initial inspection threshold is not grounded as of the effective date of the AD.

Clarification of Procedures for Certain Inspections

The French airworthiness directives require certain follow-on inspections prior to next flight for airplanes above 8,000 flight cycles or 30,200 flight hours with at least one wing rib 6 not repaired or modified after a hard or overweight landing of the airplane; however, there are no procedures specified in Service Bulletins A330–57–3085 and A340–57–4093 for accomplishing those inspections. Therefore, we have determined that, for this proposed AD, inspections we or the DGAC approve are acceptable for compliance with the inspections required by the French airworthiness directives. We have provided other methods to comply, as specified in the French airworthiness directives.

Interim Action

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

Costs of Compliance

This proposed AD would affect about 25 airplanes of U.S. registry.

The proposed inspections would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed inspections for U.S. operators is $6,500, or $260 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–22812; Directorate Identifier 2005–NM–134–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–201, –202, –203, –223, and –243; A330–301, –321, –322, –323, –341, –342, and –343; A340–211, –212, and –213; and A340–311, –312, and –313 airplanes, certificated in any category; on which Airbus Modification 41114 or 44599 was done during production.

Unsafe Condition

(d) This AD results from a report of significant cracking found in the aft web of support rib 6 on both wings. We are issuing this AD to prevent cracking in the aft web of support rib 6, which could result in overloading of adjacent ribs and the surrounding wing structure and consequent reduced structural integrity of the wing.

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.

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.''

Repetitive Inspections

(f) For Model A330 series airplanes on which Airbus Modification 53882 was not done during production: At the applicable time specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD; perform a detailed inspection for cracking in the aft web of support rib 6 between bottom skin stringers 18 and 20 on both wings, and high frequency eddy current inspections for cracking of the attachment holes of the fuel pipe and fuel pipe mounting, by doing all the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–57–3085, Revision 01, dated March 25, 2005. Repeat the inspections thereafter at intervals not to exceed 8,000 flight cycles or 25,000 flight hours, whichever is first.

(1) For airplanes that have accumulated 7,999 or fewer total flight cycles, and 24,999 or fewer total flight hours, as of the effective date of this AD: Do the inspections at the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD.

(i) Before the accumulation of 8,000 total flight cycles or 25,000 total flight hours after the effective date of this AD, whichever is first.

(ii) Within 8 months after the effective date of this AD.

(2) For airplanes that have accumulated 8,000 or more total flight cycles, but fewer than 10,000 total flight cycles; or 25,000 or more total flight hours, but fewer than 30,000 total flight hours; as of the effective date of this AD: Do the inspections at the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Before the accumulation of 10,000 flight cycles or 30,000 flight hours after the effective date of this AD, whichever is first.

(ii) Within 8 months after the effective date of this AD.

(3) For airplanes that have accumulated 10,000 or more total flight cycles or 30,000 or more total flight hours as of the effective date of this AD: Do the inspections within 3 months after the effective date of this AD.

(g) For Model A330 series airplanes on which Airbus Modification 53882 was done during production or on which Airbus Service Bulletin A330–57–3087, dated February 15, 2005, has been done: Perform the applicable inspections required by paragraph (f) of this AD at the earliest of the initial inspection thresholds specified in Figure 4, Sheet 1, ''Inspection Flow Chart'' of Airbus Service Bulletin A330–57–3085, Revision 01, dated March 25, 2005; or within 6 months after the effective date of this AD, whichever is later. Repeat the inspections required by paragraph (f) of this AD at the time specified in paragraph (f) of this AD.

(h) For Model A340 series airplanes on which Airbus Modification 53882 was not done during production: Perform inspections required by paragraph (f) of this AD at the applicable time specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD. Perform the inspections by doing all the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–57–4093, Revision 01, dated March 25, 2005. Repeat the inspections thereafter at intervals not to exceed 8,000 flight cycles or 30,200 flight hours, whichever is first.

(1) For airplanes that have accumulated 7,999 or fewer total flight cycles and 30,199 or fewer total flight hours as of the effective date of this AD: Do the inspections at the later of the times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) Before the accumulation of 8,000 total flight cycles or 30,200 total flight hours after the effective date of this AD, whichever is first.

(ii) Within 8 months after the effective date of this AD.

(2) For airplanes that have accumulated 8,000 or more but fewer than 10,000 total flight cycles or 30,200 or more but less than 43,700 total flight hours, as of the effective date of this AD: Do the inspections at the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Before the accumulation of 10,000 total flight cycles or 43,700 total flight hours after the effective date of this AD, whichever is first.

(ii) Within 8 months after the effective date of this AD.

(3) For airplanes that have accumulated 10,000 or more total flight cycles or 43,700 or more total flight hours as of the effective date of this AD: Do the inspections within 3 months after the effective date of this AD.

(i) For Model A340 series airplanes on which Airbus Modification 53882 was done during production or on which Airbus Service Bulletin A340–57–4095, dated February 15, 2005, has been done: Perform the applicable inspections required by paragraph (f) of this AD at the earliest of the initial inspection thresholds specified in Figure 4, Sheet 1, ''Inspection Flow Chart'' of Airbus Service Bulletin A340–57–4093, Revision 01, dated March 25, 2005; or within 6 months after the effective date of this AD, whichever is later. Repeat the inspections required by paragraph (f) of this AD at the time specified in paragraph (h) of this AD.

Optional Modification

(j) For airplanes on which no cracking is found during any inspection required by this AD: Accomplishing the modification of the fuel pipe connector and the fastener holes of support rib 6 on both wings by doing all the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A330–57–3087, or A340–57–4095, both dated February 15, 2005, as applicable, would extend the interval for the next inspection to the applicable post-mod inspection threshold specified in Figure 4, Sheet 1, ''Inspection Flow Chart'' of Airbus Service Bulletins A330–57–3085 and A340–57–4093, both Revision 01, both dated March 25, 2005, as applicable. After accomplishing that inspection, repeat the applicable inspections required by paragraph (f) or (h) of this AD at the applicable repetitive inspection interval specified in Figure 4.

Note 2: There is currently no terminating action available for the repetitive inspections required by this AD.

Inspections Accomplished According to Previous Issue of Service Bulletins

(k) Inspections accomplished before the effective date of this AD according to Airbus All Operator Telexes A330–57–3085 and A340–57–4093, both dated December 15, 2004; are considered acceptable for compliance with the corresponding inspections specified in this AD.

Repair

(l) Except as required by paragraph (m) of this AD: If any cracking is found during any inspection required by this AD: Repair before further flight and get a schedule for subsequent inspections, according to a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate; or the Direction Générale de l'Aviation (DGAC) (or its delegated agent).

Hard or Overweight Landing

(m) For Model A330 series airplanes with 8,000 or more total flight cycles or 25,000 or more total flight hours, and Model A340 series airplanes with 8,000 or more total flight cycles or 30,200 or more total flight hours that have not been modified in accordance with paragraph (j) of this AD: Before further flight after any hard or overweight landing of the airplane, accomplish the applicable follow-on inspections and any applicable corrective actions according to a method approved by either the Manager, International Branch, ANM–116; or the DGAC (or its delegated agent). Accomplishing the inspections in Airbus A330/A340 Airplane Maintenance Manual, Chapter 05–51–11, dated April 1, 2005, titled ''Inspection After Hard/Overweight Landing—Inspection/Check,'' or Airbus Technical Disposition (TD) TD/J1/S3/00608/2005, dated April 26, 2005, titled ''Inspections following hard landing, both wings,'' is considered one approved method. (Operators can obtain the TD from Airbus.)

Reporting Requirement

(n) If any crack is found during any inspection required by this AD: Submit a report of the findings to Airbus Repair Engineering, Dept SER–1, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Submit the report at the applicable time specified in paragraph (n)(1) or (n)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was 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.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(p) French airworthiness directives F–2005–071 and F–2005–072, both dated April 27, 2005, also address the subject of this AD.

Issued in Renton, Washington, on October 20, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21429 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 47 and 159

[Docket No. RM06–3–000]

Prohibition of Energy Market Manipulation

Issued October 20, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to Title III, Subtitle B, and Title XII, Subtitle G of the Energy Policy Act of 2005, the Federal Energy Regulatory Commission (Commission) is proposing rules to implement new section 222 of the Federal Power Act and new section 4A of the Natural Gas Act, prohibiting the employment of manipulative or deceptive devices or contrivances. The Commission seeks public comment on the regulations proposed herein.

DATES: Comments are due November 17, 2005. Reply comments are due November 25, 2005.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT: Frank Karabetsos, Office of General Counsel, Federal Energy Regulatory, Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8133, *Frank.Karabetsos@ferc.gov*.

Mark Higgins, Office of Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8273, *Mark.Higgins@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

1. On August 8, 2005, the Energy Policy Act of 2005 (EPAct 2005) [1] was signed into law. Sections 315 and 1283 of EPAct 2005, amending the Natural Gas Act [2] and the Federal Power Act,[3] respectively, are virtually identical, and prohibit the use or employment of manipulative or deceptive devices or contrivances in connection with the purchase or sale of natural gas, electric energy, or transportation or transmission services subject to the jurisdiction of the Commission. These anti-manipulation sections of EPAct 2005 closely track the prohibited conduct language in section 10(b) of the Securities Exchange Act of 1934,[4] and specifically dictate that the terms ''manipulative or deceptive device or contrivance'' are to be used ''as those terms are used in section 10(b).''

2. The Securities and Exchange Commission (SEC) has adopted Rule 10b–5,[5] which implemented section 10(b) of the Exchange Act, and has developed a significant body of legal precedent related to both section 10(b) of the Exchange Act and Rule 10b–5. Consistent with the mandate that the Commission's new authority be exercised in a manner consistent with section 10(b) of the Exchange Act, the Commission has modeled its proposed regulations on Rule 10b–5.[6] This approach should provide benefits to entities subject to the new rule because there is a substantial body of precedent

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[1] Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

[2] 15 U.S.C. 717 *et al.* (2004).

[3] 16 U.S.C. 791a *et al.* (2004).

[4] Securities and Exchange Act of 1934, 15 U.S.C. 78j(b) (2005) (Exchange Act).

[5] 17 CFR 240.10b–5 (2005).

[6] This reliance on the use of SEC precedent is consistent with Congress' expressed intent in sections 315 and 1283 that any ''manipulative or deceptive device or contrivance'' is prohibited ''as those terms are used in section 10(b) of the Securities and Exchange Act of 1934'' and Congress' modeling sections 315 and 1283 of EPAct 2005 after section 10(b) of the Exchange Act.

applying the comparable language of Rule 10b–5.

3. In this Notice of Proposed Rulemaking (NOPR), the Commission proposes to add a Part 47 under Subchapter B (Regulations under the Federal Power Act) and a Part 159 under Subchapter E (Regulations under the Natural Gas Act) to Title 18 of the Code of Federal Regulations, and intends to issue final regulations by December 31, 2005. The Commission seeks comments on its proposals for the regulations discussed below.

Background

4. In November 2003, the Commission issued the Market Behavior Rules to fill a void in the regulation of market-based trading activity.[7] The Market Behavior Rules emanated from the Commission's investigation of trading activity in Western markets during 2000–2001, which uncovered a number of trading schemes intended to take advantage of the then-existing electricity market in California.[8] The Commission also discovered abuses in reporting of natural gas prices to price index publishers for purposes of manipulating price indices.[9]

5. The Market Behavior Rules were adopted to establish guidelines applicable to the conduct of jurisdictional market-based rate sellers in wholesale power markets and to jurisdictional companies engaged in wholesale sales of natural gas under blanket certificate authority.

6. An important provision of the Market Behavior Rules is Rule 2, which states that ''[a]ctions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited.'' [10] In addition, Market Behavior Rule 2(a) expressly prohibits wash trades, Rule 2(b) prohibits transactions predicated on submitting false information, Rule 2(c) prohibits creating and relieving artificial congestion, and Rule 2(d) prohibits collusion.[11]

7. Sections 315 and 1283 of EPAct 2005 enhance the Commission's authority to prohibit manipulation of the energy markets. However, neither section 315 nor 1283 is a self-actuating provision. This rulemaking fulfills Congress' intent in adopting these provisions.

The Commission's Proposed Regulations

8. Pursuant to section 4A of the Natural Gas Act and section 222 of the Federal Power Act, as added to the statutes by EPAct 2005, the Commission proposes to add a Part 47 under Subchapter B and a Part 159 under Subchapter E to Title 18 of the Code of Federal Regulations. Under these proposed regulations, it shall be unlawful for any entity, directly or indirectly, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, or in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, (1) to use or employ any device, scheme, or artifice to defraud, (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

9. Sections 315 and 1283 of EPAct 2005 apply to ''any entity.'' Indeed, section 1283 expressly includes an ''entity described in section 201(f).'' Accordingly, these proposed regulations apply to the conduct of ''any entity,'' not just jurisdictional market-based rate sellers, natural gas pipelines, or holders of blanket certificate authority. ''[A]ny entity'' includes not only regulated utilities but also governmental utilities and other market participants.[12]

10. As discussed in more detail below, subsections (a)(1)–(3) of these proposed regulations are patterned after the SEC's Rule 10b–5, and are intended to be interpreted consistent with analogous SEC precedent that is appropriate under the circumstances. Subsection (b) of the Commission's proposed regulations states that nothing in these provisions shall be construed to create a private right of action.[13] This language is based expressly on sections 315 and 1283 of EPAct 2005, and reflects Congress' intent that entities will not be subject to civil actions by third parties based on alleged violations of these proposed regulations.

Securities and Commodity Law Precedent

11. The Exchange Act addresses regulation of the securities markets. One of the most important provisions of the Exchange Act is section 10(b), which prohibits the use of ''any manipulative or deceptive device or contrivance'' in contravention of SEC Rules.[14] The SEC promulgated Rule 10b–5 to enforce section 10(b).[15]

12. Section 10(b) and Rule 10b–5 might ''well be the most litigated provisions in the federal securities laws,'' [16] having been described by the Supreme Court as ''a judicial oak which has grown from little more than a legislative acorn.'' [17] The vast body of

[7] *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, ''Order Amending Market-Based Rate Tariffs and Authorizations,'' 105 FERC ¶ 61,218 (2003), *reh'g denied*, 107 FERC ¶ 61,175 (2004); Order No. 644, *Amendment to Blanket Sales Certificates*, FERC Stats. & Regs. ¶ 31,153 (2003), *reh'g denied*, 107 FERC ¶ 61,174 (2004).

[8] *See* Final Report on Price Manipulation in Western Markets: Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02–2–000 (March 2003) (Final Report); *see also American Elec. Power Serv. Corp.*, 103 FERC ¶ 61,345 (2003), *reh'g denied*, 106 FERC ¶ 61,020 (2004); *Enron Power Mktg., Inc.*, 103 FERC ¶ 61,346 (2003), *reh'g denied*, 106 FERC ¶ 61,020 (2004).

[9] Final Report, Docket No. PA02–2–000 (March 2003); *Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121 at 61,404 (2003) (addressing price index reporting abuses).

[10] *Investigations of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 at Appendix A (2003). Sections 284.288(a) and 284.403(a) of the Commission's regulations, promulgated in Order No. 644, contain substantially similar language: a pipeline that provides unbundled natural gas service under section 284.284 or any person making natural gas sales for resale in interstate commerce pursuant to section 284.402 ''is prohibited from engaging in actions or transactions that are without a legitimate business purpose and are intended to or foreseeably could manipulate market prices, market conditions, or market rules for natural gas.'' The Market Behavior Rules are currently being appealed. *See Cinergy Mktg. & Trading, L.P.* v. *FERC*, Docket No. 04–1168 *et al.* (D.C. Cir. 2005).

[11] Order No. 644 expressly prohibits wash trades and collusion for natural gas sellers.

[12] The Commission intends that the principles discussed in the Policy Statement on Enforcement that we are issuing today in Docket No. PL06–1–000 will also apply to ''any entity'' as defined herein.

[13] However, subsection (b) is not intended to take away any other right that may otherwise exist.

[14] 15 U.S.C. 78j(b) (2005).

[15] Rule 10b–5 of the U.S. Securities and Exchange Commission reads:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

17 CFR 240.10b–5 (2005).

[16] *SEC* v. *National Sec., Inc.*, 393 U.S. 453, 465 (1969).

[17] *Blue Chip Stamps* v. *Manor Drug Stores*, 421 U.S. 723, 737 (1975); *see also* Louis Loss & Joel Seligman, Securities Regulations § 9–B–3 (3d. ed. 2004) (regarding Rule 10b–5 ''[i]t is difficult to

Continued

section 10(b) case law provides substantial certainty to entities subject to section 10(b) because it has resolved many recurring questions of interpretation that have arisen under the rule.

13. Section 4b of the Commodity Exchange Act (CEA) is the Commodity Futures Trading Commission's (CFTC) general anti-fraud rule.[18] Section 4b makes it unlawful for any person to ''cheat or defraud or attempt to cheat or defraud,'' or to make false reports or statements, or to deceive or attempt to deceive another in transactions under the CFTC's jurisdiction. Although the statutory language of section 10(b) of the Exchange Act and section 4b of the CEA are not identical, the Supreme Court stated that they are ''analogous'' and ''[t]he language of § 4b [of the CEA] is similar to that of § 10(b) of the Securities Exchange Act of 1934.'' [19] Lower courts have gone further, noting that ''the elements of a claim under § 4(b)(A) are basically the same as those under Rule 10b–5.'' [20]

14. The Commission proposes to pattern proposed sections 47.1 and 159.1 of its regulations on the text of Rule 10b–5. This is not only consistent with the clear intent of sections 315 and 1283 of EPAct 2005, but also should benefit the industry because it will provide greater certainty to entities subject to the new rules because the Commission intends to rely on the large body of case law interpreting and applying section 10(b) and Rule 10b–5 when applying its new authority.[21]

The Relationship of the Proposed Rules to the Commission's Market Behavior Rules

15. Both Market Behavior Rule 2 and the proposed regulations prohibit manipulative conduct. For now, Market Behavior Rule 2 is retained, an approach consistent with that taken by both the SEC and CFTC.[22] However, the Commission will address the possibility of revising or repealing Market Behavior Rule 2, and will seek comments in the near future. Moreover, as explained in the concurrent Policy Statement on Enforcement that we are issuing today (discussed below), we will not seek duplicative sanctions for the same conduct in the event that conduct violates both Market Behavior Rule 2 and proposed section 47.1.[23]

Concurrent Policy Statement on Enforcement

16. The Commission's new EPAct 2005 authority under the anti-manipulation provisions coupled with expanded civil penalty authority,[24] provides us with more effective tools to assure workably competitive markets. The Commission is concurrently issuing a Policy Statement on Enforcement that sets out guidelines on the Commission's enforcement policies and practices and on how we will exercise our new civil penalty authority.[25] The Policy Statement, like these new proposed regulations, draws from the experience of other Federal agencies, including the SEC and the CFTC, in explaining the factors that will be taken into account in applying remedies for misconduct, including the imposition of civil penalties. The Policy Statement provides that the Commission will exercise its enhanced authority in a firm but fair manner, and will take mitigating factors into account in resolving violations.[26]

Information Collection Statement

17. This proposed rule implements the existing requirements as set forth in sections 315 and 1283 of EPAct 2005 and does not include new information requirements under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Environmental Analysis

18. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[27] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[28] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of electric power that requires no construction of facilities.[29] Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

Regulatory Flexibility Act

19. The Regulatory Flexibility Act of 1980 (RFA) [30] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.[31] The Commission is not required to make such analyses if a rule would not have such an effect.

20. The Commission does not believe that this proposed rule would have such an impact on small entities. This proposed rule prohibits all entities,

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think of another instance in the entire corpus juris in which the interaction of the legislative, administrative rulemaking, and judicial processes has produced so much from so little.'').

[18] 7 U.S.C. 6b (2005).

[19] *Merrill Lynch, Pierce, Fenner & Smith* v. *Curran,* 456 U.S. 353, 389 (1982).

[20] *Trustman* v. *Merrill Lynch, Pierce, Fenner & Smith,* 1985 U.S. Dist. LEXIS 23154 at * 38; Fed. Sec. L. Rep. (CCH) P91,936 (C.D.C.A. 1985); *see also, Drexel Burnham Lambert, Inc.* v. *Commodity Futures Trading Comm'n,* 850 F.2d 742, 748 (D.C. Cir. 1988) (court held recklessness satisfied the scienter requirement for section 4b just as it does under section 10(b) and Rule 10b–5).

[21] EPAct 2005, with its references to Section 10(b) of the Exchange Act, provides a level of substantial certainty with respect to how the proposed regulations will operate that the Commission is not typically able to provide where a preexisting body of law and precedent is not readily available.

[22] For example, section 10(b) and Rule 10b–5, the SEC's general anti-fraud provision (the Supreme Court described section 10(b) as a ''general prohibition of practices * * * artificially affecting market activity in order to mislead investors'' designed as a broad anti-fraud ''catch-all clause.'' *Schreiber* v. *Burlington Northern, Inc.,* 472 U.S. 1, 6–7 (1985); *Aaron* v. *SEC,* 446 U.S. 680, 690 (1980)), exists alongside other, more targeted provisions, including but not limited to: section 9(a)(2) prohibiting manipulative conduct on national securities exchanges (15 U.S.C. 78i (2005)); section 14(e) prohibiting any person from making material misstatements or omissions and from engaging in fraudulent conduct in connection with any tender offer (15 U.S.C. 78n(e) (2005)); and section 17(a) prohibiting fraud in connection with the sale of securities (15 U.S.C. 77q(a) (2005)). Similarly, the CFTC's general anti-fraud provision in section 4b exists alongside other CFTC anti-manipulation provisions, including but not limited to: section 4o prohibiting fraud by commodity trading advisors and commodity pool operators (7 U.S.C. 6m (2005)); Rule 30.9 prohibiting fraud in connection with foreign futures contracts (17 CFR 30.9 (2005)); and Rule 32.9 prohibiting fraud in connection with commodity option transactions (17 CFR 32.9 (2005)).

[23] The Commission will likewise not seek duplicative sanctions from natural gas sellers for the same conduct in the event that conduct violates both the Market Behavior Rules, 18 CFR 284.288(a) or 284.403(a) (2005), and proposed section 159.1.

[24] Sections 314 and 1284 of EPAct 2005.

[25] Policy Statement on Enforcement, Docket No. PL06–1–000.

[26] *Id.*

[27] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[28] 18 CFR 380.4 (2005).

[29] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27) (2005).

[30] 5 U.S.C. 601–12 (2000).

[31] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632 (2000). The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as on that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal years did not exceed 4 million MWh. 13 CFR 121.201 (2004) (Section 22, Utilities, North American Industry Classification System, NAICS).

including small entities, from employing manipulative or deceptive devices or contrivances, and therefore may cause entities, including potentially small entities, to increase costs in order to comply. This prohibition, however, will improve market transparency to the economic benefit of all entities, including small entities. Therefore, the Commission certifies that this proposed rule, if finalized, will not have a significant economic impact on a substantial number of small entities.

Comment Procedures

21. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 17, 2005. Reply comments are due seven days thereafter. Comments must refer to Docket No. RM06–3–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format.

22. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426.

23. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

Document Availability

24. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

25. From FERC's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

26. User assistance is available for eLibrary and the FERC's Web site during our normal business hours. For assistance contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

List of Subjects

18 CFR Part 47

Electric utilities, Electric power, Investigations, Penalties.

18 CFR Part 159

Natural Gas, Pipelines, Investigations, Penalties.

By direction of the Commission.

Magalie R. Salas,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, *Code of Federal Regulations,* as follows:

1. Part 47 is added to read as follows:

PART 47—PROHIBITION OF ENERGY MARKET MANIPULATION

Authority: 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

§ 47.1 Prohibition of energy market manipulation.

(a) It shall be unlawful for any entity, directly or indirectly,

(1) To use or employ any device, scheme, or artifice to defraud,

(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission.

(b) Nothing in this § 47.1 shall be construed to create a private right of action.

2. Part 159 is added to read as follows:

PART 159—PROHIBITION OF ENERGY MARKET MANIPULATION

Authority: 15 U.S.C. 717–717z; 42 U.S.C. 7101–7352.

§ 159.1 Prohibition of energy market manipulation.

(a) It shall be unlawful for any entity, directly or indirectly,

(1) To use or employ any device, scheme, or artifice to defraud,

(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission.

(b) Nothing in this § 159.1 shall be construed to create a private right of action.

[FR Doc. 05–21423 Filed 10–26–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AG70

Injurious Wildlife Species; Black Carp (Mylopharyngodon piceus); Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, extend the comment period on a proposed rule to add all forms of live black carp (*Mylopharyngodon piceus*), including gametes and viable eggs, to the list of injurious fish under the Lacey Act and on the draft environmental assessment and draft economic analysis prepared in association with the proposed rule.

DATES: Comments must be submitted on or before December 16, 2005.

ADDRESSES: The analyses are available from the Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 322, Arlington, Virginia 22203; FAX (703) 358–1800. They also are available on our Web page

at *http://contaminants.fws.gov/Issues/InvasiveSpecies.cfm.* Comments may be hand-delivered, mailed, or sent by fax to the address listed above. Alternatively, you may send comments by electronic mail (e-mail) to: *BlackCarp@fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Erin Williams, Division of Environmental Quality, Branch of Invasive Species, at (703) 358–2034 or *erin_williams@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

In February 2000, we were petitioned to list black carp as an injurious wildlife species under the Lacey Act (18 U.S.C. 42). On July 30, 2002 (67 FR 49280), we published a proposed rule in the **Federal Register** to add all forms (diploid and triploid) of live black carp to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. The comment period on the proposed rule closed on September 30, 2002. On June 4, 2003 (68 FR 33431), we reopened the comment period until August 4, 2003. We received 103 comments during the first two comment periods.

On August 30, 2005 (70 FR 51326), we announced the availability for public comment of a draft environmental assessment and draft economic analysis for the proposed rule and reopened the comment period on the proposed rule. The purpose of the draft environmental assessment is to evaluate three alternatives associated with the proposed rule; the purpose of the draft economic analysis is to analyze the potential economic impact if the proposed rule were adopted as published. The comment period on the proposed rule, draft environmental assessment, and draft economic analysis is set to close October 31, 2005.

Because of requests received from the public, we are hereby extending the comment period until December 16, 2005. As stated in the August 30, 2005, **Federal Register** document, we are particularly interested in data and comments on alternatively listing the diploid (fertile) form only. Please refer to that document for further information. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in our decisionmaking.

Public Comments Solicited

Submit data and comments as identified in **ADDRESSES.** If you submit documentation by e-mail, please submit it as an ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: [RIN 1018–AG70]'' in your e-mail subject line and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our office at telephone number 703–358–2148 during normal business hours. Please note that this e-mail address will be closed at the termination of the public comment period.

Authority: 18 U.S.C. 42.

Dated: October 19, 2005.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–21440 Filed 10–26–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 70, No. 207

Thursday, October 27, 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

National Sheep Industry Improvement Center; Solicitation of Nominations of Board Members

AGENCY: National Sheep Industry Improvement Center, USDA.

ACTION: Notice: Invitation to submit nominations.

SUMMARY: The National Sheep Industry Improvement Center announces that it is accepting nominations for the Board of Directors of the National Sheep Industry Improvement Center for three voting directors' positions whose terms expire on February 13, 2006. Two positions are for members who have expertise in finance and management and one position is for an active producer of sheep or goats. Board members manage and oversee the Center's activities. Nominations may only be submitted by National organizations that consist primarily of active sheep or goat producers in the United States and who have as their primary interest the production of sheep or goats in the United States. Nominating organizations should submit:

(1) Substantiation that the nominating organization is national in scope,

(2) The number and percent of members that are active sheep or goat producers,

(3) Substantiation of the primary interests of the organization, and

(4) An Advisory Committee Membership Background Information form (Form AD–755) for each nominee.

This action is taken in accordance with 7 U.S.C. 2008j(f) which establishes the powers and composition of the Board of Directors for the National Sheep Industry Improvement Center.

DATES: Completed nominations must be received no later than December 12, 2005. Nominations received after that date will not be considered.

ADDRESSES: Submit nominations and statements of qualifications to Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, USDA, PO Box 23483, Washington, DC 20026–3483 if using the U.S. Postal Service or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250 if using other carriers.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, USDA, PO Box 23483, Washington, DC 20026–3483 if using the U.S. Postal Service or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250 if using other carriers. Forms and other information can be found at *http://www.nsiic.org.* Telephone (202) 690–0632, (This is not a toll free number.) Fax 202–720–1053.

SUPPLEMENTARY INFORMATION: The National Sheep Industry Improvement Center (NSIIC), or Sheep Center (Center), is authorized under 7 U.S.C. 2008j. The Center shall (1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States; (2) optimize the use of available human capital and resources within the sheep or goat industries; (3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to special needs of the sheep or goat industries on both a regional and national basis; and (5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

The management of NSIIC is vested in a Board of Directors that is appointed by, and reports to the Secretary of Agriculture. The Board of Directors is composed of seven voting members of whom four are active producers of sheep or goats in the United States, two have expertise in finance and management, and one has expertise in lamb, wool, goat or goat product marketing. Of the three open positions, Two positions are for members who have expertise in finance and management and one position is for an active producer of sheep or goats. The Board also includes two non-voting members, the Under Secretary of Agriculture for Rural Development and the Under Secretary of Agriculture for Research, Education, and Economics. The Executive Director serves as the CEO.

The Secretary of Agriculture shall appoint the voting members from the submitted nominations. Member's term of office shall be three years. Voting members are limited to two terms. The three positions for which nominees are sought are currently held by members completing their first term and are all eligible for reappointment.

The Board shall meet not less than once each fiscal year, but is likely to meet at least quarterly. Board members will not receive compensation for serving on the Board of Directors, but shall be reimbursed for travel, subsistence, and other necessary expenses.

The statement of qualifications of the individual nominees is being obtained by using Form AD–755, which can be accessed at *www.nsiic.org.* The requirements of this form are approved under OMB number 0505–0001.

Dated: October 21, 2005.

Jay B. Wilson,

Executive Director/ CEO, National Sheep Industry Improvement Center.

[FR Doc. 05–21418 Filed 10–26–05; 8:45 am]

BILLING CODE 1351–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 05–077–1]

Notice of Request for Approval of an Information Collection; National Animal Identification System; Cooperative Agreements for Field Trials and Research Projects

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this

notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection activity associated with a national animal identification system.

DATES: We will consider all comments that we receive on or before December 27, 2005.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2005–0093 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–077–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–077–1.

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

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the national animal identification system, contact Mr. Neil Hammerschmidt, Animal Identification Coordinator, Surveillance and Identification Programs, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Animal Identification System; Cooperative Agreements for Field Trials and Research Projects.

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) regulates the importation and interstate movement of animals and animal products and conducts various other activities to protect the health of our Nation's livestock and poultry.

Fundamental to controlling any disease threat, foreign or domestic, to the Nation's animal resources is to have a system that can identify individual animals or groups, the premises where they are located, and the date of entry to each premises.

USDA initiated implementation of a national animal identification system (NAIS) in 2004. The goal of the NAIS is to be able to identify all animals and premises that have had contact with a foreign or domestic animal disease of concern within 48 hours after discovery. As an information system that provides for rapid tracing of infected and exposed animals during an outbreak situation, the NAIS will help limit the scope of such outbreaks and ensure that they are contained and eradicated as quickly as possible. USDA's first priority was to facilitate premises registration. Producers, nationwide, now have the opportunity to register their premises. The next step is to register a majority of eligible premises in each State. With the foundation of premises identification in place, the identification of individual animals and the recording of their premises-to-premises movements can occur.

The 48-hour traceback goal is contingent upon the completeness of the animal movement data. Producers, market operators, abattoirs, and other establishments where animals are held will collect the animal identification numbers (AINs) or group lot identification numbers as the animals arrive at their premises and submit the data to the appropriate privately-held animal tracking database. The collection of complete animal movement information is an important goal for achieving 48-hour traceback.

USDA plans to provide funding to State and tribal governments to support field trials and research projects that address problems or questions concerning NAIS implementation. USDA anticipates funding approximately 15 projects based on applications from State and tribal governments.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 1 year.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 40 hours per response.

Respondents: State and federally recognized tribal governments.

Estimated annual number of respondents: 35.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 35.

Estimated total annual burden on respondents: 1,400 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 21st day of October 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E5–5962 Filed 10–26–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Membership of the Departmental Performance Review Board

AGENCY: Department of Commerce.

ACTION: Notice of membership on the Departmental Performance Review Board.

SUMMARY: In accordance with 5 U.S.C., 4314(c)(4), Department of Commerce (DOC) announces the appointment of persons to serve as members of the Departmental Performance Review Board (DPRB). The DPRB is responsible for reviewing performance appraisals

and ratings of Senior Executive Service (SES) members and serves as the higher level review of executives who report to an appointing authority. The appointment of these members to the DPRB will be for a period of 24 months.

EFFECTIVE DATE: The effective date of service of appointee to the Departmental Performance Review Board is upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mary King, Director, Office of Executive Resources, Office of Human Resources Management, Office of the Director, 14th and Constitution Avenue, NW., Washington, D.C. 20230, (202) 482–3321.

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the DPRB are set forth below by organization:

Department of Commerce; Departmental Performance Review Board Membership; 2005–2007

Office of the Secretary

Fred L. Schwien, Director, Executive Secretariat.

Aimee L. Strudwick, Chief of Staff to the Deputy Secretary.

Office of General Counsel

Craig S. Burkhardt, Chief Counsel for Technology Administration.

Chief Financial Officer and Assistant Secretary for Administration

William J. Fleming, Deputy Director for Human Resources Management.

Bureau of the Census

Dr. Hermann Habermann, Deputy Director.

Marvin Raines, Associate Director for Field Operations.

Economics and Statistics Administration

James K. White, Associate Under Secretary for Management.

Suzette Kern, Chief Financial Officer and Director for Administration.

Economics and Development Administration

Mary Pleffner, Deputy Assistant Secretary for Management.

National Telecommunications and Information Administration

Kathy D. Smith, Chief Counsel.

National Oceanic and Atmospheric Administration

Bonnie Morehouse, Director Program Analysis and Evaluation.

Maureen Wylie, Deputy Chief Financial Officer, Director of Budget.

Kathleen A. Kelly, Director, Office of Satellite Operations, NESDIS.

Technology Administration

Dan Caprio, Deputy Assistant Secretary for Technology Policy.

National Technical Information Service

Ellen Herbst, Director, National Technical Information Service.

National Institute of Standards and Technology

Richard F. Kayser, Director, Technology Services.

Kathleen M. Higgins, Director, Office of Law Enforcement Standards, EEEL.

Dated: October 19, 2005.

Mary King,

Director, Office of Executive Resources.

[FR Doc. 05–21424 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–852]

Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petition: Liquid Sulfur Dioxide from Canada

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

EFFECTIVE DATE: October 27, 2005.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4929 and (202) 482–4007, respectively.

Initiation of Investigation

The Petition

On September 30, 2005, the Department of Commerce (''Department'') received an antidumping duty petition (''Petition'') filed by Calabrian Corporation (''Petitioner'') on behalf of the domestic industry producing liquid sulfur dioxide.

Scope of the Petition

The product covered by this petition is technical or commercial grade and refrigeration grade liquid sulfur dioxide of a minimum 99.98 percent assay. Sulfur dioxide is identified by the chemical formula SO2. The CAS No. for sulfur dioxide is 7446–09–5. Liquid sulfur dioxide is pure sulfur dioxide gas compressed through refrigeration and stored under pressure. Sulfur dioxide in its gaseous state is excluded from the petition.

Liquid sulfur dioxide subject to this petition is currently classifiable under subheading 2811.23.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). While the HTSUS subheading is provided for convenience and Customs purposes, the written description of the scope of this petition is dispositive.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Tariff Act of 1930, as amended (''the Act'') requires that a petition be filed by or on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

Extension of Time

Section 732(c)(1)(A)(ii) of the Act provides that within 20 days of the filing of an antidumping duty petition, the Department will determine, inter alia, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Section 732(c)(1)(B) of the Act provides that the deadline for the initiation determination can be extended by 20 days in any case in which the Department must ''poll or otherwise determine support for the petition by the industry . . .'' Because it is not clear from the petition whether the industry support criteria have been met, we have determined to extend the time for initiating an investigation in order to

poll the domestic industry. On October 7, 2005, we issued polling questionnaires to all known domestic producers of liquid sulfur dioxide identified in the petition. On October 12, 2005, we sent a letter to the domestic producers transmitting revised scope language provided by the petitioner on October 11, 2005. The questionnaires are on file in the Central Records Unit in room B–099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire and fax their responses to the Department.

We will need additional time to analyze the domestic producers' responses to our request for information. See the ''Determination of Industry Support for the Petition'' section of this notice, above. Therefore, it is necessary to extend the deadline determining the adequacy of the petition for a period not to exceed 40 days from the filing of the petition. As a result, the initiation determination is due no later than November 9, 2005.

International Trade Commission Notification

Because the Department has extended the deadline of the initiation determination, the Department will contact the International Trade Commission (''ITC'') and will make this extension notice available to the ITC.

Dated: October 20, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–5965 File 10–26–05;8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Chumash Community Channel Islands National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Extension of the application deadline for the Chumash Community Seat.

SUMMARY: We are extending the application deadline for the Availability of Seats for the Channel Islands National Marine Sanctuary Advisory Council. The original notice was published on September 08, 2005, (Volume 70, Number 173) [Notices] [Page 53347–53348].

DATES: Applications are due by November 18, 2005.

ADDRESSES: Application kits may be obtained from Michael Murray, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jacklyn Kelly, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315, 805–966–7107 extension 371, *jacklyn.kelly@noaa.gov*.

Authority: 16 U.S.C. section 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 19, 2005.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–21442 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atompsheric Administration

Availability of Seats for the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Extension of application deadline.

SUMMARY: The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHMWNMS) is extending the deadline for applications for both primary and alternate members of the following seats on its Sanctuary Advisory Council (Council): Education, Fishing, Hawaii County, Honolulu County, Kauai County, Maui County, Native Hawaiian, and Research. The original notice was published on August 10, 2005, (Volume 70, Number 153) [Notices] [Page 46492].

DATES: Applications are due by November 15, 2005.

ADDRESSES: Application packets may be obtained from Keeley Belva (888) 55–WHALE or via e-mail at: *Keeley.Belva@noaa.gov.* Applications are also available on line at *http://hawaiihumpbackwhale.noaa.gov.* Completed applications should be mailed to Keeley Belva, Hawaiian Islands Humpback Whale National Marine Sanctuary, 6600 Kalaniana'ole Highway, Suite 301, Honolulu Hawai'i 96825, faxed to (808) 397–2650, or returned via e-mail.

FOR FURTHER INFORMATION CONTACT: Keeley Belva (see above for contact information).

Authority: 16 U.S.C. Section 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 19, 2005.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–21441 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Stellwagen Bank National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Stellwagen Bank National Marine Sanctuary (SBNMS) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Business and Industry (Member and Alternate) and Education (Alternate). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve 2–3 year terms, pursuant to the Council's Charter.

DATES: Applications are due by December 15, 2005.

ADDRESSES: Application kits may be obtained from the SBNMS Web site: *http://stellwagen.nos.noaa.gov* (under management) or Ruthetta Halbower 871–545–8026 extension 201 *ruthetta.halbower@noaa.gov*; SBNMS 175 Edward Foster Road, Scituate, MA 02066. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Nathalie War, SAC Coordinator SBNMS, 175 Edward Foster Road, Scituate, MA 02066, 781–545–8026 extension 206, *nathalie.ward@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Stellwagen Bank National Marine Sanctuary Advisory Council was established in March 2001 to assure continued public participation in the management of the Sanctuary. Serving in a volunteer capacity, the Advisory Council's 21 voting members represent a variety of local user groups, as well as the general public, plus seven local, State and Federal Government jurisdictions. Since its establishment, the Advisory Council has played a vital role in advising the Sanctuary and NOAA on critical issues and is currently focused on the sanctuary's development of a new 5-year management plan.

The Stellwagen Bank National Marine Sanctuary encompasses 842 square miles of ocean, stretching between Cape Ann and Cape Code. Renowned for its scenic beauty and remarkable productivity, the sanctuary supports a rich diversity of marine life including marine mammals, more than 30 species of seabirds, over 100 species of fishes, and hundreds of marine invertebrates and plants.

Authority: 16 U.S.C. Section 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 20, 2005.

Daniel J. Basta

Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–21443 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102105B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on November 15–17, 2005, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, November 15, 2005 beginning at 8:30 a.m. and on Wednesday and Thursday, November 16 and 17, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton Hotel, 35 Scudder Avenue, Hyannis, MA 02601; telephone: (508) 775–7775.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, November 15, 2005

Following introductions, the Council will receive reports from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. The Council will receive a report from its Magnuson-Stevens Committee which is seeking approval of additional NEFMC positions on bills to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act. The afternoon session will consist of a report from the Groundfish Oversight Committee on the continued development of management measures for Framework Adjustment 42 to the Northeast Multispecies Fishery Management Plan (FMP). The Council will refine development of alternatives to meet Amendment 13 mortality objectives based on committee advice. Also, measures for both commercial and recreational fishermen may be discussed, including among other measures, modifications to days-at-sea, gear and possession limits for commercial vessels and modifications to bag limits, seasons and closed areas for recreational vessels. Final approval of Framework 42 measures will not be made until the January 2006 meeting.

Wednesday, November 16, 2005

During the morning session, the Council will discuss and take action on a request to NMFS for reassignment of the Dogfish/Monkfish FMP responsibilities for dogfish and monkfish. The Spiny Dogfish Committee report will follow for consideration and approval of NEFMC recommendations for spiny dogfish fishery specifications for the 2006–07 fishing year and consideration of multi-year specifications (2006–08). Specifications will likely include overall total allowable catch (TAC) levels and trip limits for spiny dogfish. Following a review of public and Advisory Panel comments and Herring Committee recommendations, the Herring Committee chairman will seek approval of a final management alternative and independent management measures for inclusion in Amendment 1 to the Herring FMP. Final management alternatives may include a limited access program for the herring fishery and a seasonal purse seine/fixed gear-only area in the inshore Gulf of Maine (GOM). Independent measures may include a proxy for maximum sustainable yield, adjustments to the herring fishery specification process, adjustments to herring management area boundaries, establishment of bycatch caps for groundfish stocks of concern, measures to address bycatch monitoring and reporting, changes to the regulatory definition of midwater trawl gear and other measures.

Thursday, November 17, 2005

The morning session will begin with the Habitat Committee's review of the Essential Fish Habitat (EFH) Omnibus Amendment topics including a summary of the deliberations of the Habitat Committee and its Advisory Panel. Following a brief open comment period for the public to discuss items relevant to Council business, but not otherwise listed on the agenda, the Scallop Committee will seek final approval of Framework Adjustment 18 to the Sea Scallop FMP. Alternatives include area rotation measures, specifications for trip and days-at-sea (DAS) allocations in 2006 and 2007, a procedure to adjust the Elephant Trunk Area in 2007 and open area allocations based on surveys of scallop biomass, an increase in the crew limits for controlled access area trip exchanges, the broken trip limit exemption program and research set aside program. In the afternoon session, the Executive Director will seek approval of Council priorities of management actions for 2006. Any other outstanding business will be addressed at the end of the day.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 21, 2005.

Emily Menashes,

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

[FR Doc. E5–5959 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102105C]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; committee meeting.

SUMMARY: The New England Fishery Management Council's (Council) Habitat/Marine Protected Area (MPA) Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, November 14, 2005, from 9:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508)339–2200.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978)465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. The Committee will continue work on elements of the Essential Fish Habitat (EFH) Omnibus Amendment 2 including, but not limited to, consideration of Advisory Panel gear descriptions; review and refinement of EFH designations; consideration of Habitat Areas of Particular Concern and review and consideration of comments received on modified notice of intent.

2. The Committee may review the Ecosystem Workshop results.

3. The Committee will be briefed on the proposed non-fishing projects that may adversely effect EFH.

4. The Committee may consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 21, 2005.

Emily Menashes,

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

[FR Doc. E5–5960 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101905A]

Endangered Species; File No. 1518

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

ACTION: Notice; receipt of application for modification of a scientific research permit.

SUMMARY: Notice is hereby given that Carlos Diez, Departamento de Recursos Naturales y Abmientales de Puerto Rico, P.O. Box 9066600, San Juan, Puerto Rico 00906–6600, has requested a modification to scientific research Permit No. 1518.

DATES: Written, telefaxed, or e-mail comments must be received on or before November 28, 2005.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309;

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1518.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Kate Swails, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1518, issued on August 15, 2005 (70 FR 47813), is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1518 currently authorizes the permit holder to study green and hawksbill sea turtles. The purpose of the research is to identify marine habitat, determine distribution and abundance, determine sex ratios, evaluate the extent of ingestion of marine debris, determine growth rates and sexual maturity, and quantify threats. Mr. Diez will annually capture up to 320 hawksbill and 250 green sea turtles by hand or entanglement net. All turtles will be measured, weighed, tagged, and blood sampled. A subset of animals will be lavaged and have transmitters attached to them. One leatherback sea turtle could be incidentally captured during the course of the studies but would be released alive. The permit is issued for 5 years. The permit holder requests a modification to the permit that would allow skin biopsy of 190 green and hawksbill sea turtles. A subset of 10 green turtles would undergo

fibropapillomatosis tumor removal surgery and subsequent rehabilitation.

In the case that a turtle has evidence of severe internal tumors, the turtle would be euthanized. The applicant does not expect that more than 2 turtles would require euthanasia. The goal of the additional research would be to create baseline parameters of health assessments, determine groups' heterogenity and dispersal, and provide insight into the pathogenesis of the disease in the wild through the use of long-term capture and release surveys.

Dated: October 20, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–21487 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082605B]

Vessel Monitoring Systems (VMS); Specification of Requirements for Mobile Transmitting Unit Type Approval

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

ACTION: Revision of type approval requirements for mobile transmitting units.

SUMMARY: This document provides notice of type approval requirements for Mobile Transmitting Units (MTU) to be authorized for use on any vessel participating in the NOAA Vessel Monitoring System (VMS) program. Vessels participating in VMS programs must acquire an OLE - approved MTU to comply with VMS standards set forth in NMFS rules requiring the use of VMS.

ADDRESSES: To obtain copies of the list of NOAA-approved VMS MTU and VMS communications service providers, or to obtain information regarding the status of VMS systems being evaluated by NOAA, write to NOAA Fisheries, Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For current listing information contact Mark Oswell, Outreach Specialist, or for questions regarding VMS installation and status of evaluations contact Jonathan Pinkerton, National VMS Program Manager by phone: 301–427–2300 or by fax: 301–427–2055.

SUPPLEMENTARY INFORMATION: This notice supersedes all previous notices on MTU type approval requirements. Previously installed MTU approved under prior notices will continue to be approved for the remainder of their service life. New installations of a previously approved MTU occurring 120 days or more after the publication date of this notice must comply with all of the requirements herein. All new requests for type approval must comply with all of the requirements herein.

Background

The Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office for Law Enforcement (OLE) maintains MTU specification requirements as an OLE National Directive. This notice sets prerequisite standards for the purpose of type approval that must be met by an MTU and any associated software before it is authorized for use in the NOAA VMS program. Vessels participating in VMS programs must acquire an OLE-approved MTU to comply with the specific VMS standards set forth in NMFS rules requiring the use of VMS. The MTU is a transceiver or communications device, including antennae, installed on fishing vessels participating in the VMS requirement. The MTU allows OLE to determine the geographic position of the vessel during specified intervals or events. In addition, it enables mobile communications services between OLE and the vessel when using an OLE-accepted Mobile Communication Service Provider (MCSP). (Note: Standards for the MCSP are written in the complementary directive titled Mobile Communication Service Provider Specification of Requirements.)

Goal

OLE seeks to deploy an ''open system,'' whereby the fishing industry participants may select from a variety of suppliers that qualify and have been approved to participate in VMS programs. Fishermen must comply with their Federal fishery regulations regarding VMS and therefore may be cited for a violation and held accountable for monitoring anomalies not attributable to faults in the MCSP or MTU. Therefore, type approval is essential to establish and maintain uniformly high system integrity. By this directive, OLE seeks to approve reliable, robust, and secure MTU products and thereby create and maintain a VMS meeting the requirement of high integrity. Specific VMS programs are created to support particular NMFS rules requiring the use of VMS, which typically are designed to manage or protect fish and other marine species within designated areas.

Process

Based on a request for type approval from an MTU supplier and certification of certain minimal standards, OLE will conduct a thorough evaluation and then issue a statement accepting or denying the type approval of the particular MTU. An MTU must meet the minimal national VMS standards, as required by this directive, and the requirements of the specific fisheries for which approval is sought. MTU supplier requestors are encouraged to review the national VMS standards and NMFS rules requiring the use of VMS prior to submitting a request for approval. Upon successful demonstration of compliance with the requirements set forth in this directive, OLE will issue an MTU type approval within a particular communications Class applicable to one or more VMS operations targeting particular NMFS rules requiring the use of VMS. OLE will maintain a current list of type approved MTU(s). OLE will forward lists of type approved MTU(s) to the respective regional Fisheries Management Council(s), post the information on the OLE website and provide it by fax upon request.

OLE approval will not necessarily result in NMFS procurement of the MTU. Instead, OLE will request the MTU supplier to provide a fact sheet to provide information to the fishing industry. This fact sheet will allow fishermen to make purchase decisions that are compatible with the VMS standards and their individual needs. Purchasing strategies are determined on a per rule implementation basis.

Initiation

OLE will initiate the MTU type approval process upon written request from the supplier, subject to the demonstration of compliance with this directive and the availability of test units. The requestor for type approval, may include the manufacturer, or an OEM/labeler, distributor, and/or reseller acting as a representative of the manufacturer. The evaluation may include consideration if that MTU has already passed a comparable type approval process to qualify for use in a foreign fisheries management effort. If applicable, the supplier should provide the MTU's identifying characteristics, the details of foreign VMS requirement specifications, the MTU's level of compliance with them, and appropriate

contact details of the approving authorities. OLE also will consider approving an MTU OEM (original equipment manufacturer) model built from an equivalent MTU that already has received OLE type approval under this directive.

Interoperability

A supplier of an MTU seeking type approval within a particular communications Class for VMS shall demonstrate that it meets the standards when using at least one qualified MCSP within that same Class. The standards in this directive are intended to ensure that type approval for a particular MTU will permit its interoperability with all qualified MCSPs within its same Class. A Class refers to the medium, protocol, and frequency of the mobile communications technology. Some examples of existing Classes include Inmarsat-C and Qualcomm/OmniTracs. To best promote interoperability within a Class, MTU and MCSP acceptance standards are outlined in separate directives. However, concurrent with the approval process for an MTU, the approval for a same-class MCSP must be either in place or pending. Data received by OLE from the MTU via an approved MCSP must be in a format compatible with OLE tracking software.

Submission

A supplier of an MTU requesting type approval shall begin by certifying that the MTU meets the minimum national VMS standards as required by this directive. Suppliers must describe in detail the extent to which its MTU complies with each of the requirements for the VMS rule implementation of interest as stated within this directive. The supplier, or requestor for type approval, must provide OLE with two MTUs for each fishery for which application is made for a 90-day test and approval period. The supplier must also provide thorough MTU documentation, including fact sheets, installation guides, operator manuals, user handbooks, the applicable interfacing software, and technical support. OLE shall review the submissions against the criteria of this directive. Next, OLE shall perform field test and sea trials. For this, OLE will coordinate test conditions with volunteer and/or contract fishing vessels. These tests may involve demonstrating every aspect of MTU operation, including installation of a registered MTU, location tracking, messaging, and maintenance procedures.

Submit requests for type approval, along with hard and soft copies of support material to: U.S. Department of Commerce; National Oceanic and Atmospheric Administration; National Marine Fisheries Service; Office for Law Enforcement; Attention: Vessel Monitoring System Program; 8484 Georgia Ave. Suite 415; Silver Spring, MD 20910 USA; voice 301–427–2300; fax 301–427–2055.

Litigation Support

Due to the use of VMS for law enforcement, all technical aspects of a supplier's submission are subject to being admitted as evidence in a court of law, if needed. The reliability of all technologies utilized in the MTU may be analyzed in court for, inter alia, testing procedures, error rates, peer review, and general industry acceptance. Further, the supplier may be required to provide technical and expert support for a litigation to support the MTU capabilities to establish OLE's case against violators. If the technologies have previously been subject to such scrutiny in a court of law, the supplier should describe the evidence and any court finding on the reliability of the technology. Additionally, to maintain the integrity of VMS for fisheries management, the supplier will be required to sign a non-disclosure agreement limiting the release of certain information that might compromise the effectiveness of the VMS operations, such as details of anti-tampering safeguards. The supplier shall include a statement confirming its agreement with these conditions.

Change Control

Once an MTU is approved, it is the supplier's responsibility to notify OLE of any substantive change in the original submission, such as changes to firmware versions, and customer support contacts. OLE reserves the right to reconsider and revoke the MTU approval if as a result of a change to the MTU or VMS requirement the unit no longer satisfies the requirement.

Any modification to the functionality of an approved MTU including but not limited to firmware, software, services, or passwords unless expressly authorized by NMFS OLE will invalidate the type approval of the unit and render it out of compliance with NMFS rules requiring the use of VMS. Any addition, deletion or change of the firmware, software, services, or passwords of an MTU unless expressly authorized by NMFS OLE will also invalidate the type approval of the unit and render it out of compliance with NMFS rules requiring the use of VMS. Fishermen that are determined to be out of compliance with Federal Fisheries VMS regulations may be cited for violations and held accountable for monitoring anomalies not attributable to faults in the MCSP or MTU.

Requestor

Requestors must respond to each of the items listed in sections 1 through 6 of this document. The response should indicate how the requestor complies with the requirement referred to in the item. Items that the requestor does not currently comply with must be responded to by explaining how the requestor will comply with the requirement prior to approval.

Section 1. Identifiers

1. 1. Specify the identifying characteristics of the MTU:

1.1.1. Communications Class.
1.1.2. Manufacturer.
1.1.3. Brand Name.
1.1.4. Model Name.
1.1.5. Model Number.
1.1.6. Software Version Number and Date.
1.1.7. Firmware Version Number and Date.
1.1.8. Hardware Version Number and Date.
1.1.9. Antenna Type.
1.1.10. Antenna Model Number and Date.
1.1.11. MCSP Providing Communications Services.

1.2. For the following responsibilities, name the business entities who act on behalf of the manufacturer and supplier applying for type approval. Include the address, phone, contacts, email, and designated geographic territory where applicable.

1.2.1. Manufacturer.
1.2.2. Label or use MTU for an OEM. This includes re-labeling OEM MTUs or reselling. Reselling includes value-added reselling. The MTU that is type approved is the final, value-added product and not the original manufacturer's MTU, if enhancements or modifications have been made. For example, if a transceiver is contained within an enclosure, it is the new enclosure including the transceiver that is being type approved.
1.2.3. Distribute.
1.2.4. Sell.
1.2.5. Bench configures the MTU at the warehouse or point of supply.
1.2.6. Install MTU onboard the vessel.
1.2.7. Offer limited warranty.
1.2.8. Offer maintenance and service agreement.
1.2.9. Repair.
1.2.10. Train.
1.2.11. Advertise.

Section 2. Messaging

The MTU must provide the following messaging functionality:

2.1. Transmit mandatory, automatically generated position reports.

2.2. Onboard visible or audible alarms for malfunctioning of the MTU.

2.3. Ability to disable non-essential alarms in non-Global Maritime Distress and Safety System (GMDSS) installations.

2.4. Ability to provide comprehensive and transparent communications, which function uniformly within the entire geographic coverage area for that communications class.

2.5. Two-way communications between MCSP and MTU.

2.6. The ability to send and receive free-form Internet email text messages.

Section 3. Position Data Formats and Transmission

3.1. The MTU must provide position information as required by the applicable VMS rule in addition to:

3.1.1. Position fixes latitude and longitude, including the hemisphere of each.

3.1.2. The position fix precision must be to the decimal minute hundredths.

3.1.3. Accuracy of the reported position must be within 100 meters, unless otherwise indicated by an existing regulation or VMS requirement.

3.1.4. Communications between MTU and MCSP must be secure from tampering or interception, including the reading of passwords and data. Therefore, the MTU must have mechanisms to prevent to the extent possible:

3.1.4.1. Interception and ''sniffing'' during transmission from the MTU to MCSP via either wireless or terrestrial facilities.

3.1.4.2. Spoofing, whereby one MTU is fraudulently identifying itself as another MTU.

3.1.4.3. Modification of MTU identification.

3.1.4.4. Interference with GMDSS or other safety/distress functions.

3.1.4.5. Introduction of viruses that may corrupt the messages, transmission, or the VMS system.

3.2. MTU shall provide the ability to meet minimum reporting requirements and intervals as required for specific NMFS rules requiring the use of VMS.

3.2.1. Provide automatically generated position reporting, for vessels managed individually or grouped by fleet, such that OLE automatically receives position reports at defined intervals transparent to the geographic region.

3.2.2. Have the ability to store 100 position fixes in local, non-volatile memory when the MTU is either unable to transmit or OLE configured the MTU to a ''store and retrieve'' mode. These positions must be either transferred to local storage media or transmitted via MCSP. (This requirement is waived for any MTU that was approved and purchased under previously published directives.)

3.2.3. Allow for variable reporting intervals between 5 minutes and 24 hours.

3.2.4. MTU must be able to change reporting intervals remotely, and only by authorized users.

3.3. An MTU must be able to transmit automatically generated position reports, which contain the following:

3.3.1. Unique identification of an MTU within the communications class.

3.3.2. Date (year/month/day with century in the year) and time (GMT) stamp of the position fix.

3.4. In addition to automatically generated position reports, specially identified position reports shall be generated upon:

3.4.1. Antenna disconnection

3.4.2. Loss of the positioning reference signals.

3.4.3.Loss of the mobile communications signals.

3.4.4. Security events, power-up, power-down, and other status data.

3.4.5. The vessel crossing a pre-defined geographic boundary.

3.4.6. MTU status information such as configuration of programming and reporting intervals.

3.4.7. When an MTU is powered up, it must automatically re-establish its position reporting function without manual intervention.

Section 4. Enhanced Vessel Monitoring System Terminals

In addition to the VMS requirements defined in prior sections of this Type Approval Specification; certain fisheries require support for two way e-mail and forms capabilities onboard the vessel. Such VMS equipment is defined as an ''Enhanced MTU,'' or E-MTU. Before submission of equipment for testing as an E-MTU, the equipment must pass all type approval tests as a standard MTU configuration. Then, compliance with the functions and features defined in Section 4 will be tested. VMS Equipment that passes these additional tests will be Type Approved for use as both an MTU (position reporting only) and an E-MTU (position, text and forms-based reporting). The terminal may use protocols other than SMTP but translation to SMTP, and support for the SMTP (Internet) addressing scheme is required.

4.1. Text messaging

4.1.1. Text messaging from vessel to shore with a minimum supported message length of 1kb.

4.1.2. User interface must support an 'address book' capability and a function permitting a ''reply'' to a received message without re-entry of the senders e-mail address.

4.1.3. A confirmation of delivery function is required such that a user can ascertain whether a specific message was successfully transmitted via the satellite system to the MCSP

e-mail server(s).

4.1.4. Onward delivery to NMFS must be reliable and make use of features such as SMTP retries and delivery confirmation to ensure a reliable transport path exists for text messages sent from the vessel to NMFS.

4.1.5. The user interface must provide the ability to review by date order, or by recipient, messages that were previously sent. The terminal must support a minimum message history of 20 messages - commonly referred to as an 'Outbox' or 'Sent' messages display.

4.1.6. Text messaging from shore to vessel with a minimum supported message length of 1kb.

Attachment support is not required.

4.1.7. The user interface must provide the ability to review by date order, or by sender, all messages received. The terminal must support a minimum message history of 20 messages - commonly referred to as an 'Inbox'.

4.1.8. Negative delivery notifications must be sent to the originator where delivery to the terminal could not be completed for any reason. Such Non Delivery Notification must include sufficient information to uniquely identify the message that failed and the cause of failure (i.e., mobile number invalid, mobile switched off etc.).

4.2. Electronic Forms

Pre-formatted messages are required for the collection of validated data for specific fisheries programs (i.e., declaration systems, catch effort reporting). This capability is referred to as Electronic Forms. The E-MTU must support a minimum of 20 Forms, selectable by the user from a menu. Forms must be updatable over the air. Copies of forms currently used by NMFS are available upon request. From time to time NMFS will provide all E-MTU approved vendors with updates defining new forms or modifying existing forms. Such notice will be at least 60 (sixty) days prior to the introduction date for the new or changed form. Vendors will be responsible for translating the requirements into E-MTU specific forms definitions and transmitting the same to all VMS terminals supplied to fishing vessels. All forms software provided with the E-MTU must be capable of supporting the requirements described

in this specification. Additional capabilities beyond those stated here are acceptable, provided that the minimum requirements are satisfied.

4.2.1. A form is defined as: (a) 1–40 characters describing the form, (b) Delivery address (i.e., e-mail or other network identifier), (c) Form number as defined by NMFS to uniquely identify the form, (d) Form version number (numeric with one decimal place; i.e., 1.2), and (e) a collection of 1–30 fields and associated logic rules.

4.2.2. Each field (within a form) is defined by the following elements. Except where noted, all elements of the field definition are mandatory: (a) Label (0 to 40 characters, alpha numeric), (b) Context Help Text (0 to 200 characters, alpha numeric), (c)Type (Either; enumeration, numeric, alpha, alphanumeric or Boolean), (d) Default Value, (e) Optional/Mandatory/Hidden/ Logic indicator, (f) Min/Max values (for numeric fields only) in range 0.000 to 999,999, (g) Decimal places (for numeric fields only) 0–3, and (h) Min/Max characters (for alpha/alphanumeric fields only).

4.2.3. Up to 100 code/value/help text pairs (enumerations only) must be provided, where codes are defined as 1–20 alphanumeric characters, values are 1–80 alphanumeric characters and help text is 0–200 characters. Such fields are typically used to permit a user to select from a range of options (i.e., geographic areas, gear types, fish species). Codes are used to compress the form data for efficient transmission. Help text would typically be displayed only when the user selects a specific value from the enumeration.

4.2.4. Form Validation: Each field must be defined as; Optional, Mandatory or Logic Driven. Mandatory fields must be entered by the user before the form is complete, optional fields that do not require data entry, and logic driven fields have their attributes determined by earlier form selections. Specifically; it must be possible for selection of an enumeration to change the optional/mandatory setting, min/ max values, or the permitted enumeration values on a later field within the same form.

4.2.5. State Information: The capability to populate a form based on the last values used must be available. This provides the user with an easy mechanism to 'modify' or 'update' a prior submission - without unnecessary re-entry of data. The user must be able to review a minimum of 20 past form submissions and ascertain for each form when the form was transmitted and whether delivery was successfully completed to the vendor's processing center. In the case of a transmission failure, the user must be provided with details of the cause and have the opportunity to retry the form submission.

4.2.6. Inclusion of VMS Position Report: In addition to the manually entered fields, the forms package must permit the inclusion of VMS position report fields such as latitude, longitude, date and time. Such fields must be obtained from the GPS function of the MTU and transmitted along with the manually entered form data within the same transaction.

4.2.7. Delivery Format for Form Data: It is preferred that form data be transferred from the terminal to NMFS using the same transport as for either text messages or VMS position reports (the selected option to be at the election of the E-MTU vendor). Currently supported protocols for transfer are; FTP, SMTP, XML and HTTP Post. The field coding within the data must follow either CSV or XML formatting rules. For CSV format the form must contain an identifier and the version number, and then the fields in the order defined on the form. In the CSV format strings that may contain '','' (comma) characters must be quoted. XML representations must use the field label to define the XML element that contains each field value.

Section 5. Customer Service

The MTU supplier or its designated entities shall provide customer service that is professional, courteous, and responsive. It should provide MTU diagnostic and troubleshooting support to OLE and the fishermen. No services shall be billed to any NOAA or OLE office without being specifically contracted for in writing by an authorized entity. Services shall include:

5.1. Service level, warranty, and maintenance agreements. Clarify constraints, if any, on the geographic territory, personnel availability, and escalation procedures for problem resolution covered by such services.

5.2. Facilities and procedures in place to assist the fisherman in maintaining and repairing their MTU, including response and general system turn around time.

5.3. Help in the determination and isolation of the cause of communications anomalies.

5.4. Assist in the resolution of communications anomalies that are traced to the MTU.

5.5. All services will be considered to be free of charge unless specifically listed in service or purchase agreements.

Section 6. Other Information

6.1. The MTU must have the durability and reliability necessary to provide acceptable service in a marine environment where the unit may be subjected to saltwater (spray) in smaller vessels, and in larger vessels where the unit may be maintained in a wheelhouse. The unit, cabling and antenna must be resistant to moisture and shock associate with the marine environments.

6.2. The MTU must comply with any additional requirements specified in the regulations for the VMS implementation for which application is made. The requestor must review the applicable NMFS rules requiring the use of VMS and respond here to any specific requirements listed therein.

6.3. All personally identifying information provided by vessels owners or other authorized personnel for the purchase or activation of MTU or E-MTU, or for the participation in any NMFS VMS-approved fishery must be protected from unauthorized disclosure. Personally identifying information includes, but is not limited to, names, addresses, telephone numbers, social security account numbers, credit card numbers, vessel names, federal, state, and local documentation numbers, e-mail addresses, and crew lists. Any information sent electronically to the OLE must be transmitted by a secure means that prevents interception, spoofing, or viewing by unauthorized individuals. Any release of such information must be requested and approved in writing by the vessel owner or authorized personnel, or the OLE. Inadvertent or intentional unauthorized release of personally identifying information will be grounds for reconsideration and possible revocation of the type approval for any MTU or E-MTU supplied by the offending provider.

Dated: October 24, 2005.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 05–21486 Filed 10–26–05; 8:45 am]

BILLING CODE 3510–22–S

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to sections 254(a)(11)(A) and 255(b) of the Help

America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** material changes to the HAVA State plan previously submitted by Delaware.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plan published herewith should be made in writing to the chief election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, Territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA section 254(a)(11) through (13). HAVA sections 254(a)(11)(A) and 255 require EAC to publish such updates.

The submission from Delaware addresses material changes in the administration of the previously submitted State plan and, in accordance with HAVA section 254(a)(12), provides information on how the State succeeded in carrying out the previous State plan. The current submission from Delaware addresses a material change to the budget of the previously submitted State plan to address how the State will utilize the fiscal year 2004 requirements payments made in accordance with HAVA section 251.

Upon the expiration of thirty days from October 27, 2005, Delaware will be eligible to implement the material changes addressed in the plan that is published herein, in accordance with HAVA section 254(a)(11)(C). At that time, in accordance with HAVA section 253(d), Delaware may file a statement of certification to obtain a fiscal year 2004 requirements payment. This statement of certification must confirm that the State is in compliance with all of the requirements referred to in HAVA section 253(b) and must be provided to the Election Assistance Commission in order for the State to receive a requirements payment under HAVA Title II, Subtitle D.

EAC notes that the plan published herein has already met the notice and comment requirements of HAVA section 256, as required by HAVA section 254(a)(11)(B). EAC wishes to acknowledge the effort that went into revising the State plan and encourages further public comment, in writing, to the State election official listed below.

Chief State Election Officials

Delaware

Mr. Frank Calio, State Election Commissioner, 111 S. West Street, Suite 10, Dover, DE 19904, Phone: 302–739–4277, Fax: 302–739–6794, e-mail: *coe_vote@state.de.us.*

Thank you for your interest in improving the voting process in America.

Dated: October 21, 2005.

Gracia M. Hillman,

Chair, Election Assistance Commission.

BILLING CODE 6820–KF–P

STATE OF DELAWARE

STATE PLAN
Help America Vote Act

Required by Public Law 107-252

Revised 09/21/2005

Frank B. Calio
Commissioner of Elections
111 S. West Street, Suite 10
Dover DE 19904

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The Help America Vote Act of 2002 (HAVA) is federal election reform legislation, which directs the states to make changes in how they approach elections. This legislation establishes voting systems standards that address standards for voting machines, voter registration and polling place accessibility, among other voting issues. The federal election legislation reform authorizes funds to assist the states in complying with the new mandates. To date Delaware is eligible to receive over $16 million dollars to change or upgrade Delaware's election infrastructure.

Delaware is one of six states in the nation that replaced punch card or lever machines. Delaware purchased Direct Recording Electronic (DRE) machines in 1996 as replacements for the state's fleet of aging lever machines that had been used since the mid-1950s. We have had a statewide election management system since the early 1990s using standard procedures ranging from collection voter information from the Departments of Election in each county to maintaining a single statewide database by the Commissioner of Elections.

HAVA requires that all states implement the mandates in the act. To be eligible to receive federal grant dollars to accomplish these mandates, to obtain the final grant funding Delaware must amend its State Plan and present a revised expenditure budget which includes the additional $7,200,000.00. The existing task force which was appointed from various government and private sector stakeholders will continue to provide comments in the writing of the revised State Plan.

Although this process has been difficult, we in elections consider HAVA another step in the continuing process to achieve excellence. We have come a long way in improving physical accessibility, voter education programs, access to the voting process, election administration, technology standards, and election staff training.

I look forward to the challenges HAVA brings to Delaware.

Frank B. Calio,
Delaware Commissioner of Elections

INTRODUCTION

The Help America Vote Act of 1992 (HAVA) requires that states change key elements of their election management systems to create a uniform and non-discriminatory election administration. Delaware has already made a substantial investment in the State's election system. The Department replaced lever voting machines in 1996 and created a unified statewide election management system in the early 1990's. The State already complies with many HAVA mandates with DRE voting equipment and a computerized statewide voter file which is accessible to county election officials. Delaware welcomes the opportunity make our election management system better.

The administration of elections in Delaware is a state responsibility accomplished by the Department of Elections. The Department consists of the Commissioner of Elections and the Departments of Elections in each of Delaware's three counties. The Commissioner of Elections is appointed by the Governor and confirmed by the State Senate. The Commissioner is responsible for establishing and assuring election management standards incorporating uniformity in the conduct of elections, the application of election standards, voting equipment among other duties. The Departments of Elections for each county report to respective Boards of Election that are appointed by the Governor. The Commissioner is a member of each board. The Departments conduct elections in accordance with the Delaware Code and with standards and operating procedures established by the Commissioner.

To plan the implementation of the Help America Vote Act (HAVA), the Commissioner appointed the HAVA Task Force, whose membership is listed in Section 13 of this report, and established a state HAVA website to receive comments as the plan evolved. At the beginning of the process, the Commissioner's Office analyzed HAVA requirements noting where the State was already in compliance and where changes were needed. That analysis is included as Appendix A to this report and reflects the changes to date. Implementation of HAVA requires several changes to state law which have been passed by Delaware's General Assembly. The statute is included in Appendix B.

Because Delaware is a small state, the Commissioner's Office and the Departments of Elections in each county have a uniform application of law, standards, and procedures affecting the essential elements of the electoral process while recognizing the differing histories and needs of each regional office. The goal is that election management will be uniform throughout the State.

We have been working hard to accomplish our current goals and those of HAVA; the State has come a long way in assuring the completion of the HAVA requirements by 2006. Cost effectiveness and continuing maintenance administration are integral parts of the planning process. Many plans have now been formalized by the elections community. Where several opportunities existed before in the scope of our planning to reach compliance, we have now made our decisions. This amended State Plan addresses those changes.

STATE PLAN REQUIRED ELEMENTS

TITLE III REQUIREMENTS AND OTHER ACTIVITIES

SEC. 254 (1) TITLE III REQUIREMENTS AND 2512(A)(2).

(a) IN GENERAL - The state plan shall contain a description of each of the following:

(1) How the State will use the requirements payment to meet the requirements of title III (equipment and administration), and, if applicable under section 251 (a)(2), to carry out other activities to improve the administration of elections

We began addressing the required changes by selecting elements of the requirements that had to be implemented first. Since Title I monies were all the funding we had at that time, we proceeded to make the necessary changes to the Delaware voting system anticipating that Title II funding would arrive before the deadline for implementation of the more expensive voting machines and polling place accessibility actions. Whenever possible, we incorporated requirements changes into our standard programs and operating systems. Since elections for federal office occur every two years, operating dual systems is not feasible or cost effective.

To date the State has purchased 37 Danaher ELECT*ronic* 1242 for training and additional polling place coverage with Title I funding. Although these machines are newer than our current machines, the older machines' operating systems are scheduled to be upgraded to an equal status as the new machines. Since that purchase the Department has ordered 550 new Danaher ELECT*ronic* 1242 complete with the audio modules for individuals with visual impairments. At the same time we are retrofitting our upgraded machines with audio modules so that all of the voting machines meet the requirements. This work is scheduled to be completed in the summer of 2005.

A. SEC. 301 (a) REQUIREMENTS VOTING SYSTEM STANDARDS

All primary, general and special elections are conducted in accordance with Delaware Code, Title 15, using Danaher Controls *ELECT*ronic 1242 (model 6T) full-face ballot Direct Recording Electronic (DRE) voting machines. The machines are stored, maintained, ballots programmed by the Departments of Elections in each county following standards produced by the Commissioner of Elections. The Departments and their boards of elections also certify and secure the machines for each election. These voting machines now meet the requirements of Section 301 concerning accessibility for individuals with disabilities.

The Department had identified three options for meeting the Section 301 mandates: (1) upgrade some or all of the existing equipment to meet the accessibility requirement; (2) purchase one new and fully accessible DRE system for each polling place; and (3) purchase all new voting equipment.

With the receipt of Title II funding the State decided to upgrade all of the existing equipment to meet the accessibility requirement and to purchase 550 additional machines with Title II monies spending the entire $ 4,150,000.00 award on our Election Management System. Previously, the State purchased 37 new voting machines with Title I funds.

Delaware uses paper ballots for absentee voting. To comply with section 301, the State created an education program and provided instructions as required by section 301(a)(1)(B). Under existing provisions of the Delaware Code, the Commissioner prepares the instructions based upon shared practices in the Departments of Elections in each county.

The Delaware Legislature passed legislation defining what is to constitute a vote for each voting system in use. The legislation is included in Appendix B. Changes have been made to training manuals and programs accommodating the new standards.

Our intent is to use the requirements payments to:

- Upgrade, supplement, and/or replace voting machines;
- Train poll workers on new or modified voting equipment;
- Hire additional poll workers to manage the audio module and the provisional voting process:
- Purchase additional voting machines, to make sure that there are sufficient voting machines for hands-on training of poll workers and demonstrations;
- Create as much accessibility as possible in each polling place including technology assistance devices.
- Purchase or rent additional storage space for voting machines;
- Retain a portion of funding to provide election improvements for future years.

B. SEC. 302 PROVISIONAL VOTING AND VOTING INFORMATION

Enacted legislation authorizes provisional voting in state law. Poll workers are trained using the statewide standard in each county to offer provisional ballots under the conditions set forth in Section 302 of HAVA. As a transition measure, the state intends to hire additional poll workers so that provisional voters will not be discouraged by long waits to cast their ballots. The ballots will be cast on paper and sealed using a double envelope system similar to that used for absentee ballots. Each completed ballot will be assigned a tracking number. The Departments of Elections for each of the counties will meet the day following the election to determine the eligibility of provisional voters in accordance with Delaware law. The Commissioner of Elections has created a "free access" system so that provisional voters can determine whether their ballots were counted and, if not, the reason why. This system is similar to the existing polling place locator access program.

The Department of Elections in each county posted voting information on Election Day at each polling place as follows:

- A sample of the Election Day ballot;
- The election date and polling place hours;
- Instructions on how to vote and how to vote by provisional ballot;
- Instructions about mail-in registrants and information for first- time voters;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

The Commissioner of Elections in collaboration with the Departments of Elections in each county has agreed to use the adopted standards to produce statewide uniformity of information and practice.

The following items have been adopted and are currently in use throughout the elections community:

- Printing instructions and ballots for Provisional Voting;
- Preparing and printing HAVA-unique training materials for poll workers;
- Hiring additional poll workers to handle Provisional Voting;
- Creating a web- and telephone-based free access system;
- Programming to integrate provisional votes into the Vote Tally system;
- Preparing and printing information required by HAVA for posting on Election Day.

C. SEC. 303 COMPUTERIZED STATEWIDE VOTER REGISTRATION REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL

Delaware currently has a statewide, computerized voter registration database administered, maintained, and evaluated by the Commissioner of Elections. The Departments of Elections in each county register voters in each county using standard application. Those applications are forwarded to the Commissioner along with applications executed at the Division of Motor Vehicles, other state agencies as required by the National Voter Registration Act, or Organized Voter Registration Drives which are administered by the Commissioner of Elections. Since voters register on paper forms, the Departments of Elections in each county verify informational elements when registering applicants and before entering their names into the statewide system. All election officials have immediate access to the data once it is entered at the county level.

Delaware has made several changes in voter registration in order to implement HAVA. Voter registration forms have been revised to ask for the individual's driver's license number, the last 4 digits if a Social Security Number or the State assigns a unique identifier to individuals who do not provide a either. The State has an on-going file maintenance program which checks various data elements with other databases form Vital Statistics and the Delaware Justice Department. Legislation has been enacted to comply with the mandates regarding identification for persons who register by mail after January 1, 2003. The Commissioner of Elections has signed and agreement with the Division of Motor vehicles to share data file information in July of 2005. The State's Division of Motor Vehicles has to complete an agreement with the Social Security Administration to match information as required by section 303(a)(5)(B).

Implementing these changes required:

- Programming to enhance the computerized statewide database;
- The redesign and reprinting of registration forms;
- Training for agency and election office personnel who take and process registration applications;
- Training for poll workers to know when to ask for voter identification and what forms of identification are acceptable;
- General education for voters, election officials, poll workers and the public.

SEC. 254 (2) DISTRIBUTION OF REQUIREMENTS PAYMENTS

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government and other entities in the State for carrying out the activities described in paragraph (1) including a description of –
(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and
(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

(2)(A) ELIGIBILITY CRITERIA - LOCAL GOVERNMENT UNITS AND OTHER ENTITIES

There are no local government units involved since the Departments of Elections in each county are a state agency, each with its own budget appropriated by the General Assembly. They do, however, serve counties and they will receive resources to carry out HAVA mandates as a statewide effort.

Supplies and equipment are requisitioned by the Departments of Election in each county and purchased by Commissioner of Elections for distribution. Any RFPs that are necessary will be developed by the elections community and offered by the Commissioner.

B. MONITORING PERFORMANCE OF LOCAL UNITS

The State has decided to use a single audit procedure to tack expenditures by the Departments of Elections in each county by maintaining all HAVA expenditures on a State level in the Commissioner's Office. The State will audit HAVA expenditures through its normal audit procedures. The three county Departments of Elections will report to the Commissioner of Elections on how the expenditures contribute to the appropriate performance measures that were adopted as described in section 8.

SEC. 254 (3) EDUCATIONAL PROGRAMS FOR VOTERS, ELECTION OFFICIALS AND POLL WORKERS

(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

The Commissioner of Elections maintains the standards for training and educational programs utilizing a staff employee who is an Educator/Trainer. This individual presents training programs to state agencies, like the Department of Motor Vehicles, and registrars for Organized Voter Registration programs. Since the implementation of HAVA, the Commissioner, with the Departments of Elections in each county, have trained the poll workers, election officials, produced informational and educational materials and programs in a manner consistent with the statewide standards in consultation with the Department's Trainer/Educator.

- Developed statewide standards for training Election Officers and Poll Workers;
- Held monthly meetings for elections planning for training elections officials;
- Created programs to educate the public, candidates, elected officials and other stakeholders in the electoral process and methods of voting;
- Disseminated instructions on voter identification requirements and provided other training as appropriate to organized groups involved in mail registration campaigns;
- Researched innovative models and technologies for training delivery.
- Began development of educational curriculum to be used in Delaware schools as part of the social studies curriculum to be integrated into the Student/Parent Mock Election project.

SEC. 254 (4) VOTING SYSTEM GUIDELINES

(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

The State through the Commissioner of Elections purchases voting equipment in Delaware. Legislation enacted in July 2003 requires that all voting systems purchased in the future be certified by the National Association of State Election Directors and/or the Election Assistance Commission. The DRE equipment now in use throughout the State is HAVA compliant including persons with visual disabilities. The State has purchased audio units that will be integrated into the current voting machines for persons with visual disabilities by August of 2005.

SEC. 254 (5) STATE ELECTION FUND

(5) How the State will establish a fund described in subsection (b) (Elections Fund) for purposes of administering the State's activities under this part, including information on fund management.

The State has established an election fund with the Mellon Financial Corporation (State of Delaware-General Collection Account). The Commissioner of Elections, as the chief state election official, is the single managing authority for receipt of election funds. After complying with the Single Point of Contact procedure established by the Office of Management and Budget, which is the submission of an expenditure budget for the State Clearinghouse, the funds are transferred to the Commissioner of Election's appropriations.

The management of the election fund is consistent with current Delaware Financial Management System. The Department understands that it must provide periodic reports on the use of the Election Fund to the Election Assistance Commission and that the Election Fund is subject to audit by various federal and state entities. The Commissioner of Elections will report the status of the fund at least annually to the State Plan Task Force Committee.

SEC. 254 (6) DELAWARE'S PROPOSED BUDGET

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on -

(A) the costs of the activities required to be carried out to meet the requirements of title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

To date, Delaware has purchased 550 voting machines from Title II funds and 37 form Title I funds. The current inventory of 990 machines has been upgraded with an audio module making all the voting machines in Delaware accessible. The Department spent the FY '04 payment of $4,150,000.00 plus the State Match on an Election Management Voting System. Instead of purchasing one new DRE for every poling place, Delaware purchased additional DREs and upgraded our existing machines.

Appendix C is a total of all payments from Title I and Title II plus the State Match.

The revised budget is attached as APENDIX C is found on page 44.

The cost of Title III Requirements = $9,410,772.50
The portion of the requirements payment used to carry out these activities – 56%
The portion of the requirements payment used to carry out other activities – 44%.

SEC. 254 (7) MAINTENANCE LEVEL OF STATE FUNDING

(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

The State will fund the Commissioner's Office and the Departments of Elections for the counties for expenditures at or above 2000 levels for activities consistent with HAVA. The total appropriation prior to 2000 was $3,264,102.73. Currently the State exceeds this expenditure level. The State currently holds HAVA funds in an interest bearing account. The Department expects to realize some interest to use for additional election improvements. It is clear that the new programs and equipment will added to the Election Management System will create future costs for the State.

SEC. 254 (8) STATE PERFORMANCE MEASURES AND GOALS

(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

Implementation requires two types of measures: 1. "Milestones" are steps toward the achievement of a definite goal, such as the implementation of the voter identification requirement, together with an assignment of responsibilities and timelines; 2. Delaware uses the term, "performance measure," for indicators of how well a system is working. For example, the percentage of first-time mail registrants who fail to provide the required identification either when they register or at the polling place is an indicator of how effective the voter information component of the mail registration system is.

SEC. 254 (9) ADMINISTRATIVE COMPLAINT PROCEDURES

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

The process is described in the legislation that was enacted in July, 2003. A copy is of the Act is in Appendix B.

SEC. 254 (10) EFFECT OF TITLE I PAYMENTS

(10) If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

The effect of Title I payments will be to strengthen Delaware's Election Management System. Since it is not feasible for the State to manage dual voting systems, one federal and one state, we have integrated the changes into one Election Management System. Delaware planed to spend $185,000.00 from Title I plus $4,150,000.00 from Title II on new voting systems. . However, this equipment must still be maintained over time. Thus, the effect of the Title I expenditures is to create a stable infrastructure to conduct Delaware elections and to plan for the future needs of our voters.

SEC. 254 (11) STATE PLAN MANAGEMENT

(11) How the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless the change

(A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and

(C) Takes effect only after the expiration of the 30-day period, which begins on the date the change, is published in the Federal Register in accordance with subparagraph (A).

The Commissioner of Elections manages the plan in collaboration with the Departments of Elections in each county and members of the HAVA Task Force. Each member of the Department maintains essential functions in the Election Management System. Standards and procedures for essential elements of HAVA administration are written in a state manual to ensure uniformity of application.

The Commissioner of Elections will conduct annual meetings with the HAVA Task Force to review reports from the Departments of Elections in each county and the Commissioner's Office on the implementation of HAVA requirements and any changes in expected costs or federal appropriations. The Task Force may recommend changes to the plan. If the Commissioner of Elections determines the State Plan requires material change, he will conduct public hearings and resubmit those changes according to procedures in the original State Plan.

SEC. 254 (12) STATE PLAN EFFECTS FROM PREVIOUS FISCAL YEAR

(12) In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

This State Plan is the amended State Plan required under the Help America Vote Act of 2002 (HAVA). There was a plan in effect during the fiscal year, 2005.

Changes that have been made to the State Plan which was in effect in previous years involve future planning. With the passage of time, we now know the total amount of Delaware's appropriation and knowing that enables the State choose the option to purchase new machines and to upgrade our fleet of voting machines producing a standard, compliant Election Voting System instead of just placing one compliant machine in each polling place.

We decided to spend more than we planned on Educational Programs in social studies in Delaware schools which are available to all public, private and parochial schools in the state. In 2004 we reached 54,000 school children throughout the state with a civics curriculum which is available on-line at:
http://www.state.de.us/election/information/mockelection/mockelection.shtml.

We have expanded training programs to include more people using portable technology like DVDs, CDs and audio files. Also, staff training and educational programs are under development to improve performance.

SEC 254. (13) DESCRIPTION OF HAVA COMMITTEE

(13) A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

Pursuant to Section 255, the Chief State Election Official, Frank B. Calio, Commissioner of Elections, appointed an advisory committee composed of citizens, elections officials, the Governor's Office, state officials and interested persons or organizations creating a HAVA Task Force. The composition of that committee has changed over time and is reflected in the list of members. These members are contacted to provide comment to the Revised State Plan for 2005.

The task force met for the first time on March 13, 2003, in Dover, Delaware. The membership formed subject matter committees during the April 3, 2003 meeting at the Silver Lake Conference Center. These groups scheduled meetings to draft sections of the State Plan. The draft sections were consolidated into one state plan.

The first plan was published on May 16, 2003 and is on the State's HAVA website (http://www.state.de.us/hava). The website was established to provide public information and notice. It also served as an on-line work area for committee members to make suggestions and share information electronically. It enables the public to transmit comments electronically, as well as, to view or download information about the State Plan for Delaware. The Task Force met again on June 16 to review comments and approve a plan. Dr. Robert Montjoy, of Auburn University, participated in the meeting. The committee agreed to make a number of changes, especially in the language describing the roles of the different elections offices, the budget for meeting Title III requirements, and the manner in which sections of the plan covered by pending legislation are presented.

The revised state plan was composed via e-mail correspondence.

This plan was amended in September of 2005, posted for public hearing in Delaware for 30 days and forwarded to the Election Assistance Commission for inclusion in the federal register.

STATE HAVA TASK FORCE		
MEMBER NAME		**REPRESENTING**
Bob	Goodhart	Division for the Visually Impaired
Randy	Reynolds	Delaware Technology and Information
Virginia	Lane	Office of the Commissioner
Deborah	Grier	Office of the Commissioner
Elaine	Manlove	Department of Elections for New Castle County
Howard	Sholl	Department of Elections for New Castle County
Joyce	Wright	Department of Elections for Kent County
Diana	Robertson	Department of Elections for Kent County

Ken	McDowell	Department of Elections for Sussex County
Jean	Turner	Department of Elections for Sussex County
Frank	Calio	Commissioner of Elections
Nancy	Bastidas	Governor's Council on Hispanic Affairs
Andrew	DalNogare	State House of Representatives
Lefty	Diswood	League of Women Voters
Charles	Brittingham	NAACP- State Conference
Robert	Scoglietti	Office of the Budget
	Representative	Office of the Governor
Jack	Markell	Office of the Treasurer
Dick	Carter	State Senate
John	Frazer	Controller General's Office
Kyle	Hodges	State Council for Persons with Disabilities
Laura	Waterland	Delaware Disabilities Law Program

Article I. **APPENDIX A:** A COMPARISON OF DELAWARE'S EXISTING ELECTION SYSTEM WITH THE REQUIREMENTS OF HAVA AS OF JUNE 1, 2003.

GAP ANALYSIS		
VOTING SYSTEM STANDARDS	REQUIREMENT STATUS	ACTION REQUIRED
SEC. 301. VOTING SYSTEMS STANDARDS.		
(a) Requirements.--Each voting system used in an election for Federal office shall meet the following requirements:		
(1) In general.-- (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall--		
(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;	MEETS	NONE
(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and	MEETS	NONE
(iii) if the voter selects votes for more than one candidate for a single office--		
(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;	MEETS	NONE
(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and	MEETS	NONE
GAP ANALYSIS		

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

VOTING SYSTEM STANDARDS	REQUIREMENT STATUS	ACTION REQUIRED
(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.	MEETS	NONE
(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by-- (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).	MEETS	NONE
(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.	MEETS	NONE
(2) **Audit capacity.--**		
(A) In general.--The voting system shall produce a record with an audit capacity for such system.	MEETS	NONE
(B) Manual audit capacity.--		
(I) The voting system shall produce a permanent paper record with a manual audit capacity for such system.	MEETS	NONE

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COMMISSIONER OF ELECTIONS 32 W. LOOCKERMAN STREET M101 DOVER DE 19904

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
VOTING SYSTEM STANDARDS	REQUIREMENT STATUS	ACTION REQUIRED
(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is record is produced.	MEETS	NONE
(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.	MEETS	NONE
(3) Accessibility for individuals with disabilities.-- The voting system shall--		
(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;	MEETS	The State will meet this element by modifying existing equipment or purchasing new equipment.
(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and	MEETS	The State will meet this element by modifying existing equipment or purchasing new equipment.
(C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).	NA	NONE
(4) Alternative language accessibility. — **The voting system** shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).	NA	NONE

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COMMISSIONER OF ELECTIONS 32 W. LOOCKERMAN STREET M101 DOVER DE 19904

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
VOTING SYSTEM STANDARDS	REQUIREMENT STATUS	ACTION REQUIRED
(5) Error rates. — The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.	MEETS	NONE
(6) Uniform definition of what constitutes a vote. — Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.	MEETS	NONE
(d) Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.	MEETS	NONE
(a) Provisional Voting Requirements.--If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:		
(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.	MEETS	NONE
(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is–	MEETS	NONE
(A) a registered voter in the jurisdiction in which the individual desires to vote; and	MEETS	NONE
(B) Eligible to vote in that election.	MEETS	NONE

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HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
PROVISIONAL VOTING	CURRENT STATE STATUS	ACTION REQUIRED
SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.		
(3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).	MEETS	NONE
(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under Paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.	MEETS	NONE
(5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted the reason that the vote was not counted.	MEETS	NONE
(B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.	MEETS	NONE

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COMMISSIONER OF ELECTIONS 32 W. LOOCKERMAN STREET M101 DOVER DE 19904

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
PROVISIONAL VOTING	CURRENT STATE STATUS	ACTION REQUIRED
States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.	NA	Delaware is not described in this section.
(b) Voting Information Requirements.--		
(1) Public posting on election day.--The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.	MEETS	NONE
(2) Voting information defined.--In this section, the term ``voting information" means--		
(A) a sample version of the ballot that will be used for that election;	MEETS	NONE
(B) information regarding the date of the election and the hours during which polling places will be open;	MEETS	NONE.
(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;	MEETS	NONE
(D) instructions for mail-in registrants and first- time voters Under section 303(b);	MEETS	NONE
(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and	MEETS	NONE

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HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
PROVISIONAL VOTING	CURRENT STATE STATUS	ACTION REQUIRED
(F) general information on Federal and State laws Regarding prohibitions on acts of fraud and misrepresentation.	MEETS	NONE
(c) Voters Who Vote After the Polls Close.--Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.	MEETS	NONE

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HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(a) Computerized Statewide Voter Registration List Requirements.--		
(1) Implementation.--		
(A) In general.--Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the ``computerized list''), and includes the following:	MEETS	NONE
(I)The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.	MEETS	NONE
(ii) The computerized list contains the name and registration information of every legally registered voter in the State.	MEETS	NONE
(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.	MEETS	NONE
(iv) The computerized list shall be coordinated with other agency databases within the State.	MEETS	The State will make enhancements to the system and pursue automating interaction with agencies that now have a manual interface.
(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.	MEETS	NONE

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.	MEETS	NONE
(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).	MEETS	NONE
(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.	MEETS	NONE
(B) Exception.--The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.	NA	NA
(2) Computerized list maintenance.--		
(A) In general.--The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:		
(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).	MEETS	NONE

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(ii) For purposes of removing names of ineligible voters from the official list of eligible voters--(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.	MEETS	NONE
(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.	MEETS	NONE
(B) Conduct.--The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that--		
(i) the name of each registered voter appears in the computerized list;	MEETS	NONE
(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and	MEETS	NONE
(iii) duplicate names are eliminated from the computerized list.	MEETS	NONE
(3) Technological security of computerized list.--The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.	MEETS	NONE

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(4) Minimum standard for accuracy of state voter registration records.--The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:	MEETS	NONE
(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of registered voters. Under such a system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of registered voters, except that no registrant may be removed solely by reason of failure to vote.	MEETS	NONE
(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.	MEETS	NONE
(5) Verification of voter registration information.-- (A) Requiring provision of certain information by applicants.--		
(i) In general.--Except as provided in clause (ii), withstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or in the case of any other applicant (other than an applicant to whom this clause (ii) applies), the last 4 digits of the applicant's social security number.	MEETS	NONE

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(ii) Special rule for applicants without driver's license or social security number.--If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.	MEETS	NONE
(iii) Determination of validity of numbers provided.--The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.	MEETS	NONE
(B) Requirements for state officials.--		
(i) Sharing information in databases.--The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.	PARTIALLY MEETS	The State will meet this requirement
(ii) Agreements with commissioner of social security.--The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)).	DOES NOT MEET	The DMV is awaiting a response from the Social Security Administration.

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(b) Requirements for Voters Who Register by Mail.-- (1) In general.--Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if--		
(A) the individual registered to vote in a jurisdiction by mail; and		
(B)(i) the individual has not previously voted in an election for Federal office in the State; or		
(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).		
(2) Requirements.-- (A) In general.--An individual meets the requirements of this paragraph if the individual--		
(i) in the case of an individual who votes in person— (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or	MEETS	NONE
(ii) in the case of an individual who votes by mail, submits with the ballot--(I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.	MEETS	NONE
(B) Provisional Voting.--		
(i) In person.--An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a).	MEETS	NONE

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GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(ii) By mail.--An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a).	MEETS	NONE
(3) Inapplicability.--Paragraph (1) shall not apply in the case of a person--		
(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either--		
(i) a copy of a current and valid photo identification; or	MEETS	NONE
(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either--(I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and	MEETS	NONE
(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;	MEETS	NONE.
(iii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or	MEETS	NONE
(C) who is--		
(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);	MEETS	NONE
(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-(b)(2)(B)(ii)); or	MEETS	NONE
(iii) entitled to vote otherwise than in person under any other Federal law.	MEETS	NONE

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HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

GAP ANALYSIS		
COMPUTERIZED VOTER REGISTRATION	CURRENT STATE STATUS	ACTION REQUIRED
(4) Contents of mail registration form.-- (A) In general.--The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:		
(i) The question ``Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.	NA	
(ii) The question ``Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.	NA	
(ii) The statement ``If you checked `no' in response to either of these questions, do not complete this form.".	NA	
(iv) A statement informing the individual that the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.	NA	
(B) Incomplete forms.--If an applicant for voter registration fails to answer the question included on the voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).	MEETS	NONE

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Article II. **APPENDIX B** – HAVA LEGISLATION

STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 153

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

WHEREAS, the Help America Vote Act of 2002 imposes several mandates upon the state; and

WHEREAS, it is necessary to implement the Help America Vote Act of 2002;

NOW, THEREFORE BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 15, § 1302 by striking the aforesaid section in its entirety and substituting in lieu thereof:

§ 1302 Voter registration application.
The Commissioner of Elections, in consultation with the Departments of Elections for the counties, shall promulgate the voter registration application and shall set the effective date of each new version. The application shall be updated as necessary to comply with state and federal law and/or to facilitate administration of the State's voter registration program. The application shall be uniform throughout the state and shall be used for all voter registration transactions within the state.

The application shall be in two parts. The Departments of Elections for the counties shall send the original part of each application that was accepted and processed to the Commissioner of Elections office. The Departments of Elections for the counties shall maintain the second copy in the County Master Record. The records contained in the County Master Record shall remain in the office of each department and not be removed for any reason except as provided by law.
The voter registration application shall include a question asking whether or not the applicant is a citizen of the United States. The Departments of Elections for the counties shall reject the applications of new registrants who indicate that they are not citizens of the United States or who fail to answer the question. The departments shall notify such persons by first-class mail that their application has been rejected and the reason(so) thereto. Persons already registered to vote who indicate that they are not citizens of the United States shall be notified by first-class mail that their voter registration shall be cancelled at the expiration of 15 days if they do not affirm in writing that they are citizens of the United States. The departments shall cancel the voter registration of any person who fails to affirm in writing that they are United States citizens after the expiration of the aforesaid 15-day period. Persons who subsequently affirm in writing to a department that they are United States citizens shall be reinstated by the department as a registered voter.

The voter registration application shall include a place for the applicant's home telephone number; provided, however, that the provision of a telephone number shall be annotated on the form as being optional, and no application shall be rejected for lack thereof. Any registered voter may have his/her telephone number removed from the electronic voter registration files by making a request of the department of elections for the county in which they are registered either by telephone or in writing.

The applicant's signature may be a digitized signature obtained by a state agency as part of a process that includes registering a person to vote or updating his/her voter registration information.

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, may examine methods to streamline the voter registration process through the application of technology. The Commissioner of Elections, in consultation with the Departments of Elections for the counties, may adopt and implement such technology. In the event that the process adopted conflicts with subsection "(b)" above, that subsection shall be considered null and void. These innovations may include adoption of a paperless or semi-paperless registration process.

The Commissioner of Elections shall make the State's Voter Registration Application available on the internet by January 1, 2006.

Section 2. Amend Delaware Code, Title 15 by inserting as § 2015 the following:

§ 2015. Late registration procedures for military and overseas citizens.
An individual who has been discharged or separated from the Uniformed Services, the merchant marine, or from employment outside of the territorial limits of the United States too late to register to vote for a primary or general election but within 60 days of the date of a primary or general election, shall be entitled to register to vote for the purpose of voting in that and ensuing primary or general elections after presenting documentation of his/her discharge, separation, or termination of employment to the Department of Elections for the county in which he/she resides. This exception includes any accompanying family members who are otherwise eligible to register to vote.

Section 3. Amend Delaware Code, Title 15 by inserting as § 2016 the following:

§ 2016. Enfranchisement of citizens who have never resided in the United States.
If a United States citizen outside of the United States who has never lived in the United States has a parent who is a qualified elector of the State, then that person is eligible to register and vote where his/her parent is a qualified elector.

Section 4. Amend Delaware Code, Title 15 by inserting as § 2033 the following:

§ 2033. Special procedures for persons who register to vote by mail and have not voted in the State in an election for federal office.

A person who registers to vote by mail on or after January 1, 2003 shall submit with his/her application a copy of current and valid photo identification or a copy of a current utility bill, bank

statement, government check, paycheck or other government document that shows the name and address of the voter. Should the person not include a copy of the required identification with the voter registration application, the voter shall provide a valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter prior to voting for the first time at a polling place in the State. If the person fails to show required identification at the polling place, he/she shall be permitted to vote by Provisional Ballot. The poll lists and signature cards for each polling place shall identify those persons who must show proper identification before being permitted to vote.

A registrant may satisfy the requirement to submit identification by subsequently submitting a voter registration application through a source not subject to the provisions of this section (e.g. through the Division of Motor Vehicles).

A person who votes by absentee ballot and who registered to vote for the first time by mail and did not submit a copy of any of the required identification documents shall submit a copy of one or more of the documents listed in subsection "a" above showing the person's name and address with the Absentee Ballot. The Absentee Ballot from a person who is required to submit identification, and who does not, shall not be counted.

This section does not apply to persons listed in § 5502 (1) and § 5502 (2) of this title or to persons identified in subsection "a" above who submitted their driver's license number (includes State ID card number) or Social Security Number that the Department of Elections for a county is able to use to verify an existing State Identification record bearing the same number, the name and date of birth as provided by the applicant.

Section 5. Amend Delaware Code, Title 15, Chapter 49, by inserting as subchapter IV the following:

Subchapter IV. Administrative Complaint Procedure

§ 4990. Applicability.
The Administrative Complaint Process shall only apply to alleged violations of Title III of the Help America Vote Act of 2002 to include an alleged violation that has occurred, is occurring or is about to occur.

§ 4991. Process.
The person making a complaint shall submit the complaint to the Commissioner of Elections or any of the Departments of Elections for the counties. The complaint shall be in writing, notarized, and signed and sworn to by the person making the complaint.

If one of the Departments for the counties receives such a complaint, the Department shall forward it to the Commissioner of Elections on the same business day that it is received.

The Commissioner of Elections shall notify the complainant(s) of receipt of the complaint and

provide the complainant(s) a description of the complaint resolution process.

The Commissioner of Elections may consolidate similar complaints.

If requested by the complainant(s), there shall be a hearing for the record.

The Commissioner of Elections shall appoint a person or persons to examine the complaint, gather information about the circumstances and then determine whether or not there was a violation of Title III.

If the person handling the complaint determines that a violation has occurred, he/she shall recommend a suitable remedy to the Commissioner of Elections. The Commissioner may accept, reject or modify any proposed remedy.

If the person handling the complaint determines that a violation did not occur, the complaint shall be dismissed.

The Commissioner of Elections shall publish the results of the resolution of each complaint as he/she sees fit.

A final determination shall be made on each complaint as quickly as possible, but no later than 90 days following the date that the complaint was filed unless the complainant consents to a longer period for resolving the complaint.

If the complaint is not resolved within 90 days and the complainant has not agreed to a longer period, the Commissioner of Elections shall take such steps as necessary to resolve the complaint within the next 60 days. The original complaint and all information developed in the previous attempt(s) to resolve the issue(s) shall be made available to the person(s) subsequently charged with resolving the complaint.

The Commissioner of Elections shall develop a system for tracking complaints alleging Title III violations.

Section 6. Amend Delaware Code, Title 15, § 4910 (a) by striking said subsection in its entirety and substituting in lieu thereof:

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall design poster(s) that will be uniform throughout the State. The poster(s) shall be publicly displayed in each polling place on the day of the election. The poster(s) shall contain the following information:

- Information stating the date and hours during which the polling place will be open;
- Instructions on how to vote, including how to cast a vote and how to cast a Provisional Ballot;
- Instructions for mail-in registrants who are first-time voters under Section 303(b) of the Help America Vote Act of 2002;
- General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and
- instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

- General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

Section 7. Amend Subchapter II, Chapter 49, Title 15 of the Delaware Code by inserting as § 4948 the following:

§ 4948. Provisional Ballots.
Provisional ballots shall be used in primary and general elections conducted under the provisions of this title. Provisional ballots shall not be used in public school elections or municipal elections unless specifically authorized in Title 14, Title 15 and/or the respective town or city charter.

A person claiming to be properly registered in an Election District, but whose eligibility to vote at that Election District cannot be determined, shall be entitled to vote a Provisional Ballot. Election officers shall inform a person who is not being permitted to vote for whatever reason that he/she may cast a provisional ballot in that election. The Inspector shall return all voted Provisional Ballots to the Department of Elections for the county responsible for the Election District on the night of the election.

Persons voting a Provisional Ballot shall present proof of identity and address to the Election Officers. The type of ID shown by the voter shall be annotated on the Provisional Ballot Envelope. If the person does not show proof of identity or address, the person shall be permitted to vote by Provisional Ballot and the fact that he/she did not show proof of identity and/or address shall be annotated on the Provisional Ballot Envelope.

If Superior Court or another court of competent jurisdiction orders that some or all polling places in a county of the state be kept open beyond the normal time for closing, all persons who arrive to vote at the polling place(s) ordered to be kept open after the normal time for closing shall vote by Provisional Ballot. The Election Officers shall keep such ballots separate and return them to the Department of Elections for the county responsible for the Election District on the night of the election.

Provisional Ballots shall be as much as possible in the same form as Absentee Ballots except that only federal offices shall be listed and they shall be labeled as Provisional Ballots. The Departments of Elections for the counties shall provide to each Election District Provisional Ballots for 6% of the registered voters in the Election District as of 45 days prior to the date of the election. Regardless of the number of ballots required by this subsection, the Departments of Elections for the counties shall provide a minimum of 15 Provisional Ballots to each Election District. Each Department of Elections for the counties shall deliver additional Provisional Ballots, envelopes, instructions or voter information sheets to the polling place for an Election District when notified by an Election Officer from the district that the supply of some or all of the Provisional Ballot materials is very low.

Election Officers shall give whatever assistance is requested by a voter who is voting by Provisional Ballot. When that assistance includes marking or assisting in marking the person's ballot, two Election Officers with different political party affiliations shall provide that assistance.
A voter who spoils his or her ballot shall, upon request, be given a replacement ballot after surrendering the spoiled ballot.

Tallying Provisional Ballots.
At 12 noon the day following an election in which Provisional Ballots were used, the Department of Elections for each county shall meet to examine the Provisional Ballots, determine which of the ballots should be tallied in accordance with the rules stated below, and then tally those ballots.

The Attorney General shall appoint a Deputy Attorney General to advise each of the Departments of Elections for the counties as requested during the Provisional Ballot tallying process.

The county chairperson of each political party with a candidate on a Provisional Ballot within the county may appoint in writing one observer to be in the room where Provisional Ballots are being reviewed and tallied.

The Departments of Elections for each county shall sit until the disposition of every Provisional Ballot has been determined. Each county Department of Elections shall establish an appropriate schedule of breaks, meals and rest periods.

Where the Provisional Ballot affidavit is incomplete, the ballot shall be set aside, not opened and the votes not tallied. An incomplete affidavit shall be defined as one that does not include all of the following information: full name, complete address, political party affiliation (Primary Elections only), and date of birth.
Where the person who voted by Provisional Ballot did not show suitable identification at the polling place, the ballot shall be set aside, not opened and the votes not tallied.
Provisional Ballots cast by persons who are not registered to vote in the state or who are not registered to vote in the Election District in which they were cast shall be set aside, not opened and the votes not tallied.

A Provisional Ballot cast by a person who is registered to vote and who has moved into the Election District shall be counted if the person voted at the correct polling place for his/her new address.

Each Department of Elections for a county shall tally the Provisional Ballots that meet the above criteria. After all of the Provisional Ballots determined as meeting the above criteria have been tallied, the Department of Elections for the county shall deliver one copy of the Provisional Ballot Tally Sheet for each Election District, all the Provisional Ballots cast in the election, and all affidavits, envelopes and supporting documentation to the Prothonotary.

Post election processing and notification.
As soon as practical, but not later than 30 days following an election in which Provisional Ballots were used, the Department of Elections for each county shall enter the appropriate data into a free access system so that a person who voted by Provisional Ballot may determine whether or not his/her ballot was counted, and if it was not counted, the reason(s) for which it was not counted.

The respective Department of Elections for a county shall use the Provisional Ballot affidavit as authority to register a person to vote who voted by Provisional Ballot in an election and who is not already registered to vote providing that the minimum information required to register a

person to vote is provided. The Provisional Ballot envelope shall be used to transfer a registered voter's address and/or update his/her name when the address and/or name is different than the information on the person's voter registration record.

Section 8. Amend Delaware Code, Title 15, § 4972, by striking the aforesaid section in its entirety and substituting in lieu thereof the following.

§ 4972. Rules regarding what constitutes a legal vote.

Votes cast on a direct recording electronic voting machine shall be considered legal votes once the voter has taken the necessary action(s) to cast his/her ballot. A voter who has cast his/her ballot on a direct recording electronic voting machine shall not be permitted to cast a second ballot under any circumstances.

Votes cast at any election on paper ballots shall be counted for whom they are intended as far as can be ascertained by the marks on the ballot. The following rules shall be observed in determining those votes on paper ballots that shall be counted:
The voter shall mark the ballot for his/her selections by placing a distinct mark in the box at the right of the name of the candidate and or response to a question for which he/she wants to vote;
Where a voter indicates his/her selections in a manner not in accordance with paragraph "1" above, the Election Officers shall attempt to determine from the marks on the ballot the candidate or response that the voter intended to select;
If it is not possible to determine a voter's choice for an office or response to a question, the ballot shall not be counted for that office or question but shall be counted for all other offices and questions on the ballot where the voter's intention can be determined;
A voter may only vote for two or more choices for any office or question when specifically instructed on the ballot that it is allowable;
Where a voter is permitted to make more than one choice for candidates and or responses to a question, he/she may make fewer than the allowable number of choices;
If a ballot is marked for more names or responses than are permitted, it shall not be counted for that office or question, but it shall be counted for all other offices or questions on the ballot in accordance with these rules; and
If a ballot has been defaced or torn so that it is impossible to determine the voter's choice for one or more offices or questions, it shall not be counted for such offices or questions but shall be counted for all other offices and questions where the voter's choice(s) can be determined.

Section 9. Amend Delaware Code, Title 15, § 5001A (a) by inserting as subsections (12) and (13) the following:

(12) It shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.

It shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast his/her ballot if the voter was otherwise unable to change the ballot or correct any error).

Section 10. Amend Delaware Code, Title 15, § 5001A (b) by striking the second sentence in its entirety and substituting in lieu thereof the following:

All voting devices used in any election shall provide the voter the opportunity to make his/her selections and cast his/her ballot in secrecy through placement of the devices in the polling place or through the use of curtains or other devices.

Section 11. Amend Delaware Code, Title 15, § 5001A by adding the following as subsection (d):
Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the Voluntary Voting Systems Standards or Guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State.

Section 12. Amend Delaware Code, Title 15, § 5004A by inserting the following at the end of the section:

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall gather information from other jurisdictions using the same or similar systems and then establish an appropriate registered voter to voting device ratio for voting systems purchased after July 1, 2003.

Section 13. Amend Delaware Code, Title 15, § 5005A by adding the following as subsection (d):
(d) Nothing in this section shall preclude the use of an electronic device where the ballot is electronically generated and displayed or which has the capability to generate and display multiple ballots.

Section 14. Amend Delaware Code, Title 15, § 5503 (d) by adding the following as the second sentence:

Additionally, the Departments of Elections for the counties shall accept facsimile transmissions of affidavits for absentee ballots.

Section 15. Amend Delaware Code, Title 15, § 5523 by inserting the following as subsection (d):
An FPCA submitted by a person who qualifies under any of the reasons set forth in § 5502(1) or §5502(2) of this chapter shall be valid for the next two general elections.

Section 16. Amend Delaware Code, Title 15, by inserting as § 5526 the following:

§ 5526. Emergency Authority for the Commissioner of Elections.
In the event that a national or local emergency makes substantial compliance with the provisions of this title and/or the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable for some of all of the citizens covered under § 5502(1) or § 5502(2) of this title, the Commissioner of Elections may direct the use of special procedures to facilitate absentee voting for those citizens directly affected who are eligible to vote in the State. Such an

emergency may be a natural and/or humanitarian disaster; and/or armed conflict involving United States Armed Forces to include mobilized State National Guard and/or Reserve components.

The Commissioner of Elections shall consult with the Governor and the Federal Voting Assistance Program or its successor prior to directing the use of the special procedures cited in subsection "a" above.

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall promulgate special procedures to be followed in the event that such a national or local emergency occurs.

SYNOPSIS

This legislation if enacted will implement the Help America Vote Act of 2002 (HAVA), implement some recommendations regarding voting and registration of military and overseas and make other changes. Specifically, it provides that the Commissioner of Elections shall promulgate the voter registration application and deletes the list of items required in order to provide flexibility in quickly dealing with changes in federal law. It directs that a question dealing with citizenship be added and that a digitized signature obtained by a state agency in a process that includes voter registration be acceptable as an applicant's signature. It authorizes the Departments of Elections for the counties to accept facsimile transmissions of Affidavits for Absentee Ballots from all citizens. It adds the following provisions to comply with HAVA: establishes procedures for dealing with persons who registered by mail and have not voted in an election for federal office, establishes an Administrative Complaints Procedure for handling violations of HAVA's Title III mandate, provides for posting additional information in the polling place, authorizes Provisional Voting, defines what constitutes a legal vote, and modifies the standards for electronic voting systems, devices and/or machines. It, also, provides that military and overseas citizens who return to the United States within 60 days of an election and establish residence in Delaware can register to vote after the normal deadline, that citizens born abroad who have never lived in the State can register and vote if one of their parents is a qualified elector, and gives the Commissioner of Elections authority to direct the use of special procedures in handling the delivery and transmission of ballots to military and overseas citizens in the event of a national or local emergency.

APPENDIX C: 2005 CONSOLIDATED BUDGET

ITEM		TITLE I	YR 04	YR 05	YR 06	YR 07	UNIT COST	TIME UNIT	Expenditure	Title I	Title II	Title II	EXTENDED DESCRIPTION
										$3,630,324.00	$220,000.00	$392,000.00	
										$1,369,676.00	$4,150,000.00	$7,446,830.00	
										$5,000,000.00	**$4,370,000.00**	**$7,446,830.00**	
TITLE I	**$5,000,000.00**												
Voting Systems	Standards	Voting Machines	x				$5,026.76 $5,026.76	37	$185,990.12 $185,990.12	$4,814,009.88			• New Voting Machines
Voting Systems	Changes		x				$13,933.26 $13,933.26	1	$13,933.26 $13,933.26	$4,800,076.62			• Training Poll Workers
Voting Systems	Training		x				$35,073.35 $35,073.35	1	$35,073.35 $35,073.35	$4,765,003.27			• Training Election Officials, Poll Workers and Volunteers
Provisional Voting	State		x				$303,277.41 $303,277.41	1	$303,277.41 $303,277.41	$4,461,725.86			• Ballot Lock-up System
Computerized Voter List	State		x				$250,117.29 $250,117.29	1	$250,117.29 $250,117.29	$4,211,608.57			• Statewide Voter Database
Election Improvement							$251,986.59 $251,986.59	1	$251,986.59 $251,986.59	$3,959,621.98			• Registration Forms, Materials, Services

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Educating	State Voters		x			$33,421.23	1	$33,421.23	$3,926,200.75	• Statewide Voter Database
						$33,421.23		$33,421.23		
State Plan			x			$2,400.00	1	$2,400.00	$3,923,800.75	• Consultant services
						$2,400.00		$2,400.00		
Accessibility	State Polling Places		x			$3,000.00	1	$3,000.00	$3,920,800.75	• Consultant services
						$3,000.00		$3,000.00		
Toll Free Line	Complaints		x			$30,113.00	1	$30,113.00	$3,890,687.75	• Hotline for Voters
						$30,113.00		$30,113.00		
Advertising	Commissioner	Newspaper		x	x	x	$6,000.00	6	$36,000.00	$3,884,800.75	• Consistent Effort to Inform the • Public about HAVA and Voting
		Radio		x	x	x	$2,000.00	6	$12,000.00	$3,872,800.75	
		Television		x	x	x	$0.00	0	$0.00	$3,872,800.75	
		Printed Materials		x	x	x	$5,000.00	2	$10,000.00	$3,874,800.75	• Publish Notices of Election Dates and HAVA Rights
		Cable/TV		x	x	x	$8,000.00	2	$16,000.00	$3,858,800.75	• Publish Notices of Election Dates and HAVA Rights
		Direct Mail			x		$150,000.00	1	$150,000.00	$3,708,800.75	• Publish Notices of Election Dates and HAVA Rights
	New Castle County	Newspaper		x	x	x	$10,000.00	2	$20,000.00	$3,688,800.75	• Specific Local Information to Advertise
	Kent County	Newspaper		x	x	x	$10,000.00	2	$20,000.00	$3,668,800.75	• Specific Local Information to Advertise
	Sussex County	Newspaper		x	x	x	$10,000.00	2	$20,000.00	$3,648,800.75	• Specific Local Information to Advertise
							$30,000.00		$60,000.00		
Casual/Seasonal	Commissioner	Training Staff		x	x	x	$1,000.00	100	$100,000.00	$3,548,800.75	• Training, Education and Agency Based Activities for Public Instruction for Voter Registration Events
		OEC		x	x	x	$51.56	100	$5,156.00	$3,543,644.75	• Election Certification
							$1,051.56		$105,156.00		

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										Programs
Education	Commissioner	Election Officers		x	x	x	$10,000.00	3	$30,000.00	$3,513,644.75	• Onsite Educational Opportunities for Election Officers
				x	x	x	$15,000.00	3	$45,000.00	$3,468,644.75	• Onsite Educational and Training for Various Groups
				x	x	x	$10,000.00	3	$30,000.00	$3,438,644.75	• Local Education Colleges and Universities: UD • Public Administration Courses
							$35,000.00		$105,000.00		
Education	Commissioner	All Others		x	x	x	$250,000.00	2	$500,000.00	$2,938,644.75	• Training & Educational Materials for Various Groups • Mixed Media Presentations for Public Use
							$250,000.00		$500,000.00		
Education	Commissioner	Mock Election	x		x		$30,000.00	3	$90,000.00	$2,848,644.75	• Continued Support for Delaware's Mock Election Program
							$30,000.00		$90,000.00		
Staffing	Elections	Programmer 1 - DTI	x	x	x		$40,000.00	3	$120,000.00	$2,728,644.75	• Election's Contractor located at DTI
		Programmer 2 - DTI	x	x	x		$50,000.00	3	$150,000.00	$2,578,644.75	• Election's Contractor located at DTI
		Administrator - DTI	x	x	x		$90,000.00	3	$270,000.00	$2,308,644.75	• Cost recovery, DTI Admin. for Election's Programmers
		Programmer 3-DTI			x		$25,000.00	0.7	$17,500.00	$2,291,144.75	• Temporary Programmer for Central Absentee System
		Programmer4-DTI			x		$25,000.00	0.7	$17,500.00	$2,273,644.75	• Temporary Programmer for Central Absentee System
							$205,000.00		$540,000.00		
Staffing	Commissioner	Accounting Specialist		x	x	x	$25,117.00	3	$75,351.00	$2,198,293.75	• Election Improvement
		Telecom/Network Tec		x	x	x	$30,769.00	3	$92,307.00	$2,105,986.75	• Election Improvement
		OEC		x	x	x	$12,294.92	3	$36,884.76	$2,069,101.99	• Other Employment Costs
							$68,180.92		$204,542.76		

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Systems Furniture	Commissioner	Grant Employees	x			$35,000.00 $35,000.00	2	$70,000.00 $70,000.00	$1,999,101.99	● Work Space/Equipment
Telephone System	Commissioner			x		$5,000.00	1	$5,000.00	$1,994,101.99	● Updates to Existing Call Answer System
	New Castle County		x			$145,000.00	1	$145,000.00	$1,849,101.99	● Automated Info Telephone System for New Castle
	Kent County		x			$0.00	1	$0.00	$1,849,101.99	● New Telephone System for Kent
	Sussex County		x			$15,000.00 $165,000.00	1	$15,000.00 $165,000.00	$1,834,101.99	● New/Upgrades Telephone System for Sussex
Programming, Other	Commissioner		x	x	x	$80,000.00 $80,000.00	3	$240,000.00 $240,000.00	$1,594,101.99	● Web, Information, Campaign Finance Database
Projects	State	Central Absentee Count Database Update	x			$700,000.00	1	$700,000.00	$894,101.99	● Central Absentee Ballot Count in Each County
					x	$350,000.00 $1,050,000.00	1	$350,000.00 $1,050,000.00	$544,101.99	● Any need to purchase servers, software, etc
Supplies	Department		x	x		$20,000.00 $20,000.00	3	$60,000.00 $60,000.00	$484,101.99	● Supplies for Unexpected Operational Needs
Materials	Department		x	x		$32,000.00 $32,000.00	3	$96,000.00 $96,000.00	$388,101.99	● Materials for Unexpected Operational Needs
Equipment	Department		x	x	x	$12,000.00 $12,000.00	9	$108,000.00 $108,000.00	$280,101.99	● Unscheduled Parts, Systems Expansions
Warehouse Space	New Castle County	Warehouse Lease OT	x			$38,000.00 $38,000.00	2	$76,000.00 $76,000.00	$204,101.99	● Expanded Warehouse Space Voting Machines - Airport Location

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Web Hosting	Commissioner	Campaign Finance	x			$5,000.00 $5,000.00	12	$60,000.00 $60,000.00	$144,101.99	● Off Site Hosting Pending Available State Space
Travel	Commissioner	Conferences	x	x	x	$20,000.00 $20,000.00	1	$20,000.00 $20,000.00	$124,101.99	● National Conferences and Training Events
Misc	Department		x	x	x	$14,550.95 $11,416.75	2	$29,101.90 $29,101.90	$95,000.09	
Title II $4,368,290.00										
Voting Machines Retrofits			x			$1,100.00 $1,100.00	1000	$1,100,000.00 $1,100,000.00	**$3,270,000.00**	● Retrofit Current Inventory with Audio Modules
New Voting Machines			x			$5,000.00 $5,000.00	500	$2,500,000.00 $2,500,000.00	$770,000.00	● New Machines
Shipping Charges			x			$27.00 $27.00	500	$13,500.00 $13,500.00	$756,500.00	● Delivery Charges
Delivery Acceptance			x			$20,000.00 $20,000.00	1	$20,000.00 $20,000.00	$736,500.00	● Testing Contract Specifications
Machine Supplies			x			$250,000.00 $250,000.00	1	$250,000.00 $250,000.00	$486,500.00	● Paper Tapes, Printers, Electronic Poll Lists

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Transportation to Polls			$30,000.00 $30,000.00	1	$30,000.00 $30,000.00	$456,500.00		● Two Year Costs of Moving Additional Machines
Testing Programs	x		$40,000.00 $40,000.00	1	$40,000.00 $40,000.00	$416,500.00		● Testing Machine Format Compatibility
Testing Vendor Software	x		$45,000.00 $45,000.00	1	$45,000.00 $45,000.00	$371,500.00		● Remote Testing Guardian Software
Training	x		$40,000.00 $40,000.00	1	$40,000.00 $40,000.00	$331,500.00		● Staff Training
Temporary Warehouse Staff	x		170,000.00 170,000.00	1.00	170,000.00 170,000.00	$161,500.00		● Additional Workers to Complete Testing
Supplemental Poll Workers	x		$150,000.00 $150,000.00	1	$150,000.00 $150,000.00	$11,500.00		● One Worker per Extra Machine
Misc	x		$9,790.84 $9,790.84	1	$9,790.84 $9,790.84	$1,709.16		● Unexpected Costs
Title II $7,446,830.00							**$7,446,830.00**	
Architectural Accessibility	x	x	$1,250,000.00 $1,250,000.00	1	$1,250,000.00 $1,250,000.00		$6,196,830.00	● Make Improvements to Polls
Voter File Improvements	x	x	$1,000,000.00 $1,000,000.00	1	$1,000,000.00 $1,000,000.00		$5,196,830.00	● Digital Database Capabilities

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Future Election Expenditures Above State Maintenance Level	x	x	$5,196,830.00 $5,196,830.00	1	$5,196,830.00 $5,196,830.00		$0.00	●Future Election Improvements

[FR Doc. 05–21421 Filed 10–26–05; 8:45 am]

BILLING CODE 6820–KF–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 21, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER03–836–007.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits a compliance filing pursuant to Commission's March 15, 2005 Order.
Filed Date: October 14, 2005.
Accession Number: 20051014–5151.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER04–1003–005; ER04–1007–005.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service Corp, on behalf of AEP Operating Companies amends its filing and submits a revised Attachment T to their Open Access Transmission Tariff, FERC Electric Tariff, Third Revised Volume No. 6.
Filed Date: October 14, 2005.
Accession Number: 20051018–0021.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER05–1018–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator Inc submits an errata to its September 13, 2005 compliance filing of large generator interconnection agreement.
Filed Date: October 14, 2005.
Accession Number: 20051018–0010.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER05–410–003.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co. submits the monthly refunds to Arizona Electric Power Cooperative, Inc., the City of Colton, Southern Calif. Water Project, and the Calif. Dept. of Water Resources, State Water Project.
Filed Date: October 14, 2005.
Accession Number: 20051018–0019.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER05–666–005.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an errata to the August 22, 2005 filing submitted in compliance with FERC's July 21, 2005 Order.
Filed Date: October 14, 2005.
Accession Number: 20051017–0225.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–34–000.
Applicants: Pacific Gas & Electric Company.
Description: Pacific Gas and Electric Co. submits its compliance filings involving changes to the Annual Transmission Revenue Balancing Account Adjustment and the Reliability Services rates.
Filed Date: October 14, 2005.
Accession Number: 20051017–0179.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–36–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. on behalf of Kansas Gas & Electric Co. submits a notice of termination of Supplement No. 5, Service Schedule B, to FERC Electric Rate Schedule No.183.
Filed Date: October 14, 2005.
Accession Number: 20051018–0007.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–37–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy Inc, formerly Western Resources Inc. submits a notice of termination of Second Revised FERC Electric Rate Schedule No. 264.
Filed Date: October 14, 2005.
Accession Number: 20051018–0008.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–38–000.
Applicants: Xcel Energy Services, Inc.
Description: Xcel Energy Services Inc submits for filing Connection Agreements between Northern States Power Co. & Great Rivers Energy for Great River Energy's Yankee Doodle & Lake Constance Substations.
Filed Date: October 14, 2005.
Accession Number: 20051019–0005.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–39–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. submits a Metered Subsystem Agreement with the City of Anaheim, California pursuant to section 205 of the Federal Power Act.
Filed Date: October 14, 2005.
Accession Number: 20051018–0242.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–40–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. provides notice of the cancellation of ISO rate Schedule No. 57, the Operating Agreement with Modesto Irrigation District.
Filed Date: October 14, 2005.
Accession Number: 20051018–0006.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–41–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. notifies FERC of the cancellation of ISO Rate Schedule FERC No. 55.
Filed Date: October 14, 2005.
Accession Number: 20051018–0005.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER06–42–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. submits an amendment to the amended and restated Metered Subsystem Aggregator Agreement with Northern California Power Agency.
Filed Date: October 14, 2005.
Accession Number: 20051018–0234.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 2005.

Docket Numbers: ER96–719–008; ER99–2156–006.
Applicants: MidAmerican Energy Company; Cordova Energy Company, LLC.
Description: MidAmerican Energy Co. and Cordova Energy Co., LLC submits a notice of change in status regarding the ownership of certain generating facilities.
Filed Date: October 14, 2005.
Accession Number: 20051018–0023.
Comment Date: 5 p.m. Eastern Time on Friday, November 4, 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. E5–5966 Filed 10–26–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

October 21, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER04–230–018; ER01–3155–013; ER01–1385–022; EL01–45–021.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator submits Third Revised Sheet No. 472A et al. to FERC Electric Tariff, Original Volume No. 2 as a revision to Market Monitoring Mitigation Measures.

Filed Date: October 17, 2005.

Accession Number: 20051019–0027.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER04–691–064; EL04–104–061.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to section 10 of its Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume No. 1.

Filed Date: October 17, 2005.

Accession Number: 20051018–0015.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–1422–002.

Applicants: Calpine Merchant Services Company, Inc.

Description: Calpine Merchant Services Co., Inc. files an amendment to the Notice of Succession filed on September 1, 2005.

Filed Date: October 17, 2005.

Accession Number: 20051018–0011.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–215–005.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits the Second Revised Sheets Nos. 84, 94 and 96 through 98 of the Large Generator Interconnection Agreement with Prairie State Generating Co., LLC, Midwest ISO, and Ameren Services Company, acting as agent for Illinois Power Company.

Filed Date: October 17, 2005.

Accession Number: 20051019–0026.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–386–002.

Applicants: Interstate Power Company.

Description: Interstate Power Co. submits a revised First Amendment to the 4/1/80 Agreement for Integrated Transmission Area.

Filed Date: October 17, 2005.

Accession Number: 20051019–0028.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–636–002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits the Large Generator Interconnection Agreement with Columbia Community Windpower LLC, Midwest ISO, and American Transmission Co., LLC.

Filed Date: October 17, 2005.

Accession Number: 20051019–0017.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–662–002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits its Large Generator Interconnection Agreement with Darlington Wind Farm, LLC, Midwest ISO, and American Transmission Company LLC.

Filed Date: October 17, 2005.

Accession Number: 20051019–0020.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER05–864–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits its the Large Generator Interconnection Agreement among Forward Energy LLC, Midwest ISO, and American Transmission Co. LLC.

Filed Date: October 17, 2005.

Accession Number: 20051019–0019.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER06–31–000.

Applicants: Cleco Power LLC.

Description: Cleco Power LLC's notice of cancellation of the interchange & unit contingent capacity & associated energy agreement with Noram Energy Services.

Filed Date: October 12, 2005.

Accession Number: 20051017–0223.

Comment Date: 5 p.m. Eastern Time on Monday, November 2, 2005.

Docket Numbers: ER06–43–000.

Applicants: Exelon Power Generation, LLC.

Description: Application of Commonwealth Edison Co and Exelon Generation Co., LLC under section 205 of the Federal Power Act including a service agreement between ExGen and ComEd, copy of the signature page filed on October 18, 2005 under accession number 20051019–0264.

Filed Date: October 17, 2005.

Accession Number: 20051019–0004.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER06–46–000.

Applicants: FirstEnergy Service Company.

Description: FirstEnergy Services Co. submits a Nuclear Sale/Leaseback Power Supply Agreement with Ohio Edison Co. and the Toledo Edison Co.

Filed Date: October 17, 2005.

Accession Number: 20051019–0270.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER06–47–000.

Applicants: FirstEnergy Service Company.

Description: FirstEnergy Supply Co. submits the Mansfield Power Supply

Agreement with the Cleveland Electric Illuminating Co. and the Toledo Edison Co.

Filed Date: October 17, 2005.

Accession Number: 20051020–0275.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER06–48–000.

Applicants: FirstEnergy Generation Corp.

Description: FirstEnergy Generation Corp. submits a Genco Power Supply Agreement between the FirstEnergy Generation Corp. and FirstEnergy Solutions Corp.

Filed Date: October 17, 2005.

Accession Number: 20051020–0277.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER06–49–000.

Applicants: FirstEnergy Nuclear Generation Corp.

Description: FirstEnergy Nuclear Generation Corp. submits an agreement between FirstEnergy Nuclear Generation Corp. and FirstEnergy Solutions Corp.

Filed Date: October 17, 2005.

Accession Number: 20051020–0279.

Comment Date: 5 p.m. Eastern Time on Monday, November 7, 2005.

Docket Numbers: ER96–2495–027; ER97–4143–015; ER97–1238–022; ER98–2075–021; ER98–542–017.

Applicants: AEP Power Marketing, Inc.; AEP Service Corporation, CSW Power Marketing, Inc.; CSW Energy Services, Inc.; and Central and South West Services, Inc.

Description: AEP Power Marketing, Inc. et al. report changes in the information upon which the Commission relied in granting market-based rate authority.

Filed Date: October 14, 2005.

Accession Number: 20051018–0127.

Comment Date: 5 p.m. Eastern Time on Friday, November 4, 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. E5–5967 Filed 10–26–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7989–8]

OMB Responses Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: Environmental Protection Agency published a document in the **Federal Register** of September 21, 2005, concerning OMB's responses. The document contained incorrect information.

FOR FURTHER INFORMATION CONTACT: Susan Auby, (202) 566–1672.

Correction

In the **Federal Register** of September 21, 2005, in FR Doc. 05–18836, on page 55377, in the first column, correct the agency to read Environmental Protection Agency, and in the second column, remove the OMB number 2060–0417 from the EPA ICR No. 2196.01 and add the OMB number to the entry for EPA ICR No. 1788.07 to read:

EPA ICR No. 1788.07; NESHAP for Oil and Gas Production Facilities (proposed rule); OMB Number 2060–0417; on 09/09/2005 OMB filed a comment.

Dated: October 19, 2005.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. 05–21458 Filed 10–26–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7989–4]

Notice of Launch of Children's Environmental Health Awards Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Children's Health Protection at the U.S. Environmental Protection Agency is pleased to be accepting applications for the 2006 Children's Environmental Health Excellence Awards. The awards are designed to increase awareness, stimulate activity, and recognize efforts that protect children from environmental health risks at the local, regional, national, and international level.

The Children's Environmental Health Excellence Award is divided into five categories. You may apply under only one category. These include Government, Non-Governmental Organizations, Corporate, Individual, and K–12 and Higher Education. EPA will be looking for projects that significantly impact children's environmental health issues through research; indicators; capacity building; regulatory and policy innovations; education and outreach; and interventions. Applications are due December 15, 2005, and an awards ceremony will be held for the winners in Washington, DC, in spring 2006. To download an application go to *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/news2.htm#cehawards.*

FOR FURTHER INFORMATION CONTACT: Carolyn Hubbard, Office of Children's Health Protection for additional information or hard copies of the application, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460, (202) 564–2188, *hubbard.carolyn@epa.gov*

SUPPLEMENTARY INFORMATION: Children may be more susceptible to environmental hazards than adults. Their nervous, immune, digestive, and other systems are still developing and their ability to metabolize or inactivate toxicants may be different than adults. They eat more food, drink more fluids, and breathe more air in proportion to their weight than adults, and their behavior—such as crawling and placing objects in their mouths—may result in greater exposure to environmental contaminants.

Examples of environmental health hazards that may affect children include: (1) Air pollutants, both indoor and ambient; (2) toxic chemicals such as lead, mercury, arsenic, organochlorines such as polychlorinated biphenyls, and dioxins; (3) endocrine disruptors; (4) environmental tobacco smoke; (5) ultraviolet radiation; (6) water pollution; (7) pesticides; (8) brominated flame retardants; (9) radon; and (10) carbon monoxide. Many environmental health problems can be prevented, managed, and treated. EPA encourages communities, citizens, and organizations to become leaders in protecting our children from environmental health hazards.

Dated: October 24, 2005.

William H. Sanders, III,

Acting Director, Office of Children's Health Protection.

[FR Doc. 05–21461 Filed 10–26–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7989–6]

College Grove Battery Chip Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of cost recovery settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the Environmental Protection Agency has offered a cost recovery settlement at the College Grove Battery Chip Superfund Site (Site) located in College Grove, Williamson/Rutherford Counties, Tennessee. EPA will consider public comments on the proposed settlement until November 28, 2005. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Superfund Enforcement & Information Management Branch, Waste Management Division, 61 Forsyth Street, South West, Atlanta, Georgia 30303, (404) 562–8887, E-mail: *Batchelor.Paula@EPA.gov.*

Written or e-mail comments may be submitted to Paula V. Batchelor at the above address within 30 days of the date of publication.

Dated: October 12, 2005.

De'Lyntoneus Moore,

Acting Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.

[FR Doc. 05–21459 Filed 10–26–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7989–5]

Starmet CMI Superfund Site; Notice of Proposed De Minimis Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Cost Recovery Settlement.

SUMMARY: Under section 122(g)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency has offered a cost recovery settlement at the Starmet CMI Superfund Site located in Barnwell, Barnwell County, South Carolina. EPA will consider public comment until November 28, 2005. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Waste Management Division, Superfund Enforcement & Information Management Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8890, E-mail: *Batchelor.Paula@epa.gov.*

Written or e-mail comments may be submitted to Paula V. Batchelor at the above address within thirty (30) days of the date of publication.

Dated: October 12, 2005.

De'Lyntoneus Moore,

Acting Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.

[FR Doc. 05–21460 Filed 10–26–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Friday, October 28, 2005

October 21, 2005.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, October 28, 2005, which is scheduled to commence at 10 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Enforcement	Title: Review of the Emergency Alert System (EB Docket No. 04–296). Summary: The Commission will consider a First Report and Order and Further Notice of Proposed Rulemaking concerning the Emergency Alert System rules.
2	Media	Title: Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (MB Docket No. 05–49) and Implementation of Section 340 of the Communications Act. Summary: The Commission will consider a Report and Order to adopt rules for satellite carriage of ''significantly viewed'' television stations pursuant to the Satellite Home Viewer Extension and Reauthorization Act (SHVERA).
3	Wireline Competition	Title: SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control (WC Docket No. 05–65). Summary: The Commission will consider a Memorandum Opinion and Order concerning the proposed transfer of licenses and authorizations from AT&T Corp. to SBC Communications Inc.

Item No.	Bureau	Subject
4	Wireline Competition	Title: Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control (WC Docket No. 05–75). Summary: The Commission will consider a Memorandum Opinion and Order concerning the proposed transfer of licenses and authorizations from MCI, Inc. to Verizon Communications Inc.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–21496 Filed 10–24–05; 4:08 pm]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, October 18, 2005, 10 a.m. Meeting closed to the public. This meeting was rescheduled to Thursday, October 20, 2005, at 2:30 p.m.

* * * * *

DATE AND TIME: Tuesday, November 1, 2005 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, November 3, 2005, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advsory Opinion 2005–16: Fired Up! LLC, by counsel, Marc E. Elias and Brian G. Svoboda.

Advisory Opinion 2005–17; American Crystal Sugar Company and Red River Valley Sugarbeet Growers Association, by counsel, Jan Witold Baran.

Final Audit Report on the Jim Gerlach of Congress Committee.

Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Darlene Harris,

Deputy Secretary of the Commission.

[FR Doc. 05–21579 Filed 10–25–05; 2:53 pm]

BILLING CODE 6715–01–M

DEPARTMENT OF FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Submitted for OMB Review and Comment

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed online customer survey will evaluate the impact of FMCS's relationship-development and training programs (RDTs), the impact of the training program on the relationship between labor and management, and the impact of the training on the workplace.

DATES: Comments regarding this collection must be received by OMB on or before November 21, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–7151.

ADDRESSES: Written comments should be sent to: Carolyn Lovette, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to: Maria A. Fried, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Maria Fried, General Counsel, Federal Mediation and Conciliation Service, (202) 606–5488; *mfried@fms.gov.*

SUPPLEMENTARY INFORMATION: This package contains:

(1) *OMB No.:* Not yet assigned.

(2) *Package Title:* Survey of Relationship-Development and Training Program

(3) *Type of Request:* New collection of information.

(4) *Purpose:* This survey is to evaluate the impact of FMC's relationship—

development and training programs, the impact of the training program on the relationship between labor and management, and the impact of the training on the workplace.

(5) *Type of Respondents:* Business and Not-for profit institutions.

(6) *Estimated Number of Respondents:* 500.

(7) *Estimated Number of Burden Hours:* 42.

Authority: Paperwork Reduction Act of 1995 (44 U.S.C. Ch 35).

Dated: October 21, 2005.

Jeanette Walters-Marquez,

Attorney-Advisor, Federal Mediation and Conciliation Service.

[FR Doc. 05–21450 Filed 10–26–05; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 14, 2005.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Garth Lee Gibson and Cynthia Annette Gibson, both of Montrose, Colorado; to acquire voting shares of First Montana Company, Montrose, Colorado, and thereby indirectly acquire voting shares of MontroseBank, Montrose, Colorado.

Board of Governors of the Federal Reserve System, October 24, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–5964 Filed 10–26–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 21, 2005.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. First Wyoming Financial Corporation, Wyoming, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Wyoming, Wyoming, Delaware.

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Gwinnett Commercial Group, Inc., Lawrenceville, Georgia; to merge with Buford Banking Group, Inc., and thereby indirectly acquire Lanier Community Bank, both of Buford, Georgia.

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BancFirst Corporation, Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of Park State Bank, Nicoma Park, Oklahoma.

Board of Governors of the Federal Reserve System, October 24, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–5963 Filed 10–26–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Planning & Evaluation; Medicaid Program; Announcement of the Appointment of New Individuals To Serve on the Medicaid Commission

AGENCY: Assistant Secretary for Planning & Evaluation (ASPE), HHS.

ACTION: Notice.

SUMMARY: This notice announces the appointment of three new individuals to serve on the Medicaid Commission and the release of one Commissioner from service on the Medicaid Commission. Notice of this announcement is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 2(b)(5)). The Medicaid Commission will advise the Secretary on ways to modernize the Medicaid program so that it can provide high-quality health care to its beneficiaries in a financially sustainable way.

New Medicaid Commission Voting Members: John Ellis ''Jeb'' Bush, Joe Manchin III, and Donald Young.

Medicaid Commission Member Released from Service on the Medicaid Commission: Michael O'Grady.

SUPPLEMENTARY INFORMATION: On May 24, 2005, CMS published a notice (70 FR 29765) announcing the Medicaid Commission and requesting nominations for individuals to serve on the Medicaid Commission. The next meeting of the Medicaid Commission will be held October 26–27, 2005, as previously published in the **Federal Register** (70 FR 58706). The meeting will be held at the following address: Holiday Inn on The Hill, 415 New Jersey Avenue, NW., Washington, DC 20001, United States, telephone: 1 (202) 638–1616, fax: 1 (202) 638–0707.

Web site: You may access up-to-date information on this meeting at *http://www.cms.hhs.gov/faca/mc/default.asp.*

FOR FURTHER INFORMATION CONTACT: Margaret Reiser, Medicaid Commission, (202) 205–8255.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

Dated: October 20, 2005.

Michael J. O'Grady,

Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

[FR Doc. 05–21411 Filed 10–26–05; 8:45 am]

BILLING CODE 5150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Senior Executive Service Performance Review Board Membership

The Agency for Healthcare Research and Quality (AHRQ) announces the appointment of members to the AHRQ Senior Executive Service (SES) Performance Review Board (PRB). This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4) of the Civil Service Reform Act of 1978, which requires members of the performance review boards to be published in the **Federal Register**.

The function of the PRB is to ensure consistency, stability and objectivity in the SES performance appraisals, and to make recommendations to the Director, AHRQ, relating to the performance of senior executives in the Agency.

The following persons will serve on the AHRQ SES Performance Review Board: Helen Burstin, Francis Chesley, Steven Cohen, J. Michael Fitzmaurice, Irene Fraser, George Grob, Kathleen Kendrick, Anna Marsh, Robert McSwain, William Munier, Jean Slutsky, Christine Williams, and Phyllis Zucker.

For further information about the AHRQ Performance Review Board, contact Mr. Jeffrey Toven, Office of Performance, Accountability, Resources, and Technology, Agency for Healthcare Research and Quality, 540 Gaither Road, Suite 4329, Rockville, Maryland 20850.

Dated: October 18, 2005.

Carolyn M. Clancy,

Director, AHRQ.

[FR Doc. 05–21472 Filed 10–26–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Council of Healthcare Research and Quality.

DATES: The meeting will be held on Friday, November 4, 2005, from 8:30 to 4 p.m. The meeting is open to the public.

ADDRESSES: The meeting will be held in the Conference Center, The Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Deborah Queenan, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1330. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144 no later than October 28. Agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Office, Agency for Healthcare Quality and Research, 540 Gaither Road, Rockville, Maryland 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Healthcare Research and Quality. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency through scientific research and dissemination of evidence based findings to enhance the quality, improve the outcomes, reduce the costs of health care services, improve access to such services, and to promote improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of members of the public appointed by the Secretary and Federal ex-officio members.

II Agenda

On Friday, November 4, 2005, the meeting will begin at 8:30 a.m., with the call to order by the Council Chair. The Director, AHRQ, will provide an update of the Agency's current research, programs, and initiatives. The Council will discuss the relationship between payment for and quality of healthcare services, and building a campaign to eliminate health care disparities. Time will be allotted for public comment. The meeting will adjourn at 4 p.m. The official agenda will be available on AHRQ's Web site at *http://www.ahrq.gov* no later than October 28, 2005.

Dated: October 17, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–21473 Filed 10–26–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention and NCEH/ATSDR announce the following committee meeting:

Name: Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Times and Dates: 8:30 a.m.–4 p.m., November 17, 2005. 8 a.m.–12:30 p.m., November 18, 2005.

Place: CDC facility, 1825 Century Boulevard, Atlanta, Georgia 30345.

Status: Open to the public for observation, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: The Secretary, and by delegation, the Director of the Centers for Disease Control and Prevention and the

Administrator of NCEH/ATSDR, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to (1) conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist States and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and (3) train state and local personnel in health work. The Board of Scientific Counselors, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health. The Board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The Board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matters to be Discussed: The agenda items will include but are not limited to an update on the futures initiatives of the Coordinating Center for Environmental Health and Injury Prevention; an update on the NCEH/ATSDR Director's priorities; the Environmental Health Services Branch peer review report; the program response to the report; an overview of the Air Pollution and Respiratory Health Branch; overview of the Division of Toxicology; update on new laboratory methods for detecting botulism toxin; and updates from the Community and Tribal Subcommittee, the Health Department Subcommittee, and the Delisting Workgroup.

Agenda items are tentative and subject to change.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 1600 Clifton Road, M/S E–28, Atlanta, GA 30303; telephone 404/498–0003, fax 404/498–0059; e-mail: *smalcom@cdc.gov*. The deadline for notification of attendance is November 10, 2005.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and NCEH/ATSDR.

Dated: October 21, 2005.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–21431 Filed 10–26–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Community and Tribal Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR).

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention, NCEH/ATSDR announces the following subcommittee meeting: Teleconference.

Name: Community and Tribal Subcommittee (CTS).

Time and Date: 8 a.m.–1:30 p.m., November 16, 2005.

Place: Century Center, 1825 Century Boulevard, Atlanta, Georgia 30345. See *Supplementary Information.*

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 40 people.

Purpose: Under the charge of the Board of Scientific Counselors, NCEH/ATSDR, the Community and Tribal Subcommittee will provide the BSC, NCEH/ATSDR with a forum for community and tribal first-hand perspectives on the interactions and impacts of NCEH/ATSDR's national and regional policies, practices and programs.

Matters to Be Discussed: The meeting agenda will include discussions on NCEH/ATSDR health disparities and environmental justice programs; the development of an agency environmental justice strategy; a review of new NCEH and ATSDR Web sites; discussion of new members to the subcommittee.

Agenda items are subject to change as priorities dictate.

Supplementary Information: This meeting is scheduled to begin at 8 a.m. Eastern Standard Time. To participate please dial 1–877–315–6535 and enter conference code 383520. Public Comment period is between 11 a.m.–11:15 a.m. EST.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 1600 Clifton Road, M/S E–28, Atlanta, GA 30303; telephone 404/498–0003; e-mail: *smalcom@cdc.gov*. The deadline for notification of attendance is November 14, 2005.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and NCEH/ATSDR.

Dated: October 21, 2005.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–21432 Filed 10–26–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Council meeting:

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5 p.m., November 16, 2005. 8:30 a.m.–12 p.m., November 17, 2005.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, Telephone (404) 639–8008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to Be Discussed: Agenda items include issues pertaining to TB surveillance in the United States, Tuberculosis Coalition for Technical Assistance Activities and other TB related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 21, 2005.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–21433 Filed 10–26–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The NIDA Primary Care Physician Outreach Project

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collection of information, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: The NIDA Primary Care Physician Outreach Project *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This is a request for a 4-year generic clearance to study the extent to which NIDA is (1) increasing awareness among primary care physicians and other medical professionals about drug addiction as a major public health issue, (2) increasing their awareness of NIDA and NIDA-funded research, and (3) providing them with the information resources needed to incorporate such research findings into their clinical practices. Primary care physicians and other medical professionals, especially those who care for adolescents, are front line individuals helping patients with drug abuse-or drug addiction-related health and mental health problems. Each has key roles in obtaining, disseminating, and applying drug abuse and addiction resource materials in clinical practice. This effort is made according to Executive Order 12862, which directs Federal agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

Formative, process, and outcome evaluations using a multi-method approach (surveys, focus, groups, case studies) will be employed to determine the most appropriate resources and also the usefulness of the materials developed for physicians and other medical professionals. Measures will include the following variables: the information needs and learning styles and preferences of physicians and other medical professionals; their knowledge/awareness of NIDA and the NIDA resources developed for physicians and other medical professionals; their attitudes toward NIDA and the NIDA resources developed for them; their use of the resources developed by NIDA; and ways to strengthen NIDA's knowledge dissemination activities. *Frequency of Response:* This project will be conducted annually or biennially. *Affected Public:* Individuals, organizations, and businesses. *Type of Respondents:* physicians, physician assistants, nurses, medical office managers, hospital/clinic based health educators, and hospital/clinic based social workers. The reporting burden is as follows: *Estimated Total Annual Number of Respondents:* 1118; *Estimated Number of Responses per Respondent:* 2; *Average Burden Hours per Response:* 0.39. *Estimated Total Annual Burden Hours Requested:* 872.24. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. The estimated annualized burden is summarized below.

Respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total burden hours
Physicians	2,873	2	0.39	2,240.94
Physician Assistants	320	2	0.39	249.6
Nurses	320	2	0.39	249.6
Medical Office Managers	320	2	0.39	249.6
Hospital/Clinic Based Health Educators	320	2	0.39	249.6
Hospital/Clinic Based Social Workers	320	2	0.39	249.6
Total	4,473			3,488.94
Annualized Totals (clearance for 4-year project)	1,118			872.24

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plans, contact Jan Lipkin, Project Officer, National Institute on Drug Abuse, 6001 Executive Boulevard, Room 5219, Bethesda, MD 20852, or call non-toll-free number (301) 443–1124; fax (301) 443–7397; or by e-mail to *jlipkin@nida.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Laura Rosenthal,

Associate Director for Management, National Institute for Drug Abuse.

[FR Doc. 05–21416 Filed 10–26–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Program Project Applications (P01s).

Date: November 18, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Madera, 1310 New Hampshire Avenue, NW., Washington, DC 20019.

Contact Person: Keith A. Mintzer, PhD, Scientific Review Administrator, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7186, MSC 7924, Bethesda, MD 20892. 301–435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–21414 Filed 10–26–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel, Member Conflict Meeting.

Date: November 1, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Member Conflict Meeting.

Date: November 1, 2005.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: October 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–21415 Filed 10–26–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Notice is hereby given of the second meeting of the NIH Public Access Working Group under the National Library of Medicine's (NLM) Board of Regents.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The mission of the NIH Public Access Working Group is to advise the NLM Board of Regents on implementation of the new NIH Public Access Policy. This policy responds to strong Congressional interest in improving the public's access to the published results of NIH-funded research. Under the policy, NIH-supported investigators are encouraged to submit manuscripts electronically to the National Library of Medicine's PubMed Central (PMC). The PMC is the NIH digital repository of full-text, peer-reviewed biomedical, behavioral, and clinical research journals. The policy included the establishment of this working group with representation from a broad range of interested stakeholders. The Working Group will: (1) Review statistical evidence on the impact of the policy, *e.g.,* number of manuscripts submitted, summary data on embargo periods, connections to other NIH information resources, level of use, etc.; (2) provide suggestions for improving the implementation of the manuscript submission system and procedures; (3) assess the extent to which the policy is achieving its stated goals; and (4) suggest any changes to the policy that might further these goals.

Name of Committee: NIH Public Access Working Group.

Date: November 15, 2005.

Time: 10 a.m. to 3 p.m.

Agenda: NIH Public Access Policy Research and Discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Donald A.B. Lindberg, M.D., Director, National Library of Medicine, National Institutes of Health, Building 38, Room 2E17, Bethesda, MD 20894, 301–496–6221.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The comments should include the name, address, telephone number and,

when applicable, the business or professional affiliation of the interested person.

Dated: October 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–21413 Filed 10–26–05; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular, and Developmental Neurobiological Small Business Application Part II.

Date: October 25, 2005.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Downtown Silver Spring, 8506 Fenton Street, Silver Spring, MD 20910.

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Topics in Virology.

Date: October 26, 2005.

Time: 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 480 King Street, Alexandria, VA 22314.

Contact Person: Joseph D. Mosca, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Mental Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuropathic Pain 2.

Date: October 26, 2005.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph G. Rudolph, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, (301) 435–2212, *josephru@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oxidative Stress in Cancer.

Date: October 27, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cognition and Perception Reviews.

Date: October 28, 2005.

Time: 8 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: The Hotel Rouge, 1315 16th St. NW., Washington, DC 20036.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genomic Analysis of Amplicon Structure.

Date: October 28, 2005.

Time: 4:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eva Petrakova, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–1716, *petrakoe@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict in Mechanisms of Emotion, Stress and Health.

Date: October 28, 2005.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pludedcsr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BDCN–F15(B) Pharmacology and Diagnostics SBIR.

Date: November 1, 2005.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerome Wujek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–2507, *wujekjer@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pregnancy.

Date: November 1, 2005.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044, *leszczyd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Bioengineering.

Date: November 1, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Aftab A. Ansari, PhD, Health Scientist Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–594–6376, *ansaria@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Imaging of Tumor Hypoxia

Date: November 1, 2005.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1767, *gubanics@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tissue Engineeering Bioengineering Research Partnerships PAR 04–023.

Date: November 1, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ONC–P (03)M: Chemoprevention of Colon Carcinogenesis.

Date: November 1, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Zhiqiang Zou, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: GMPB.

Date: November 1, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Substance Abuse and Food Intake Interventions.

Date: November 1, 2005.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028C, MSC 7759, Bethesda, MD 20892 (301) 435–1235, *kosse@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genes, Genomes and Genetics Shared Instrumentation.

Date: November 1–2, 2005.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda, Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Barbara J. Thomas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2220, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 F01–R (20) L: Brain Disorders and Clinical Neuroscience Fellowships.

Date: November 2–3, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Rossana Berti, PhD, Scientific Review Administrator, Centre for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3015–G, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Adolescent Obesity and Eating Behavior.

Date: November 2, 2005.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 DIG–F(02) Member Conflict.

Date: November 2, 2005.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immune Response to Tuberculosis Antigens.

Date: November 2, 2005.

Time: 11 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, (301) 435–1223, *haydenb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Motor Systems

Date: November 2, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center

for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Bioengineering, Technology, and Surgical Sciences.

Date: November 2, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: CIGP and HBPP.

Date: November 2, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neurophysiology, Devices and Neuroprosthetics/Brain Disorders and Clinical Neurosciences.

Date: November 2, 2005.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Vinod Charles, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–0902, *charlesvi@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genes, Genomes and Genetics High-End Shared Instrumentation.

Date: November 2, 2005.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Barbara J. Thomas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2220, MSC 7890, Bethesda, MD 20892, (301) 435–0603, *bthomas@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Integrated Review Group, Chemo/Dietary Prevention Study Section.

Date: November 2–4, 2005.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Sally A. Mulhern, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–5877, *mulherns@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral And Skin Sciences Integrated Review Group, Musculoskeletal Rehabilitation Sciences Study Section.

Date: November 2–4, 2005.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Assays and Methods Development.

Date: November 2–3, 2005.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Holiday Inn Georgetown, 2101 Wisconsin Ave., NW., Washington, DC 20012.

Contact Person: Ping Fan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, (301) 435–1740, *fanp@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AG05–008 Biology of Perimenopause.

Date: November 3, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Ralph Paxton, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046C, MSC 7892, Bethesda, MD 20892, (301) 435–1049, *paxtonr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Sciences Small Business Activities.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Lawrence E. Boerboom, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Health of the Population Integrated Review Group, Epidemiology of Cancer Study Section.

Date: November 3–4, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Harbor Magic, Admiral Fell Inn, 888 South Broadway, Historic Fell's Point, Baltimore, MD 21231.

Contact Person: Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genes, Genetics, Genomics, Fellowships.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.

Contact Person: Mary P. McCormick, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1047, *mccormim@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Cell Biology.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, (301) 435–2406, *ariasj@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Disorders and Clinical Neroscience Member Conflict.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Suzan Nadi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, (301) 435–1259, *nadis@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurotech/Engineering.

Date: November 3, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.

Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, (301) 435–3009, *elliotro@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biology of Development and Aging Integrated Review Group, Aging Systems and Geriatrics Study Section.

Date: November 3, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Francois Boller, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 504Q, MSC 7843, Bethesda MD 20892, 301–594–6421, *bollerf@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Clinical and Integrative Cardiovascular Sciences Study Section.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda MD 20892, (301) 435–1850, *dowellr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Developmental Brain Disorders Study Section.

Date: November 3–4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Sherry L. Stuesse, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda MD 20892, 301–435–1758, *stuesses@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: November 3–4, 2005.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 2007.

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chemistry/Biophsics SBIR/STTR Panel.

Date: November 3–4, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda MD 20892, 301–435–1790, *smithvo@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infectious Disease, Reproductive Health, Asthma, Pulmonary Epidemiology: Quorum.

Date: November 3–4, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda MD 20892, 301–435–1251, *melnicks@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Immunology Integrated Review Group, Vaccines Against Microbial Diseases.

Date: November 3–4, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jian Wang, MD, PhD, Scientific Review Administrator Intern, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Kidney, Nutrition, Obesity and Diabetes Epidemiology (KNOD).

Date: November 3–4, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Christopher T Sempos, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda MD 20892, (301) 451–1329, *semposch@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, IFCN Fellowships—Behavioral Neuroscience.

Date: November 3–4, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda MD 20892, 301–435–1245, *marcusr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Sensory Integration.

Date: November 3, 2005.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda MD 20892, (301) 435–1242, *driscolb@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Inflammation/Type 1 Diabetes—Role of Complement and Thymic Selection.

Date: November 3, 2005.

Time: 11 a.m. to 12:01 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda MD 20892, (301) 435–1152, *edwardss@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Role of Structural Elements in AD and CCM Neuropathogenesis

Date: November 3, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7850, Bethesda MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Activity of Brain Stem Neurons.

Date: November 3, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: Ai-Ping Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, (301) 435–1777, *zouai@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Stress and Drug Abuse.

Date: November 3, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1777, *zouai@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Stress and Drug Abuse.

Date: November 3, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Endocrinology, Metabolism, Nutrition and Reproductive Sciences Fellowship Panel.

Date: November 3–4, 2005.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metrol Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BDCN Member Conflict Panel-B.

Date: November 4, 2005.

Time: 9 a.m. to 12:01 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Suzan Nadi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, (301) 435–1259, *nadis@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Emphasis Panel, Member Conflict: Neurochemistry of Drug Abuse.

Date: November 4, 2005.

Time: 1 p.m to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Emphasis Panel, Member Conflict: Neural and Physiological Aspects of Speech Production.

Date: November 4, 2005.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, (for overnight mail use room # and 20817 zip), Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Emphasis Panel, Member Conflicts: Behavioral Neuroscience.

Date: November 4, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, *marcusr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pain SBIR/STTR SEP.

Date: November 4, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Effects on Biobehavioral Regulation.

Date: November 4, 2005.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oncogenesis and T-cell Lymphoblastic Leukemia.

Date: November 4, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joanna M. Watson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–G, MSC 7804, Bethesda, MD 20892, 301–435–1048, *watsonjo@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Integrated Review Group, Clinical Oncology Study Section.

Date: November 6–8, 2005.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Meyer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–1213, *meyerjl@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Skeletal Biology Development and Disease Study Section.

Date: November 6–8, 2005.

Time: 8 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 480 King Street, Alexandria, VA 22314.

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–21412 Filed 10–26–05; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Drug Abuse Warning Network (OMB No. 0930–0078)—Revision

The Drug Abuse Warning Network (DAWN) is an ongoing data system that collects information on drug-related medical emergencies as reported from about 350 hospitals nationwide, and drug-related deaths as reported from 6 states and 135 medical examiners/coroner jurisdictions (ME/C) in 35 metropolitan areas. DAWN provides national and metropolitan estimates of substances involved with drug-related emergency department (ED) visits; disseminates information about substances involved in deaths investigated by participating medical examiners and coroners (ME/Cs); tracks drug abuse patterns, trends, and the emergence of new substances; monitors post-market adverse drug incidents; assesses health hazards associated with the use of illicit, prescription, and over-the-counter drugs; and generates information for national and local drug abuse policy and program planning. DAWN data are used by Federal, State, and local agencies, as well as universities, pharmaceutical companies, and the media.

From 2006 to 2008, DAWN will continue to recruit hospitals in the 13 oversampled metropolitan areas in order to improve the precision of estimates, adding approximately 18 hospitals to the sample. In 2007 and 2008, DAWN plans to recruit approximately 20 more ME/Cs from metropolitan areas that are currently profiled by DAWN, but have incomplete participation. DAWN data are submitted electronically, using eHERS (electronic Hospital Emergency Reporting System) and eMERS (electronic Medical Examiner Reporting System). DAWN proposes that all facilities (EDs and ME/Cs) will start using the revised electronic forms for all events occurring from 1/1/2006 forward. The annual burden estimates are shown below:

ANNUALIZED REPORTING BURDEN FOR DAWN: 2006–2008

Activity	Number of respondents	Estimated number of responses per respondent	Estimated time per response (in minutes)	Gross burden hours	Burden hours where DAWN contractor [1] conducts data collection	Total adjusted burden
Emergency Departments						
Chart review	350	24,400	2	284,667	193,573	91,094
eHERS cases	350	756	10	44,100	29,998	14,112
ED activity report	350	12	2	140	95	45
Subtotal						105,251
Medical Examiners/Coroners [2]						
Death records review	104	1538	2.5	6,665	705	5,960
eMERS cases	104	111	4	770	81	689
ME/C activity report	104	12	2	42	4	38
Subtotal						6,687
TOTAL	454	.....	.....	.....	.....	111,938

[1] Data collection for 238 EDs and 11 ME/Cs will be conducted by the DAWN contractor. Because there is no burden associated with these Field and Remote Reporters, their hours are deducted from the total burden.

[2] Some medical examiner/coroner offices report for multiple jurisdictions. For this reason, the number of respondents is smaller than the number of ME/C jurisdictions participating in DAWN.

Written comments and recommendations concerning the proposed information collection should be sent by November 28, 2005 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: October 24, 2005.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. 05–21454 Filed 10–26–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22732]

Impact Study: Increasing Passenger Weight and Size on Passenger Vessels

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The U.S. Coast Guard is conducting a study of the potential impacts that would result from increasing the passenger weight and size regulatory standards used when calculating the intact stability of domestic passenger vessels. The study will include an assessment of the potential impact on industry, identify the regulations potentially requiring change, develop a regulatory implementation strategy and other work associated with the implementation of new passenger weight and size standards.

DATES: This notice is effective October 27, 2005.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice of study, call William Peters, Office of Design and Engineering Standards (G–MSE–2), Coast Guard, at 202–267–2988, or send an e-mail to *Wpeters@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION: On March 6, 2004, the small passenger pontoon vessel M/V Lady D suddenly encountered high winds while underway and capsized in the Inner Harbor of Baltimore, MD, resulting in several injuries and fatalities. In the course of its investigation, the National Transportation Safety Board (NTSB) issued Safety Recommendation M–04–04, which recommended that the assumed passenger weight used for simplified stability proof tests on pontoon vessels be raised to more accurately reflect the weight of today's population. The Coast Guard also identified this issue in its pontoon boat stability study and concurred with the NTSB that the standard weight per person needs to be updated to account for the increase in the average weight of today's population. Coast Guard current weight standards apply to all types of passenger vessels. As a result, the Coast Guard's evaluation of the weight standard extends to all passenger vessel types, as opposed to only pontoon vessels.

Recognizing that such a change could have an impact on industry, the environment and its own operations, the Coast Guard decided to engage a qualified consulting organization to perform an in-depth analysis. The contracting process was initiated in June 2005 and a contract was awarded on September 23, 2005.

This one-year project will analyze the impact of increasing passenger weight and size on the domestic passenger vessel industry and recommend the best means by which improved standards could be implemented. The project will be completed in two phases, and will include the following elements:

- Evaluate potential impacts to the domestic passenger vessel fleet caused by an increase in average passenger weight and size;
- Identify the degree of impact on fleet segments;
- Identify and suggest changes to existing regulations;
- Develop efficient implementation strategies; and
- Provide assistance for the development of draft regulatory changes

and associated regulatory analyses, including economic and environmental analyses.

Once the study is completed, we will publish a notice in the **Federal Register** advising that the study's results are available and requesting public comment.

To view documents mentioned in this preamble as well as other documents being available in the docket, go to *http://dms.dot.gov* at any time, click on ''Simple Search,'' enter the last five digits of the docket number for this notice, and click on ''Search.''

Dated: October 14, 2005.

Howard L. Hime,

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

[FR Doc. 05–21560 Filed 10–26–05; 8:45 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–55]

Notice of Submission of Proposed Information Collection to OMB; Inspector Candidate Assessment Questionnaire

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for approval for a new questionnaire to aid HUD in determining the qualifications of prospective applicants to conduct Uniform Physical Condition Standards inspections.

DATES: *Comments Due Date:* November 28, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Inspector Candidate Assessment Questionnaire.

OMB Approval Number: 2577–Pending.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use:

This questionnaire aids HUD in determining the qualifications of prospective applicants to conduct Uniform Physical Condition Standards inspections.

Frequency Of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	700	1		1		700

Total Estimated Burden Hours: 700.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 20, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–5958 Filed 10–26–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for the Short-Tailed Albatross (*Phoebastria albatrus*)

AGENCY: U. S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for the Short-tailed Albatross (*Phoebastria albatrus*) for public review and comment.

DATES: Comments on the draft recovery plan must be received on or before December 27, 2005.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Anchorage Fish and Wildlife Field Office, 605 W. 4th Avenue, Anchorage, AK 99501 (telephone: 907–271–2888). Requests for copies of the draft recovery plan should be addressed to the Field Supervisor, at the above Service address. An electronic copy of the draft recovery plan is also available at *http://endangered.fws.gov/recovery/index.html#plans.*

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

1. You may submit written comments and information by mail to: Short-tailed Albatross Draft Recovery Plan Comments, U.S. Fish and Wildlife Service, 605 W. 4th Avenue, Anchorage, AK 99501.

2. You may hand-deliver written comments and information to our Anchorage Fish and Wildlife Field Office, 605 W. 4th Avenue, Room G–62.

3. You may fax your comments to 907–271–2786.

4. You may send your comments by electronic mail (e-mail) to *STARP_Comments@fws.gov.* Please include ''Attn: Short-tailed Albatross'' in the beginning of your message, and do not use special characters or any form of encryption. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Also, please include your name and return address in your e-mail message (anonymous comments will not be considered). If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods described above. In the event that our internet connection is not functional, please submit your comments by the alternate methods mentioned above.

All comments and materials received will be available for public inspection, by appointment, during normal business hours at our Anchorage Fish and Wildlife Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Judy Jacobs, U. S. Fish and Wildlife Biologist, at the above Service address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. Recovery planning is an integral component of endangered species conservation. Recovery plans describe actions considered necessary for the conservation and recovery of the species, establish criteria for downlisting or delisting them, and estimate time and costs for implementing the recovery measures needed.

Section 4(f) of the Endangered Species Act, (16 U.S.C. 1531 *et seq.*) requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. We will consider all information received during the public comment period on each new or revised recovery plan. Substantive technical comments may result in changes to a recovery plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to the appropriate Federal agency or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

The short-tailed albatross, the largest of the three North Pacific albatross species, is federally listed as endangered. Prior to its exploitation, the short-tailed albatross was likely the most abundant of the three albatross species in the North Pacific. Millions of these birds were harvested by feather hunters prior to and following the turn of the 20th century, resulting in the near-extirpation of the species by the mid-20th century. Presently, fewer than 2000 short-tailed albatrosses are known to exist.

The short-tailed albatross is known to breed on two remote islands in the western Pacific. Torishima, Japan, where the majority of short-tailed albatrosses breed, is an active volcano. The natural colony site on this island is also susceptible to mud slides and erosion. A smaller colony exists in the Senkaku Islands, southwest of Torishima, where volcanic eruption is not a threat; however, political uncertainty and the potential for habitat alteration exist. Short-tailed albatrosses apparently require remote islands for breeding habitat. They nest in open, treeless areas with low, or no, vegetation. The species also requires nutrient-rich areas of ocean upwelling for their foraging habitat.

The major threat of over-exploitation that led to the species' original endangered status no longer occurs. The Short-tailed Albatross Recovery Team considers small population size, limited number of breeding sites, and potential volcanic eruptions to be the current major threats to the species. Other threats include incidental catch in commercial fisheries, ingestion of plastics, contamination by oil and other pollutants, the potential for competition, predation, or habitat alteration associated with non-native species, and adverse effects related to global climate change.

The international group of experts comprising the Short-tailed Albatross Recovery Team has unanimously agreed that establishment of additional colonies on safe (*i.e.* not subject to volcanic activity and protected) sites will be a recovery prerequisite. Downlisting to threatened may be considered when: (1) The total breeding population of short-tailed albatrosses reaches a minimum of 750 pairs; and (2) the 3-year running average growth rate of the population as a whole is ≥6 percent for ≥7 years; and (3) at least three successful breeding colonies (>5 breeding pairs each) exist, at least two of which occupy non-volcanic (or extinct volcanic) islands.

Delisting of the short-tailed albatross may be considered when: (1) The total breeding population reaches a minimum of 1000 pairs; and (2) the 3-year running average growth rate of the population as a whole is ≥6 percent for ≥7 years; and (3) a total of at least 250 breeding pairs exist on at least 2 non-volcanic islands; and (4) a minimum of 10 percent of these (*i.e.* ≥25 pairs) occur on a site or sites other than the Senkaku Islands. In addition, a post-delisting monitoring plan and agreement to continue post-delisting monitoring must be in place and ready for implementation at the time of delisting. Monitoring populations following delisting will verify the ongoing recovery and conservation of the species and provide a means of assessing the continuing effectiveness of management actions.

Public Comments Solicited

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

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 19, 2005.

Rowan Gould,

Regional Director, Region 7, U.S. Fish and Wildlife Service.

[FR Doc. 05–21430 Filed 10–26–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–ER–24 1A; OMB Control Number 1004–0189]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On June 25, 2004, the BLM published a notice in the **Federal Register** (69 FR 35673) requesting comments on this proposed collection. The comment period ended on August 24, 2004. The BLM received no comments. You may obtain copies of the proposed collection of information by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0189), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Application for Transportation and Utility Systems and Facilities on Federal Lands (43 CFR Parts 2800 and 2880).

OMB Control Number: 1004–0189.

Bureau Form Number: SF–299.

Abstract: The Bureau of Land Management uses the information to issue rights-of-way grants to use a specific piece of the public lands for certain projects, such as roads, pipelines, transmission lines, and communication sites.

Frequency: Once.

Description of Respondents: Individuals, partnerships, corporations, associations, or other business entity and any Federal, State or local governmental entity including municipal corporations seeking to obtain a rights-of-way grant.

Estimated Completion Time: 25 hours.

Annual Responses: 8,340.

Average Application Processing Fee Per Response: $311.

Annual Burden Hours: 208,500.

Bureau Clearance Officer: Ian Senio, (202) 452–5033.

Dated: August 19, 2005.

Ian Senio,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 05–21439 Filed 10–26–05; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado: Filing of Plats of Survey

October 18, 2005.

Summary: The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 18, 2005. All inquiries should be sent to the Colorado State Office (CO–956), Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat (in two sheets) which includes the field notes, and is the entire record of this survey of Tract 37, in suspended Township 44 North, Range 5 West, New Mexico Principal Meridian, Colorado, was accepted August 17, 2005.

The supplemental plat of section 24, in Township 1 North, Range 72 West, Sixth Principal Meridian, Colorado, created new Lots 106, 107 and 108 in the NW¼NW¼ of Section 24, and is based upon the boundaries of the Whitedare unpatented Mining Claim, CMC–115653, as defined by the dependent resurvey accepted August 20, 2003, was accepted August 16, 2005.

The supplemental plat of Tract 39, patented April 3, 1986, Patent No. 05–86–0022 in Township 1 North, Range 72 West, Sixth Principal Meridian, Colorado, which added the patented acreage value of Tract 39, that was omitted from the June 20, 1985 plat which created Tract 39, was accepted August 16, 2005.

The supplemental plat which corrects and supersedes the supplemental plat accepted April 19, 2005, which incorrectly depicted the mineral survey number of the Mayflower and Little Boy Lodes in Township 48 North, Range 2 East, Sec. 29, New Mexico Principal Meridian, Colorado, was accepted on July 27, 2005.

The plat and field notes of the dependent resurveys and surveys, facilitating a land exchange in Township 1 North, Range 79 West, Sixth Principal Meridian, Colorado, was accepted August 11, 2005.

The field notes, as depicted on two plat-only plats, of the remonumentation of certain corners was requested by the Geographic Coordinate Data Base Program Manager, Washington Office, under BPA: NAB–000008, Task Order No. NAD–000095, in Townships 12 North, Ranges 68 and 69 West, Sixth Principal Meridian, Colorado, were accepted on September 1, 2005.

The supplemental plat of section 20, creating new Lot 111 in the NE¼NE¼ of Section 20, is based upon Mineral Survey No. 19744, Roberta, Golden Rule, and Queen of the Valley approved October 19, 1916, and the dependent resurvey accepted March 13, 1963, in Township 1 North, Range 71 West, Sixth Principal Meridian, Colorado, was requested by the Canon City Field Office and was accepted on September 12, 2005.

The plat and field notes, of the dependent resurvey and surveys was requested by the Uncompahgre Field Office, with the approval of the State Director, Colorado, in order to identify public land boundaries and a portion of the Gunnison Gorge National Conservation Area Boundary, in Township 51 North, Range 9 West, New Mexico Principal Meridian, Colorado, was accepted on September 28, 2005. These plats and resurvey notes were requested by the Bureau of Land Management for administrative and management purposes.

The plat and field notes of the dependent resurveys and surveys requested by the USDA Forest Service, Medicine Bow-Routt National Forests, through the State Director, Colorado, in order to identify the National Forest boundaries in Township 6 North, Range 77 West, Sixth Principal Meridian, Colorado, was accepted on August 24, 2005.

The plat and field notes of the dependent resurvey and survey requested by the Regional Director of Lands, Rocky Mountain Region, USDA, Forest Service, through the State Director, Colorado, in order to identify the National Forest boundaries for management purposes in Township 10 North, Ranges 73 and 74 West, Sixth Principal Meridian, Colorado, were accepted on August 26, 2005.

The plat (in 2 sheets), which is the entire record, of the dependent resurvey and survey, requested by the Pike and San Isabel National Forests, through the State Director, Colorado, in order to locate certain forest service boundaries that pertain to fuel reduction projects north of Gardner, CO., in Township 25 South, Range 70 West, Sixth Principal Meridian, Colorado, was accepted on September 1, 2005.

The plat and field notes, of the dependent resurvey and survey, was requested by the Rocky Mountain Region, USDA, Forest Service, through the State Director, Colorado, in order to identify the National Forest boundaries for fuels reduction management purposes in Township 5 South, Range 72 West, Sixth Principal Meridian, Colorado, was accepted on September 7, 2005.

The plats and field notes, representing the dependent resurvey and surveys in Townships 36 and 37 North, Range 14 West, New Mexico Principal Meridian, Group 1391,Colorado, were accepted August 10, 2005. These surveys were requested by the Bureau of Indian Affairs, with the approval of the State Director, Colorado, in order to identify the boundary of Ute Mountain Ute lands for management purposes.

The plat and field notes, of the completion survey of Township 33 North, Range 19 West, New Mexico Principal Meridian, Colorado, was requested by the Ute Mountain Ute Indian Tribe, through the Bureau of Indian Affairs, Albuquerque, New Mexico, with the approval of the State Director, Colorado, in order to identify the reservation boundaries, was accepted September 7, 2005. 8,404.14 acres are included in this original survey.

Randall M. Zanon,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 05–21451 Filed 10–26–05; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–05–036]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: November 2, 2005 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 751–TA–28–29 (Certain Frozen Warmwater Shrimp and Prawns from India and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before November 21, 2005.)
5. Inv. No. 731–TA–464 (Second Review) (Sparklers from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before November 15, 2005.)
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 21, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21587 Filed 10–25–05; 3:24 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Membership of the Senior Executive Service Standing Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's standing members of the Senior Executive Service Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its 2005 Senior Executive Service (SES) Standing Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of SES performance appraisals, bonus recommendations and pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES bonuses and/or pay adjustments to be awarded.

FOR FURTHER INFORMATION CONTACT: Jeanne N. Raymos, Assistant Director, Leadership Effectiveness Group, Personnel Staff, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 616–3721.

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE

Alcohol, Tobacco, Firearms, and Explosives:	
Bailey, Gregg D	Assistant Director (Science and Technology)/Chief Information Officer.
Barrera, Hugo J	Deputy Assistant Director (Field Operations) East.
Bouchard, Michael R	Assistant Director (Field Operations).
Carter, Donnie A	Special Agent in Charge, Houston Field Division.
Carter, Ronnie A	Special Agent in Charge, Dallas Field Division.
Cavanaugh, James M	Division Director/Special Agent in Charge, Nashville Field Division.
Chase, Richard E	Assistant Director (OI) (OPRSO) Office of Professional Responsibility and Security Operations.
Cureton, Linda Y	Deputy Assistant Director (Science & Technology).
Domenech, Edgar Axel	Deputy Director.
Ethridge, Michael W	Director (Lab Services).
Ford, Wilfred L	Assistant Director (Public and Governmental Affairs).
Harris, Gregory	Chief of Staff.
Koett, Imelda M	Associate Chief Counsel (Litigation).
Logan, Mark	Assistant Director (Training and Professional Development).
Loos, Eleaner R	Associate CC (Admin/Ethics).

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

Mathis, Steve L	Deputy Assistant Director, Training and Professional Development.
McDermond, James E	Assistant Director, Office of Strategic Intelligence and Information.
McMahon, William G., Jr	Division Director/Special Agent in Charge, New York.
Moccia, Marguerite R	Assistant Director (Office of Management).
Nelson, Walfred A	Deputy Assistant Director (Enforcement Program and Services).
O'Brien, Virginia T	Assistant Director (Office of Strategic Intelligence and Information).
Raden, Lewis P	Assistant Director (Enforcement Program and Services).
Roehm, Jeffrey R	Deputy Assistant Director (OPRSO).
Rubenstein, Stephen R	Chief Counsel.
Stinnett, Melanie S	Deputy Chief Counsel.
Torres, John A	Division Director/Special Agent in Charge, Los Angeles, California.
Webb, James D	Deputy Assistant Director (Field OPS) West.
Zammillo Sr, James A	Deputy Assistant Director (Industry OP).
Antitrust Division:	
Barnett, Thomas O	Deputy Assistant Attorney General.
Botti, Mark J	Chief Litigation I Section.
Connolly, Robert E	Chief, Philadelphia Field Office.
Davis, Nezida S	Chief, Atlanta Field Office.
Familant, Norman	Chief, Economic Litigation Section.
Giordano, Ralph T	Chief, New York Field Office.
Goodman, Nancy M	Chief, Telecommunications and Media Section.
Hammond, Scott D	Deputy Assistant Attorney General/Criminal Enforcement.
Hand, Edward T	Chief Foreign Commerce Section.
Hesse, Renata B	Chief, Networks and Technology Enforcement Section.
Heyer, Kenneth	Director of Economics.
King, Thomas D	Executive Officer.
Kramer II, J. Robert	Director of Operations.
Kursh, Gail	Deputy Director, Legal Policy.
Masoudi, Gerald F	Deputy Assistant Attorney General.
McDonald, John B	Deputy Assistant Attorney General.
O'Sullivan, Catherine G	Chief, Appellate Section.
Petrizzi, Maribeth	Chief, Litigation II Section.
Phelan, Lisa M	Chief, National Criminal Enforcement Section.
Potter, Robert A	Chief, Legal Policy Section.
Price Jr., Marvin N	Chief, Chicago Office.
Warren, Phillip H	Chief, San Francisco Field Office.
Watson, Scott M	Chief, Cleveland Office.
Bureau of Prisons:	
Adams, Vanessa P	Warden, Petersburg, Virginia.
Anderson, Marty C	Warden, Rochester, Minnesota.
Apker, Craig	Warden, Otisville, New York.
Barron Jr, Jose	Warden, Marianna, Florida.
Beeler Jr, Arthur F	Warden, Butner, North Carolina (Medical Ctr/New Med).
Benov, Michael L	Senior Warden, Los Angeles, California.
Beusse, Robin Litman	Senior Deputy Assistant Director for Administration.
Bezy, Mark A	Warden, Terre Haute, Indiana.
Bledsoe, Bryan A	Warden, Lee, West Virginia.
Booker Jr, Joe W	Warden, Lexington, Kentucky.
Callahan, Dennis M	Warden, Oklahoma City, Oklahoma.
Compton, Bobby G	Warden, Lompoc, California.
Conley, Joyce K	Senior Deputy Assistant Director of Correctional Programs Division.
Dalius Jr, William F	Senior Deputy Assistant Director, Administration Division.
Davis, Randy J	Warden, Marion, Illinois.
De Rosa, Charles John	Warden, Phoenix, Arizona.
Dodrill, D. Scott	Regional Director, Northeast Region.
Drew, Darryl	Warden, Talladega, Alabama.
Garrett, Michael W	Senior Deputy Assistant Director Program Review Division.
Gunja, Joseph E	Regional Director, Western Region.
Hastings, Suzanne R	Warden, Big Sandy, Kentucky.
Haynes, Alfonso	Warden, Hazelton, West Virginia.
Holder, Carlyle I	Warden, Coleman, Florida.
Holt, Raymond E	Regional Director, Southeast Region.
Jeter, Cole A	Warden, Fort Worth, Texas.
Johns, Tracy	Warden, Coleman, Florida.
Kane, Thomas R	Assistant Director, Information Policy, and Public Affairs Division.
Kendall, Paul F	Senior Counsel/Legal Administrative.
Kenney, Kathleen M	Assistant Director, Office of General Counsel.
Laird, Paul M	Warden, Brooklyn, New York.
Lamanna, John J	Warden, Edgefield, South Carolina.
Lappin, Harley G	Director.
Le Blanc Jr, Whitney I	Assistant Director for Human Resources Management.

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

Lindsay, Cameron K	Warden, Waymart, Pennsylvania.
Maldonado Jr, Gerardo	Warden, Atlanta, Georgia.
McFadden, Robert E	Warden, Springfield, Missouri.
Menifee, Fredrick	Warden, Polluck, Louisiana.
Miner, Jonathan C	Warden, Fairton, New Jersey.
Morrison, Marvin D	Warden, New York, New York.
Nalley, Michael K	Regional Director, North Central Region.
Nash Jr, John L	Warden, Fort Dix, New Jersey.
Norwood, Joseph L	Warden, Victorville, California.
Reese, Constance N	Warden, Beaumont, Texas.
Sanders, Linda L	Warden, Forrest City, Arkansas.
Sasser, Bruce Kent	Assistant Director for Administration.
Schultz, Paul M	Warden, Atwater, California.
Schwalb, Steven B	Assistant Director, Industries, Education and Vocational Training Division.
Smith, Joseph V	Warden, Lewisburg, Pennsylvania.
Stansberry, Patricia R	Warden, Butner, North Carolina.
Stine, Donald L	Warden, McCreary, Kentucky.
Thigpen Sr, Morris L	Director, National Institute of Corrections.
Thompson, Ronald G	Regional Director, South Central Region.
Thoms, Maryellen	Assistant Director, Health Services Division.
Van Buren, Virginia L	Warden, Carswell, Texas.
Vanyur, John M	Assistant Director, Correctional Programs Division.
Vazquez, Jose M	Warden, Jesup, Georgia.
White, Kim M	Regional Director, Middle Atlantic Region.
Wiley, Ronnie	Warden, Florence, Colorado.
Williamson, Troy W	Warden, Allenwood, Pennsylvania.
Winn, David L	Warden, Fort Devens, Massachusetts.
Young Jr, Joseph P	Warden, Oakdale, Louisiana.
Zenk, Michael A	Senior Deputy Regional Director, Southeast Region.
Civil Division:	
Allen, Gary W	Branch Director (Torts).
Baxter, Felix V	Branch Director (Federal Programs).
Bordeaux, Joann J	Deputy Branch Director (Torts).
Branda, Joyce R	Deputy Branch Director (Commercial).
Bruen Jr., James G	Special Litigation Counsel.
Bucholtz, Jeffrey S	Deputy Assistant Attorney General.
Cohen, David M	Branch Director (Commercial).
Cohn, Jonathan F	Deputy Assistant Attorney General.
Coppolino, Anthony J	Special Litigation Counsel (Federal Programs).
Davidson, Jeanne E	Deputy Branch Director (Commercial).
Eubanks, Sharon Y	Branch Director (Torts).
Garren, Timothy Patrick	Branch Director (Torts).
Garvey, Vincent Morgan	Deputy Branch Director (Federal Programs).
Glynn, John Patrick	Branch Director (Torts).
Hertz, Michael F	Branch Director (Commercial).
Hollis, Robert Mark	Office Director (Special Litigation Counsel).
Hunt, Joseph H	Branch Director (Federal Programs).
Hussey, Thomas W	Director, Office of Immigration.
Kanter, William G	Deputy Director (Appellate Staff).
Katsas, Gregory G	Deputy Assistant Attorney General.
Kinsella, James M	Deputy Director (Commercial).
Kline, David J	Deputy Branch Director (Oil).
Kohn, J. Christopher	Branch Director (Commercial).
Kopp, Robert E	Director, Appellate Staff.
Letter, Douglas N	Appellate Litigation Counsel.
Lieber, Sheila M	Deputy Branch Director.
Meron, Daniel	Principal Deputy Assistant Attorney General.
Nichols, Carl J	Deputy Assistant Attorney General.
O'Malley, Barbara B	Special Litigation Counsel.
Pyles, Phyllis J	Branch Director (Torts).
Rivera, Jennifer D	Branch Director (Federal Programs).
Schiffer, Stuart E	Deputy Assistant Attorney General.
Spooner, Sandra P	Deputy Branch Director (Commercial).
Sterrn, Mark B	Appellate Litigation Counsel.
Thirolf, Eugene M	Director, Office of Consumer Litigation.
Zwick, Kenneth L	Director of Management Programs.
Community Oriented Policing Services:	
Peed, Carl R	Director.
Criminal Division:	
Alexandre, Carl	Director, OPDAT.
Bianco, Joseph F	Deputy Assistant Attorney General.

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

Dion, John J	Chief, Counterespionage Section.
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Glazer, Sidney	Senior Appellate Counsel.
Goldberg, Stuart M	Deputy Chief for Litigation, Public Integrity Section.
Hillman, Noel L	Chief, Public Integrity Section.
Hochberg, Joshua R	Chief, Fraud Section.
Jones, Joseph M	Chief of International Training and Development.
Keeney, John C	Deputy Assistant Attorney General.
Killion, Maureen H	Senior Associate Director.
McHenry, Teresa L	Chief, Domestic Security Section.
McNally, Edward E	Senior Counsel.
O'Brien, Patrick M	Counsel to the Assistant Attorney General.
Ohr, Bruce G	Chief, Organized Crime & Racketeering Section.
O'Neil, Catherine M	Director, OCDETF.
Oosterbaan, Andrew	Chief, Child Exploitation and Obscenity Section.
Parent, Steven J	Executive Officer.
Parsky, Laura Haas	Deputy Assistant Attorney General.
Radek, Lee J	Senior Counsel, Asset Forfeiture and Money Laundering Section.
Reynolds, James S	Senior Counsel to the Assistant Attorney General.
Richard, Mark M	Senior Counsel.
Richter, John C	Principal Deputy Assistant Attorney General and Chief of Staff.
Rogers, Richard M	Senior Counsel to the Assistant Attorney General.
Rosenbaum, Eli M	Director, Office of Special Investigations.
Sabin, Barry M	Chief, Counter Terrorism Section.
Samuels, Julie E	Director, Office of Policy & Legislation.
Snow, Thomas G	Deputy Director, Office of International Affairs.
Stansell Gamm, Martha J	Chief, Computer Crime & Intellectual Property Section.
Stemler, Patty Merkamp	Chief, Appellate Section.
Swartz, Bruce Carlton	Deputy Assistant Attorney General.
Warlow, Mary Ellen	Director, Office of International Affairs.
Warren, Mary Lee	Deputy Assistant Attorney General.
Weber, Richard M	Chief, Asset Forfeiture and Money Laundering Section.
Civil Rights Division:	
Baldwin, Katherine A	Deputy Special Counsel.
Brown Cutlar, Shanetta Y	Chief, Special Litigation Section.
Flynn, David K	Chief, Appellate Section.
Friedlander, Merrily A	Chief, Coordination & Review Section.
Glassman, Jeremiah	Chief, Educational Opportunities.
Greene, Irva D	Executive Officer.
Kim, Wan J	Deputy Assistant Attorney General.
King, Loretta	Deputy Assistant Attorney General.
Moskowitz, Albert N	Chief, Criminal Section.
Palmer, David J	Chief, Employment Litigation Section.
Rosenbaum, Steven H	Chief, Housing and Civil Enforcement.
Schlozman, Bradley J	Principal Deputy Assistant Attorney General.
Tanner, John K	Chief, Voting Section.
Wodatch, John L	Chief, Disability Rights Section.
Environment and Natural Resources Divisions:	
Alexander, Samuel C	Chief, Indian Resources Section.
Bruffy, Robert L	Executive Officer.
Butler, Virginia P	Chief, Land Acquisition Section.
Cruden, John C	Deputy Assistant Attorney General.
Disheroon, Fred R	Special Litigation Counsel.
Emrich, Andrew C	Counsel to the Assistant Attorney General.
Fisherow, W. Benjamin	Deputy Chief, Environment Enforcement.
Gelber, Bruce S	Chief, Environmental Enforcement.
Grishaw, Letitia J	Chief, Environmental Defense Section.
Haugrud, Kevin	Chief, General Litigation Section.
Johnson, Kelly A	Deputy Assistant Attorney General.
Kilbourne, James C	Chief, Appellate Section.
McCabe, Catherine R	Deputy Chief, Environmental Enforcement Section.
Milius, Pauline H	Chief, Law and Policy Section.
Sobeck, Eileen	Deputy Assistant Attorney General.
Stewart, Howard P	Senior Litigation Counsel.
Uhlmann, David M	Chief, Environmental Crimes Section.
Williams, Jean E	Chief, Wildlife & Marine Resources.
Executive Office of Immigration Review:	
Creppy, Michael J	Chief Immigration Judge.
Keller, Mary Beth	General Counsel.
Nasca, Paula N	Associate Director.

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

Ohlson, Kevin A	Deputy Director.
Perkins, Jack	Director of Operations, Board of Immigration Appeals.
Rooney, Kevin D	Director.
Scialabba, Lori L	Chairman, Board of Immigration Appeals.
Executive Office for the United States Attorneys:	
Bailie, Michael W	Director, Office of Legal Education.
Battle, Michael A	Director.
Bevels, Lisa A	Deputy Director, Financial Mgmt.
Downs, David W	Deputy Director for Operations.
Goolding, Monica M	Deputy Director.
Sanford Jr., Lewis R	Chief Information Officer.
Executive Office for United States Trustees:	
Miller, Jeffrey M	Associate Director.
White III, Clifford J	Deputy Director.
Justice Management Division:	
Allen, Michael H	Deputy Assistant Attorney General for Policy, Management, and Planning.
Cinciotta, Linda A	Senior Counsel for Alternative Dispute Resolution.
Corts, Paul R	Assistant Attorney General for Administration.
Deacon, Ronald L	Director, Facilities and Administrative Services Staff.
Defalaise, Louis	Director, Office of Attorney Recruitment and Management.
Dessy, Blane K	Director, Library Staff.
Duffy, Michael D	Director, E-Government Services Staff.
Dunlap, James L	Director, Security and Emergency Planning Staff.
Frisch, Stuart	General Counsel.
Haggerty, Kathleen A	Director, Debt Collection Management Staff.
Heretick, Dennis J	Director, Information Security Staff.
Hitch, Vance E	Deputy Assistant Attorney General/Chief Information Officer.
Holtgrewe, Kent L	Director, IT Policy and Planning Staff.
Johnston, James W	Director, Procurement Services Staff.
Lauria Sullens, Jolene A	Director, Budget Staff.
Lindsey, Justin R	Chief Technology Officer.
Lofthus, Leon J	Deputy Assistant Attorney General/Controller.
McBurrows, Theodius	Director, Equal Employment Opportunity Staff.
Morgan, Melinda B	Director, Finance Staff.
Murray, John W	Director, Enterprise Solutions Staff.
O'Leary, Karin	Deputy Director (Programs and Performance), Budget Staff.
Orr, David Marshall	Director, Management and Planning Staff.
Perez, Michael A	Director, Asset Forfeiture Management Staff.
Santangelo, Mari Barr	Deputy Assistant Attorney General for Human Resources and Administration (CHCO).
Schultz Jr., Walter H	Deputy Director, Budget Staff.
Tomchek, Debra M	Director, Human Resources.
National Drug Intelligence Center:	
Walther, Michael F	Director, National Drug Intelligence Center.
Office of the Attorney General:	
Sampson, D. Kyle	Deputy Chief of Staff and Counselor to the Attorney General.
Ullyot, Theodore W	Chief of Staff.
Office of the Associate Attorney General:	
Gorsuch, Neil M	Principal Deputy Associate Attorney General.
Henke, Tracy A	Deputy Associate Attorney General.
Kessler, Elizabeth A	Deputy Associate Attorney General.
Reyes, Luis A	Chief of Staff & Deputy Associate Attorney General.
Swenson, Lily F	Deputy Associate Attorney General.
Office of the Deputy Attorney General:	
Dhillon, Uttam S	Associate Deputy Attorney General.
Margolis, David	Associate Deputy Attorney General.
Monheim, Thomas A	Associate Deputy Attorney General.
Nivala, Gregg R	Regime Crimes Liaison.
Philbin, Patrick F	Associate Deputy Attorney General.
Rosenberg, Charles P	Chief of Staff.
Office of Federal Detention Trustee:	
Hylton, Stacia A	Federal Detention Trustee.
Office of the Inspector General:	
Fortine Ochoa, Carol A	Assistant Inspector General for Oversight & Review.
Martin, Paul K	Deputy Inspector General.
McLaughlin, Thomas F	Assistant Inspector General for Investigation.
Peters, Gregory T	Assistant Inspector General for Management & Planning.
Price, Paul A	Assistant Inspector General, Evaluation and Inspection.
Zimmerman, Guy K	Assistant Inspector General for Audit.
Office of Information and Privacy:	
Huff, Richard L	Director (Policy & Admin Appeals).
Metacalfe, Daniel J	Director (Policy & Lit).

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

Office of Intergovernmental and Public Liaison:	
Roberts, Crystal M	Director.
Office of Intelligence Policy and Review:	
Baker, James A	Counsel for Intelligence Policy.
Bradley, Mark A	Deputy Counsel for Intelligence Policy.
Kennedy, John Lionel	Deputy Counsel for Intelligence Law.
Skelly Nolen, Margaret A	Deputy Counsel for Intelligence Operations.
Office of Justice Programs:	
Daley, Cybele K	Deputy Assistant Attorney General.
Feucht, Thomas E	Deputy Director, Research and Evaluation, NIJ.
Fralick, Gerald L	Chief Information Officer.
Greenhouse, Dennis E	Deputy Director, OVC.
Hernandez, Nelson	Director, Community Capacity Development.
Hightower, Carolyn A	Principal Deputy Director, OVC.
Madan, Rafael A	General Counsel.
McFarland, Steven T	Director, Faith-Based Task Force.
Morgan, John S	Director, Office of Science and Technology, NIJ.
Nolan, Cheryl C	Deputy Assistant Attorney General.
Roberts, Marilyn M	Deputy Director, Programs, OJJDP.
Schwimer, Cynthia J	Comptroller.
Segerdahl-Ayers, Nancy Lynn	Director of Communications.
Silver, Gary Neil	Director, Office of Administration.
Burton, M. Faith	Special Counsel.
Clinger, James H	Deputy Assistant Attorney General.
Seidel, Rebecca S	Deputy Assistant Attorney General.
Office of Legal Counsel:	
Boardman, Michelle	Deputy Assistant Attorney General.
Bradbury, Steven G	Deputy Assistant Attorney General.
Colborn, Paul P	Special Counsel.
Hart, Rosemary A	Special Counsel.
Koffsky, Daniel L	Special Counsel.
Marshall C. Kevin	Deputy Assistant Attorney General.
Office of Legal Policy:	
Hertling, Richard A	Principal Deputy Assistant Attorney General.
Jones, Kevin Robert	Deputy Assistant Attorney General.
McIntosh, Brent J	Deputy Assistant Attorney General.
Remington, Kristi L	Deputy Assistant Attorney General.
Office of the Pardon Attorney:	
Adams, Roger C	Pardon Attorney.
Office of Professional Responsibility:	
Jarrett, H. Marshall	Counsel on Prof Responsibility.
Wish, Judith B	Deputy Counsel on Prof Responsibility.
Office of the Solicitor General:	
Dreeben, Michael R	Deputy Solicitor General.
Hungar, Thomas G	Deputy Solicitor General.
Kneedler, Edwin S	Deputy Solicitor General.
Office of Violence Against Women:	
Bottner, Andrea G	Principal Deputy Director, Office of Violence Against Women.
Office of Public Affairs:	
Scolinos, Tasia M	Director.
Professional Responsibility Advisory Office:	
Flynn, Claudia Jeanne	Director, Professional Responsibility Advisory Office.
Tax Division:	
Cimino, Ronald Allen	Chief, Criminal Enforcement Section, Western Region.
Csontos, Stephen J	Special Litigation Counsel.
Donohue, Dennis M	Senior Litigation Counsel.
Fallon, Claire	Deputy Assistant Attorney General.
Heald, Seth G	Chief, Civil Trial Section, Central Region.
Hechtkopf, Alan	Chief, Criminal Appeals and Tax Enforcement Policy Section.
Hofer, Patrick F	Deputy Assistant Attorney General.
Hubbert, David A	Chief, Civil Trial Section, Eastern Region.
Hytken, Louise P	Chief, Civil Trial Section, Southwest Region.
Kearns, Michael J	Chief, Civil Trial Section, Southern Region.
Morrison, Richard T	Deputy Assistant Attorney General.
Mullarkey, Daniel P	Chief, Civil Trial Section, Northern Region.
Paguni, Rosemary E	Chief, Criminal Enforcement Section, Northern Region.
Rothenberg, Gilbert S	Chief, Appellate Section.
Salad, Bruce M	Chief, Criminal Enforcement Section, Southern Region.
Seidman, Mildred L	Chief, Claims Court Section.
Watkins, Robert S	Chief, Civil Trial Section Western Region.
Young, Joseph E	Executive Officer.

DEPARTMENT OF JUSTICE 2005 SENIOR EXECUTIVE SERVICE PERFORMANCE REVIEW BOARD FEDERAL REGISTER NOTICE—Continued

United States Marshals Service:	
Auerbach, Gerald	General Counsel.
Brown, Broadine M	Assistant Director for Management & Budget.
Dolan, Edward	Chief Financial Officer.
Farmer, Marc A	Assistant Director for Judicial Security.
Finan II, Robert J	Assistant Director for Investigative Services.
Gambatesa, Donald A	Deputy Director.
Jones, Sylvester E	Assistant Director for Witness Security and Prisoner Operations.
Litman, Diane C	Assistant Director for Information Technology.
Mead, Gary E	Assistant Director for Business Services.
Pearson, Michael A	Assistant Director for Executive Services.
Pekarek, Kenneth L	Assistant Director for JPATS.
Roderick Jr., Arthur D	Assistant Director for Operations Support.
Smith, Suzanne D	Assistant Director of Human Resources.
Sullivan, James M	Special Assistant.

Jeanne N. Raymos,

Executive Secretary, Senior Executive Resources Board.

[FR Doc. 05–21357 Filed 10–26–05; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) No. 1419]

Notice of Proposed Award of Funds for Nonparticipating State Program, Wyoming

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of Intention to Award Formula Grant Funds.

SUMMARY: The purpose of this Notice is to announce the Office of Juvenile Justice and Delinquency Prevention's intention to award formula grant funds, under Section 221 of the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5633(d), to the Wyoming County Commissioner's Association. These funds will be awarded on a non-competitive basis, absent the submission of any expression of interest in the subject funding by another eligible entity. This publication is intended to comply with the requirements set forth in 42 U.S.C. 5633(d) and 28 CFR 31.301(e).

DATES: Expressions of Interest must be submitted in writing, and must be received by OJJDP by November 28, 2005. Postmark dates will not be accepted as proof of meeting the deadline.

ADDRESSES: All application packages should be mailed or delivered to the State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW., Washington, DC 20531; or faxed to 202–307–2819.

FOR FURTHER INFORMATION CONTACT: Elissa Rumsey, Compliance Monitoring Coordinator, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 202–307–5924; e-mail: *Elissa.Rumsey@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Title II, Part B of the Juvenile Justice and Delinquency Prevention Act of 2002 (JJDPA), 42 U.S.C. 5631–5633, makes formula grant funding available to the states for the juvenile justice purposes set forth in 42 U.S.C. 5633(a).

For states that choose not to submit a § 5633(a) plan or fail to submit such a plan, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is authorized to make available, to local public and private nonprofit agencies within that state, formula funding for use in carrying out the core requirement activities specified in 42 U.S.C. 5633(a)(11),(12),(13) and (22). The purpose of this notice is to publish OJJDP's intent to make such an award, pursuant to the authority set forth in 42 U.S.C. 5633(d). This publication is intended to comply with the requirements set forth in 42 U.S.C. 5633(d) and 28 CFR 31.301(e).

Authority: 42 U.S.C. 5633(d).

Notice: OJJDP hereby declares the agency's intention to award $1,229,950 in FY 2003–04 formula grant funds, available for the benefit of the State of Wyoming, pursuant to 42 U.S.C. 5633(d), to the Wyoming County Commissioner's Association (WCCA). OJJDP issued an initial formula grant award to WCCA in FY 1998, and since that time has not been aware of any other applicant eligible to apply for and receive the subject funding. Unless OJJDP receives from another eligible entity an expression of interest in applying for the subject funding, this publication shall serve as formal notice of the issuance of the above described award to WCCA. Any such expressions of interest must be communicated in writing and received by OJJDP by November 28, 2005.

Any entity submitting an expression of interest, in response to this Notice, must provide the following information:

(1) Documentation of current and past experience with data collection and analysis pursuant to sections 223(a) (11), (12), and (13) of the JJDPA; and demonstration of ability to maintain an infrastructure to continue such collection and analysis.

(2) Data showing Wyoming's rates of compliance with sections 223(a) (11), (12), and (13) of the JJDPA.

(3) Documentation of efforts towards creating and implementing legislation and judicial policy related to sections 223(a) (11), (12), and (13) of the JJDPA and related regulations.

(4) Documentation of ability and experience in providing training and technical assistance to local law enforcement and detention facility staff regarding the relevant sections of the JJDPA.

Information provided in response to this Notice will be used by OJJDP to determine whether or not it would be appropriate to award the subject funding on a competitive basis.

Dated: October 19, 2005.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 05–21425 Filed 10–26–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0189(2006)]

Standard on Lead in Construction; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in 29 CFR 1926.62.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0189(2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov*. Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov*. In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609; 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the Standards Improvement Project—Phase II, Final rule (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent and clarified or simplified regulatory language. The final rule contained several revisions to collections of information contained in the Lead in Construction Standard.[1] These revisions included: allowing employers the option to post employee exposure-monitoring results instead of requiring individual notification and updating compliance plans annually. Those changes reduced paperwork burden hours while maintaining worker protection and improving consistency among standards. The reductions in burden hours were taken in the prior ICR. The following is a brief description of the current collection of information requirements contained in the Lead in Construction Standard.

The purpose of the Lead in Construction Standard and its information collection requirements is to reduce occupation lead exposure in the construction industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead toxicity. Some of the health affects associated with lead exposure include brain disorders which can lead to seizures, coma, and death; anemia; neurological problems; high blood pressure; kidney problems; reproductive problems; and decreased red blood cell production. The Standard requires that employers: establish and maintain a training program; review the compliance program annually; provide exposure-monitoring, and medical surveillance programs; and maintain exposure-monitoring and medical surveillance records. The records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employer's compliance efforts. The Standard seeks to reduce disease by requiring exposure-monitoring to determine if lead exposures are too high, by requiring medical surveillance to determine if employee blood lead levels are too high, and by requiring treatment to reduce blood lead levels.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to request OMB's approval to extend the collection of information (paperwork) requirements necessitated by the Standard on Lead in Construction (29 CFR 1926.62). The Agency will include this summary in its request to OMB to extend the approval of these collection of information requirements.

[1] OMB approved the reduction of 1,938 burden hours after reviewing the Information Collection Request for the Standards Improvement Project-Phase-II Notice of Proposed Rulemaking, published October 31, 2002 (67 FR 66494). On January 5, 2005, when the Final rule was published (70 FR 1112) documentation was submitted to OMB revising the reduction of 1,938 hours to 1,220 hours to reflect the decrease in time to conduct exposure monitoring.

Type of Review: Extension of currently approved information collection requirements.

Title: Lead in Construction (29 CFR 1962.62).

OMB Number: 1218–0189.

Affected Public: Business or other for-profits; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Average Time Per Response: Varies from 1 minute (.02 hour) for a clerical employee to notify employees of their right to seek a second medical opinion to 8 hours to develop a compliance plan.

Estimated Total Burden Hours: 1,560,718.

Estimated Cost (Operation and Maintenance): $68,576,683.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY) (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions. Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21476 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0202 (2006)]

Hazardous Waste Operations and Emergency Response (HAZWOPER); Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in its Standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120).

DATES: Comments must be submitted by the following dates:

Hard copy. Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission. Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0202 (2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments in the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR)(containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://OSHA.gov.* In addition, the ICR, comments, and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing efforts to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The standard specifies a number of collection of information (paperwork) requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the standard requires and to ensure that their employees are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA will use the records developed in response to this standard to find adequate compliance with the safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in Superfund Amendments

and Reauthorization Act of 1986 (SARA) (Public Law 99–499).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that the Office of Management and Budget (OMB) extend the approval of the collection of information (paperwork) requirements contained in the standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the collection of information requirements contained in the standard.

Type of Review: Extension of currently approved information collection requirements.

Title: Hazardous Waste Operations and Emergency Response (HAZWOPER).

OMB Number: 1218–0202.

Affected Public: Business or other for-profits; not-for-profit organizations; Federal government; State, local, or tribal government.

Number of Respondents: 35,529.

Frequency of Response: On occasion.

Total Responses: 1,199,402.

Average Time Per Response: Varies from one minute (.02 hour) to maintain a certification record to 24 hours for initial employee training.

Estimated Total Burden Hours: 1,245,250.

Estimated Cost (Operation and Maintenance): $3,350,750.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, a significant delay may occur in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Security of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Dated: Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21477 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0092 (2006)]

Lead in General Industry Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in the Lead in General Industry Standard (29 CFR 1910.1025).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0092 (2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov*. Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov*. In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed

and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the Standards Improvement Project—Phase II, Final Rule (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent and clarified or simplified regulatory language. The final rule contained several revisions to collections of information contained in the Lead in General Industry Standard. These revisions included: reducing the frequency for employers to update their written compliance plans from six months to annually; and allowing employers the option to post employee exposure-monitoring results instead of requiring individual written notification. Those changes reduced paperwork burden hours while maintaining worker protection and improving consistency among standards. The reductions were taken in the prior information collection request.

The information collection requirements specified in the Lead in General Industry Standard are designed to reduce occupational lead exposure in general industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead toxicity. The standard specifies the following requirements that impose paperwork burdens on employers: establishing a compliance program and notifying laundry personnel of lead hazards; instituting programs for exposure-monitoring and medical surveillance (including medical examinations); notifying employees of exposure levels, biological-monitoring results, the option for multiple-physician review, and the availability of chelation; providing information to physicians; obtaining written medical opinions; implementing employee information and training programs (including providing employees with copies of the standard, and employees and other specified parties with copies of the training and information materials); recording medical removals; maintaining and transferring records of exposure-monitoring and medical surveillance results, medical removals, and objective data used for the initial-exposure-monitoring exemption; and making records available to specified parties. These paperwork requirements permit OSHA and other specified parties to determine the effectiveness of an employer's compliance activities, thereby ensuring that they are providing employees with all of the protection afforded by the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of these collection of information (paperwork) requirements necessitated by the Lead in General Industry Standard (29 CFR 1910.1025). OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these collection of information requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Lead in General Industry Standard.

OMB Number: 1218–0092.

Affected Public: Business or other for-profits; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Average Time Per Response: Ranges from 1 minute to notify employees of their right to seek a second medical opinion to 2 hours for an employee to receive a medical examination.

Estimated Total Burden Hours: 1,242,562.

Estimated Cost (Operation and Maintenance): $139,869,058.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private infomation such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occuataional Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21478 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0134 (2006)]

Asbestos in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request for an extension of the information collection requirements contained in the Asbestos in Construction Standard (29 CFR 1926.1101). The standard protects employees from adverse health effects from occupational exposure to Asbestos, including lung cancer, mesothelioma, asbestosis (an emphysema-like condition) and gastrointestinal cancer.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0134(2006), by any of the following methods:

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments, and submissions, are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the final rule for the Standards Improvement Project—Phase II (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent, and clarified or simplified regulatory language. The final rule contained two revisions to collections of information contained in the Asbestos in Construction Standard. The revisions included modifying the time the employer has to provide their employees with exposure-monitoring results in 1926.1101(f)(5)(ii) from ''as soon as possible following receipt of the results'' to ''as soon as possible but no later than 5 working days after the receipt of the results,'' and removing the requirement to send the certification and evaluation documentation required under § 1926.1101(g)(6)(iii) to OSHA's Directorate of Technical Support. The reduction in burden hours was taken in the prior ICR.

The information collection requirements specified in the Asbestos in Construction Standard protect employees from the adverse health effects that may result from asbestos exposure. The major information collection requirements of the Asbestos in Construction Standard include: Implementing an exposure-monitoring program that informs employees of their exposure-monitoring results; and at multi-employer worksites, notification of other onsite employers by employers establishing regulated areas for the type of work performed with asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs); the requirements that pertain to regulated areas; and the measures they can use to protect their employees from asbestos overexposure. Other provisions associated with paperwork requirements include: evaluating and certifying alternative control methods for Class I and Class II asbestos work and informing laundry personnel of the requirement to prevent release of airborne asbestos above the time-weighted average and excursion limit; notification by employers and building/facility owners of designated personnel and employees regarding the presence, location, and quantity of ACMs and/or PACMs; using information, data, and analyses to demonstrate that PACM does not contain asbestos; posting signs in mechanical rooms/areas that employees may enter and that contain ACMs and PACMs, informing them of the identity and location of these materials and work practices that prevent disturbing the materials; posting warning signs demarcating regulated areas; and affixing warning labels to asbestos-containing products and to containers holding such products. Additional provisions of the Standard that contain paperwork requirements include: Developing specific information and training programs for employees; providing medical surveillance for employees potentially exposed to ACMs and/or PACMs, including administering an employee medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the employee; maintaining records of objective data used for exposure determinations, employee exposure-monitoring and medical surveillance records, training records, the record (i.e., information, data, and analyses) used to demonstrate that PACM does not contain asbestos, and notifications made and received by

building/facility owners regarding the content to ACMs and PACMs; making specified records (e.g., exposure-monitoring and medical surveillance records) available to designated parties; and transferring exposure-monitoring and medical surveillance records to the National Institute for Occupational Safety and Health on cessation of business.

These paperwork requirements permit employers, employees and their designated representatives, OSHA, and other specified parties to determine the effectiveness of an employer's asbestos-control program. It provides notification to building owners, subsequent building owners, contractors and employees of the presence of asbestos so that precautions can be taken to protect workers. It provides for monitoring and medical surveillance to assure that exposures are kept low and early symptoms are detected. Accordingly, the requirements ensure that employees exposed to asbestos receive all of the protection afforded by the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

—Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
—The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
—The quality, utility, and clarity of the information collected; and
—Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend approval of the collection of information requirements necessitated by the Asbestos in Construction Standard (29 CFR 1926.1101). The agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Asbestos in Construction Standard (29 CFR 1926.1101).

OMB Number: 1218–0134.

Affected Public: Business or other for-profit organizations; Federal government; State, local or tribal governments.

Number of Respondents: 286,821.

Frequency: On occasion.

Total Responses: 53,719,202.

Average Time per Response: Varies from 5 minutes ot maintain records to 17.3 hours to train a competent person.

Estimated Total Burden Hours: 5,569,658.

Estimated Cost (Operation and Maintenance): $30,730,200.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web paged to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21479 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0195 (2006)]

The Asbestos in Shipyards Standard; Extension of the Office of Management and Budget's Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in the Asbestos in Shipyards Standard (29 CFR 1915.1001). This Standard regulates occupational exposure to Asbestos, thereby preventing serious illness (e.g., asbestosis, an emphysema-like condition, mesothelioma, and gastrointestinal cancer) among shipyard employees.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comment must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0195 (2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and

submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the Standards Improvement Project—Phase II, Final rule (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent and clarified or simplified regulatory language. The final rule contained two revisions to collections of information contained in the Asbestos in Shipyards Standard. The revisions included modifying the time the employer has to provide their employees with exposure monitoring results in 29 CFR 1915.1001(f)(5)(ii) from ''as soon as possible following receipt of the results'' to ''as soon as possible but no later than five working days after the receipt of the results,'' and removing the requirement to send the certification and evaluation documentation required under § 1915.1001(g)(6)(iii) to OSHA's Directorate of Technical Support. That reduction in burden hours was taken on the prior information collection request.

The information collection requirements specified in the Asbestos in Shipyards Standard protect employees from the adverse health effects that may result from occupational exposure to Asbestos. The major information collection requirements in the Standard include implementing an exposure-monitoring program that informs employees of their exposure-monitoring results; at multi-employer worksites, notification of other onsite employers by employers establishing regulated areas for the type of work performed with asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs), the requirements that pertain to regulated areas, and the measures the employers can use to protect their employees from asbestos overexposure; developing specific information and training programs for employees; providing medical surveillance for employees potentially exposed to ACMs and/or PACMs, including administering an employee medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the employee; and maintaining records of objective data used for exposure determinations, employee exposure-monitoring and medical surveillance records, training records, the record (i.e., information, data, and analyses) used to demonstrate that PACM does not contain asbestos, and notifications made and received by building/facility owners regarding the content of ACMs and PACMs.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that the Office of Management and Budget (OMB) extend the approval of these collections of information (paperwork) requirements necessitated by the Asbestos in Shipyards Standard (29 CFR 1915.1001). OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information collection requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Asbestos in Shipyards Standard.

OMB Number: 1218–0195.

Affected Public: Business or other for-profits; Federal government; State, local, or tribal government.

Number of Respondents: 19.

Frequency: On occasion.

Average Time Per Response: Varies from five minutes (.08 hour) to maintain records to 17.3 hours for training a competent person.

Estimated Total Burden Hours: 1,426.

Estimated Cost (Operation and Maintenance): $33,635.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Security of Labor for Occupational Safety and Health, directed the

preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order no. 5–2002 (67 FR 65008).

Dated: Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21480 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0185 (2006)]

The Cadmium in General Industry Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in the Cadmium in General Industry Standard (29 CFR 1910.1027). This standard controls occupational exposure to cadmium, thereby preventing serious disease (e.g., lung cancer, prostate cancer, kidney disease) and death among exposed employees.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0185 (2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the final rule for the Standards Improvement Project—Phase II (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent, and clarified or simplified regulatory language. The final rule contained several revisions to collections of information contained in the Cadmium Standard. These revisions included: removing the word ''signed'' that appears in the introductory sentence in paragraph (1)(10)(1) of the Standard; and allowing employers the option of posting employee-monitoring results, or individually informing each employee of these results. Those changes reduced paperwork burden hours while maintaining worker protection and improving consistency among standards.

The information collection requirements specified in the Cadmium in General Industry Standard protect employees from the adverse health effects that may result from occupational exposure to cadmium. The major information collection reuqirements in the Standard include conducting employee exposure monitoring, notifying employees of their cadmium exposures, implementing a written compliance program, implementing medical-surveillance of employees, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-surveillance results, maintaining employees' exposure-monitoring and medical-surveillance records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the employee who is the subject of the records, the employee's representative, and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the collection of information (paperwork) requirements necessitated by the Cadmium in General Industry Standard (29 CFR 1910.1027). As part of this proposal, the Agency is requesting a 167-hour burden reduction (adjustment) resulting from not identifying any new employers who will

gather information necessary to meet the objective data requirements required specified by paragraph § 1910.1027(d)(2)(iii) of the Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information collection requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Cadmium in General Industry Standard.

OMB Number: 1218–0185.

Affected Public: Business or other for-profits; Federal government; State, local, or tribal government.

Number of Respondents: 53,161.

Frequency: On occasion; quarterly; semi-annually; annually.

Average Time Per Response: Varies from five minutes (.08 hour) for several provisions (e.g., maintaining an employee's exposure-monitoring or medical-surveillance record, providing information about an employee to the physician) to 1.5 hours to review and update a compliance program or administer an employee medical examination.

Estimated Total Burden Hours: 121,177.

Estimated Cost (Operation and Maintenance): $6,190,817.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (887) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21481 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0186 (2006)]

The Cadmium in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in the Cadmium in Construction Standard (29 CFR 1926.1127). This standard controls occupational exposure to cadmium, thereby preventing serious disease (e.g., lung cancer, prostate cancer, kidney disease) and death among exposed employees.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by December 27, 2005.

Facsimile and electronic transmission: Your comments must be received by December 27, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0186 (2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the final rule for the Standards

Improvement Project—Phase II (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent, and clarified or simplified regulatory language. The final rule contained several revisions to collections of information contained in the Cadmium in Construction Standard (§ 1910.1027; ''the Standard''). These revisions included: removing the word ''signed'' that appeared in paragraph (1)(10) of the Standard; and allowing employers the option of posting employee-monitoring results, or individually informing each employee of these results. These changes reduced paperwork burden hours while maintaining worker protection and improving consistency among standards.

The information collection requirements specified in the Standard protect employees from the adverse health effects that may result from their exposure to Cadmium. The major information collection requirements in the Standard include conducting employee exposure monitoring, notifying employees of their cadmium exposures, implementing a written compliance program, implementing medical surveillance of employees, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-surveillance results, maintaining employees' exposure-monitoring and medical-surveillance records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the employee who is the subject of the records, the employee's representative, and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend OMB's approval of these information collection requirements necessitated by the Cadmium in Construction Standard (29 CFR 1926.1127). The Agency will include a summary of the comments submitted in response to this notice in its request to OMB to extend the approval of these collections of information requirements.

Type of Review: Extension of currently approved information collections requirements.

Title: Cadmium in Construction Standard.

OMB Number: 1218–0186.

Affected Public: Business or other for-profits; Federal government; State, local or tribal government.

Number of Respondents: 10,000.

Frequency: On occasion; quarterly; semi-annually; annually.

Average Time Per Response: Varies from two minutes (.03 hour) for a secretary to compile and maintain training records to 1.5 hours to administer employee medical examinations.

Estimated Total Burden Hours: 39,311.

Estimated Cost (Operation and Maintenance): $1,657,460.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on October 21, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–21482 Filed 10–26–05; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Power Uprates; Notice of Meeting

The ACRS Subcommittee on Power Uprates will hold a meeting on November 15–16, 2005, Grand Ballroom at the Quality Inn and Suites, 1380 Putney Road, Brattleboro, Vermont.

The agenda for the subject meeting shall be as follows:

Tuesday, November 15, 2005—8:30 a.m. until the conclusion of business.

Wednesday, November 16, 2005—8:30 a.m. until the conclusion of business.

The Subcommittee will review the application by Entergy Nuclear Northeast (Entergy) for an extended power uprate for the Vermont Yankee Nuclear Power Station. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, their contractors, Entergy and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Ralph Caruso (Telephone: 301–415–8065) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Signs will not be permitted in the meeting room.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). 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 to the agenda.

Dated: October 21, 2005.

Michael R. Snodderly,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. E5–5961 Filed 10–26–05; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATE AND TIMES: Tuesday, November 1, 2005; 10 a.m. and 3:30 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: November 1—10 a.m. (Closed); 3:30 p.m. (Open).

Matters To Be Considered

Tuesday, November 1 at 10 a.m. (Closed)

1. Strategic Planning.
2. Financial Update.
3. Personnel Matters and Compensation Issues.
4. Rate Case Planning.
5. Pricing of International Services.

Tuesday, November 1 at 3:30 p.m. (Open)

1. Minutes of the Previous Meeting, September 26–27, 2005.
2. Remarks of the Postmaster General and CEO Jack Potter.
3. Committee Reports.
4. Quarterly Report on Service Performance.
5. Tentative Agenda for the December 6, 2005, meeting in Washington, DC.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 05–21497 Filed 10–24–05; 4:41 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 meetings during the week of October 31, 2005:

An Open Meeting will be held on Monday, October 31, 2005 at 10 a.m., in the Auditorium, Room LL–002 and Closed Meetings will be held on Monday, October 31, 2005 at 11 a.m. and Thursday, November 3 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. 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)(5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (6), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Nazareth, as duty officer, voted to consider the items listed for the closed meetings in closed session and that no earlier notice thereof was possible.

The subject matter of the Open Meeting scheduled for Monday, October 31, 2005 will be:

The Commission will hear oral argument on an appeal by Dolphin & Bradbury, Inc. (''D&B'') and its part-owner and chairman, Robert J. Bradbury (together, ''Respondents''), as well as the Division of Enforcement, from the decision of an administrative law judge. The law judge found that certain materials used by Respondents to market to investors long-term, non-taxable municipal bonds that were issued to finance the purchase of an office building and parking lot complex were materially misleading. D&B served as underwriter of the bond issue. The law judge found that, through their conduct in connection with the bond issue, Respondents willfully violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b5 thereunder, and Municipal Securities Rulemaking Board Rule G–17, and that D&B willfully violated, and Bradbury willfully aided and abetted and caused D&B's violation of, Exchange Act Section 15B(c)(1). The law judge ordered D&B and Bradbury to cease and desist from committing or causing violations of the provisions they were found to have violated; jointly and severally to disgorge $482,562.50, plus prejudgment interest; and to pay civil penalties of $400,000 and $82,000 respectively. The law judge rejected the Division's request that he create a fund for the benefit of investors into which the disgorgement and civil penalties would be paid, which is the only aspect of the decision the Division has appealed.

Among the issues likely to be argued are whether Respondents violated antifraud provisions in offering and selling the bonds, and, if so, whether and to what extent sanctions should be imposed on Respondents.

The subject matter of the Closed Meeting scheduled for Monday, October 31, 2005 will be:

Post-argument discussion.

The subject matters of the Closed Meeting scheduled for Thursday, November 3, 2005 will be:

Formal orders of private investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Amicus consideration.

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: October 24, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–21518 Filed 10–25–05; 11:25 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10212 and # 10213]

Georgia Disaster # GA–00005

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Georgia dated 10/20/2005.

Incident: Tropical Storm Tammy—Severe Storms and Flooding.

Incident Period: 10/07/2005.

Effective Date: 10/20/2005.

Physical Loan Application Deadline Date: 12/19/2005.

EIDL Loan Application Deadline Date: 07/20/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Glynn.
Contiguous Counties: Georgia:
Brantley, Camden, Mcintosh, Wayne.
The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	6.557
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10212 6 and for economic injury is 10213 0.

The States which received an EIDL Declaration # are Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 20, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–21449 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10214 and # 10215]

Kansas Disaster # KS–00006

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Kansas dated 10/20/2005.

Incident: Severe Thunderstorm, Torrential Rains & Flooding.

Incident Period: 10/01/2005 through 10/02/2005.

Effective Date: 10/20/2005.

Physical Loan Application Deadline Date: 12/19/2005.

EIDL Loan Application Deadline Date: 07/20/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Jefferson, Leavenworth.
Contiguous Counties: Kansas:
Atchison, Douglas, Jackson, Johnson, Shawnee, Wyandotte.
Missouri:
Platte.
The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	6.557
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10214 6 and for economic injury is 10215 0.

The States which received an EIDL Declaration # are Kansas and Missouri.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 20, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–21448 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10205 and # 10206]

Louisiana Disaster Number LA–00004

AGENCY: Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1607–DR), dated: 09/24/2005.

Incident: Hurricane Rita.

Incident period: 09/23/2005 and continuing.

Effective Date: 10/14/2005.

Physical Loan Application Deadline Date: 11/23/2005.

EIDL Loan Application Deadline Date: 06/26/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, Disaster Assistance Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Louisiana, dated 09/24/2005, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parish: Livingston.
Contiguous Parish: Louisiana: Saint Helena.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21444 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10205 and # 10206]

Louisiana Disaster Number LA–00004

AGENCY: Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1607–DR), dated September 24, 2005.

Incident: Hurricane Rita.

Incident Period: September 23, 2005 and continuing.

Effective Date: October 18, 2005.

Physical Loan Application Deadline Date: November 23, 2005.

EIDL Loan Application Deadline Date: June 26, 2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, Disaster Assistance Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Louisiana, dated September 24, 2005, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parish: Saint Tammany.

Contiguous Parishes/Counties:

Louisiana: Washington. Mississippi: Hancock, Pearl River.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21445 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10203 and # 10204]

Texas Disaster Number TX–00066

AGENCY: Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–1606–DR), dated September 24, 2005.

Incident: Hurricane Rita.

Incident Period: September 23, 2005, and continuing through October 14, 2005.

Effective Date: October 14, 2005.

Physical Loan Application Deadline Date: November 23, 2005.

EIDL Loan Application Deadline Date: June 26, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated September 24, 2005, is hereby amended to establish the incident period for this disaster as beginning September 23, 2005, and continuing through October 14, 2005.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21446 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10178 and # 10179]

Mississippi Disaster Number MS–00005

AGENCY: Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1604–DR), dated August 29, 2005.

Incident: Hurricane Katrina.

Incident Period: August 29, 2005 and continuing through October 14, 2005.

Effective Date: October 14, 2005.

Physical Loan Application Deadline Date: October 28, 2005.

EIDL Loan Application Deadline Date: May 29, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Assistance Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Mississippi, dated August 29, 2005, is hereby amended to establish the incident period for this disaster as beginning August 29, 2005, and continuing through October 14, 2005.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21447 Filed 10–26–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5210]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Future Leaders Exchange Civic Education Workshop

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–06–02.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: November 28, 2005.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division of the Bureau of Educational and Cultural Affairs announces an open competition to conduct the Spring 2006 Civic Education workshop for the Future Leaders Exchange (FLEX) program. Overall goals of the workshop are: (1) To expose high school students from Eurasia to Federal political processes and citizen participation in government at the national level; (2) to examine the concept of effective leadership in society through looking at positive and negative examples and role models; (3) to instill in students the importance of tolerance and respect for individual differences in a civil society; and (4) to provide students with specific tools they can take home to aid in the transformation of their home countries to democratic and civil societies. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to develop and conduct a one-week workshop in Washington, DC, in spring 2006 that focuses on the basic tenets of the Constitution and the fundamental elements of a civil society, including the relationship between the Federal government and State and local governments, and the rule of law in a civil society.

I. Funding Opportunity Description

Authority

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: This workshop is being conducted to expose approximately 110–120 high school students from Eurasia to important elements of a civil society, as described in the goals above. The recipient of the grant is responsible for developing and conducting the Civic Education workshop based on

guidelines set forth by ECA's Youth Programs Division. Workshop participants will be attending school in the United States during 2005/06 under the Division's FLEX program. They will be selected through an essay contest from among a group of 1,200 current FLEX students. Competitive proposals will demonstrate a method for substantive and specific measurement of whether the goals listed above have been achieved. The maximum grant award will be $155,000. Only one grant will be awarded. An effort should be made to maximize cost sharing through other private sector support as well as direct institutional funding contributions. Provision of cost sharing to maximize the number of participants will be looked at very favorably.

Program Information: The grantee organization will be responsible for coordinating travel arrangements for each participant from his/her host community to Washington, DC, and return, and for providing room and board for students during their time in Washington. Proposals must demonstrate flexibility and a willingness to work with the Department of State and the Bureau in arranging certain briefings and visits, as the opportunity arises.

Overview: This workshop should enable participants to learn firsthand about the federal system of government, observe government institutions, hear about and discuss issues on the federal agenda, and interact with government officials. Special attention should be paid to those issues that will be especially significant to people from the countries of Eurasia. The workshop should also provide an opportunity for participants to gain a broader understanding of democratic concepts and values that are such an integral part of American society and culture, such as citizen empowerment, volunteerism, community action, and respect and tolerance for diversity and individual differences and points of view. The program should be arranged for seven days, including arrival and departure.

The grantee organization will be provided with the names of the students who will have been chosen through the competitive essay contest conducted by another grantee organization. A group of independent, objective selectors will review the essays. Winning essays will be sent to the Civic Education grantee organization, as well.

Guidelines: The workshop should be held in late winter or early Spring 2006. Proposals must effectively describe the organization's ability to accomplish the following essential components of the program:

1. Provide a Civic Education workshop in Washington, DC, as described above and held at the time period indicated. Congress must be in session during this time. Program components should include sessions on federalism, U.S. domestic and foreign policy, the role of the media in the United States, citizen empowerment, volunteerism, community activism, and respect and tolerance for individual differences and points of view. Leadership should be a sub-theme throughout the program and should include the effective exercise of leadership in the political process.
2. Provide pre-program training for organization staff on general elements of Eurasian society and culture and how this impacts on FLEX participants.
3. Provide housing and meals for the students throughout the program.
4. Arrange travel for students from their U.S. host communities to Washington, DC and return in coordination with FLEX placement organizations. (Note: Students will likely be coming from most of the 50 states.) Provide ground transportation for students in the DC area, including to and from airports.
5. Provide opportunities to attend relevant cultural events and visit museums and monuments and use these to spark further discussion and learning.
6. Coordinate with the Bureau's Youth Programs Division (ECA/PE/C/PY) and the Department's Office of Congressional Affairs (H) in making appropriate arrangements for individual meetings for all workshop participants with their respective members of Congress (either Senator or Representative).
7. Provide staff to assist in case of medical emergencies.
8. Incorporate and describe a program component designed to facilitate students' transition from the DC program to their host communities. A portion of this component should provide students with the opportunity to demonstrate how they will share what they have learned, both in their U.S. host communities and when they return to their home countries.
9. Provide a mechanism for evaluation of the program in terms of its impact on the students and its success in fulfilling the objectives.

A competitive proposal will incorporate important elements of American culture in sessions that are largely interactive and designed to appeal to high school-age students. The program must be substantive and academic while, at the same time, be paced realistically to meet the needs of people in this age group.

Significant cost sharing is important since it will enable a greater number of students to participate. Therefore, those proposals that show more generous and creative cost sharing will be more favorably viewed. Please refer to the Program Objectives, Goals, and Implementation (POGI) section of the Solicitation Package for greater detail regarding the design of component parts as well as other program information.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: FY 06.

Approximate Total Funding: $155,000.

Approximate Number of Awards: 1.

Anticipated Award Date: Pending availability of funds, January 2006.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, the grantee organization must maintain written records to support all costs that are claimed as its contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event the grantee organization does not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. Since ECA anticipates awarding only one grant in an amount up to $155,000 to support program and administrative costs required to implement this exchange program, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Office of Citizen Exchanges, Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone (202)203–7513; fax (202)203–7529; e-mail: *BeachLF@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–06–02 located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation, including additional formatting and technical requirements. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Diana Aronson and refer to the Funding Opportunity Number ECA/PE/C/PY–06–02 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and 8 copies of the application should be sent per the instructions under IV.3e. ''Submission Dates and Times section'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing The J Visa. For informational purposes only, the Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, Fax: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about

progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.
2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

The grantee will be required to provide reports analyzing their evaluation findings to the Bureau in its regular program report. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Organizations must bid on arranging a program for a minimum of 110 students but may increase the number of participants through cost sharing the additional expenses incurred, thus maximizing cost effectiveness and optimal program planning. It is estimated that the total costs of the Civic Education workshop will average $1,300 per FLEX participant for a one-week program, including domestic travel. The award may not exceed $155,000. Your submission must include a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Please refer to the Solicitation Package for further details, including a list of allowable costs for the program.

IV.3f. Submission Dates and Times:

Application Deadline Date: Monday, November 28, 2005.

Explanation of Deadlines: Due to heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–06–02, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission, as well as the objectives of the FLEX program. Program design must reflect an understanding of young people and of cultural traits that would be specific to this population.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be

reasonable, feasible, and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should describe the impact that workshop participants will have on others, both in their U.S. host communities and in Eurasia after they return home. There should be a specific plan for providing students with tools they can take back to their Eurasian home countries to implement concepts and ideas they have gained from the workshop. Proposals also should explain how students will be prepared to transition back to their host communities.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and organizational resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

9. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application. Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants*; *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following report: A final program and financial report no more than 90 days after the expiration of the award.

As indicated above, the grantee will be required to provide reports analyzing its evaluation findings to the Bureau in its regular program report. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information).

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Diana Aronson, Office of Citizen Exchanges, Youth Programs Division, ECA/PE/C/PY, Room 568, ECA/PE/C/PY–06–02, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone—(202) 203–7501, fax—(202) 203–7529, *AronsonDS@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–06–02.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 19, 2005.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–21471 Filed 10–26–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending September 30, 2005

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2005–22568.

Date Filed: September 26, 2005.

Parties: Members of the International Air Transport Association.

Subject: TC1 Passenger Tariff Coordinating Conference Teleconference, 25–27 July 2005; TC1 Within South America Resolutions (PTC1 0331); TC1 Passenger Tariff Coordinating Conference Teleconference, 25–27 July 2005; TC1 Longhaul between USA and Chile, Panama Resolutions (PTC1 0334); Minutes: TC1 Teleconference, 25–27 July 2005 (Memo PTC1 338); Tables: TC1 Within South America specified fare table (Memo PTC1 0102); Technical Correction: TC1 Passenger Tariff Coordinating Conference Teleconference, 25–27 July 2005; TC1 Longhaul between USA and Chile, Panama (PTC0337); Intended effective date: 1 January 2006.

Docket Number: OST–2005–22595.

Date Filed: September 28, 2005.

Parties: Members of the International Air Transport Association.

Subject: TC23/123 Europe—Japan/Korea Expedited Resolution 002af (Memo 0130); rl; Intended effective date: 1 December 2005.

Docket Number: OST–2005–22598.

Date Filed: September 28, 2005.

Parties: Members of the International Air Transport Association.

Subject: TC23/TC123 Africa-TC3 Geneva & Teleconference, 12–14 September 2005; Intended effective date: 1 November 2005.

Docket Number: OST–2005–22599.

Date Filed: September 28, 2005.

Parties: Members of the International Air Transport Association.

Subject: TC23/TC123 Middle East-South Asian Subcontinent expedited reso 002am; Geneva & Teleconference, 12–14 September 2005 (Memo 0240); TC23/TC123 Middle East-South West Pacific Expedited reso 002ai; Geneva & Teleconference, 12–14 September 2005 (Memo 0241); TC23/TC123 Middle East-Japan, Korea Reso 002an; Geneva & Teleconference, 12–14 September 2005 (Memo 0242); Intended effective date: 1 November 2005.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–21453 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending September 30, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–22228, OST–2005–22577.

Date Filed: September 26, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 2005.

Description: Application of PSA Airlines, Inc. (''PSA''), in response to the Department's Notice served August 26, 2005, PSA requests parallel certificate authority for its existing exemptions to provide scheduled foreign air transportation of persons, property and mail, as well as for such authority for Open Skies markets in the Caribbean region for which it has not previously sought or obtained any authority. PSA further seeks integration authority to combine this authority with their other authorities.

Docket Number: OST–2005–22228, OST–2005–22576.

Date Filed: September 26, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 2005.

Description: Application of JetBlue Airways Corporation (''JetBlue''), requesting a certificate of public convenience and necessity to engage in foreign scheduled air transportation of persons, property and mail to Cancun, Mexico from New York, NY, including integration authority with its other and future certificate authority held by JetBlue as provided in the August 23 Notice issued in OST–2005–22228.

Docket Number: OST–2005–22228, OST–2005–22578.

Date Filed: September 26, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 2005.

Description: Application of US Airways, Inc. (''US Airways'') in response to the Department's Notice served August 26, 2005, US Airways requests parallel certificate authority for its pending and existing exemptions to provide scheduled foreign air transportation of persons, property and mail, as well as authority for Open Skies markets for which US Airways has not previously sought or obtained any authority. US Airways further seeks integration authority to combine this authority with their other authorities.

Docket Number: OST–2004–18481.

Date Filed: September 27, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 18, 2005.

Description: Amendment no. 1 of Domodedovo Airlines amending its application for a foreign air carrier permit to operate scheduled passenger and combination scheduled flights between Moscow-Domodedovo Airport, Russia (DME), and Miami, FL (MIA), commencing on or about April 1, 2006.

Docket Number: OST–1999–6323.

Date Filed: September 29, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 20, 2005.

Description: Application of United Parcel Service Co., requesting renewal and amendment of its certificate of public convenience and necessity for Route 797, authorizing UPS to provide foreign air transportation of property and mail with full traffic rights between any point or points in the United States, via any intermediate points to any point or points in China, and beyond to any points outside China, with full traffic rights between all points on the route. UPS further requests such further and different relief as the Department may deem just and necessary.

Docket Number: OST–2001–9027.

Date Filed: September 30, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 2005.

Description: Application of American Airlines, Inc., requesting renewal of the following authority in its certificate of public convenience and necessity for Route 147 authorizing scheduled foreign air transportation of persons, property, and mail.

Docket Number: OST–2001–9027.

Date Filed: September 26, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 21, 2005.

Description: Application of American Airlines, Inc., requesting renewal of its

certificate of public convenience and necessity for Route 612 authorizing scheduled foreign air transportation of persons, property, and mail between New York and Moscow.

Docket Number: OST–2005–22621.

Date Filed: September 30, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 21, 2005.

Description: Application of ASTAR Air Cargo, Inc., requesting permanent certificate authority to replace existing exemption authority over two US–Mexico routes. Specifically, ASTAR seeks an amendment to its certificate of public convenience and necessity for Route 725 to provide scheduled foreign air transportation of property and mail between El Paso, TX and Saltillo, Mexico and between San Antonio, TX and Saltillo, Mexico which corresponds to existing exemption authority granted on September 12, 2005.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–21452 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2005–60]

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: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 October 17, 2005.

Anthony F. Fazio,

Director, Office of Rulemaking.

Dispositions of Petitions

Docket No.: FAA–2005–22171.

Petitioner: Shuttle America Corporation.

Sections of 14 CFR Affected: 14 CFR 121.415(a), 121.417, and 121.421.

Description of Relief Sought/Disposition: To allow Shuttle America Corporation (SAC) and its flight attendants to count the training and experience accomplished for flight attendants on the EMB–170 while those flight attendants were employed by Chautauqua Airlines, Inc. as if that training and experience were accomplished at SAC.

Grant, 9/29/2005, Exemption No. 8642.

Docket No.: FAA–2001–9862.

Petitioner: Bright Star Aviation.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To allow Bright Star Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 9/30/2005, Exemption No. 7078C.

Docket No.: FAA–2003–16254.

Petitioner: Sunset Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To allow Sunset Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 9/30/2005, Exemption No. 8147A.

Docket No.: FAA–2005–22479.

Petitioner: Yellow Bird Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To allow Yellow Bird Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 9/30/2005, Exemption No. 8643.

Docket No.: FAA–2005–22497.

Petitioner: Omni Air International.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/Disposition: To allow Omni Air International to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.434.

Grant, 9/30/2005, Exemption No. 8644.

Docket No.: FAA–2004–18598.

Petitioner: Evergreen International Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 91.319(a) and (c).

Description of Relief Sought/Disposition: To allow Evergreen International Aviation, Inc., to operate its modified Boeing 747–200 aircraft which holds an experimental airworthiness certificate issued for the purpose of research and development, to conduct aerial liquid dispensing demonstrations for compensation or hire.

Grant, 9/30/2005, Exemption No. 8645.

Docket No.: FAA–2002–12181.

Petitioner: Atlas Air, Inc.

Section of 14 CFR Affected: 14 CFR 121.583(a)(8).

Description of Relief Sought/Disposition: To allow up to three dependents of Atlas Air, Inc., employees to be added to the list of persons specified in § 121.583(a)(8) that Atlas Air is authorized to transport without complying with certain passenger-carrying aircraft requirements in part 121.

Grant, 10/5/2005, Exemption No. 8646.

[FR Doc. 05–21464 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–13–M/P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting in preparation for the 28th session of the United Nation's Sub-Committee on Experts on the Transport of Dangerous Goods (UNSCOE) to be held November 28–

December 7, 2005 in Geneva, Switzerland.

DATES: November 16, 2005 9:30 a.m.–12:30 p.m., Room 6244.

ADDRESSES: The meeting will be held at DOT Headquarters, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Richard, Director, Office of International Standards, or Mr. Duane Pfund, Senior International Transportation Specialist, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting will be to prepare for the 28th session of the UNSCOE and to discuss draft U.S. positions on UNSCOE proposals. The 28th session of the UNSCOE is the second meeting in the current biennium cycle. The UNSCOE will consider proposals for the 5th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations. Topics to be covered during the public meetings include:

(1) Transport of compressed gases, (2) Transport of Dangerous Goods in limited and excepted quantities, (3) Requirements for Intermodal Bulk Containers (IBC), (4) Requirements for the construction and testing of packagings for Division 6.2 Infectious Substances, (5) Harmonization with the IAEA Regulations for the safe transport of radioactive materials, (6) Options to facilitate global harmonization of transport of dangerous goods regulations, (7) Miscellaneous proposals related to listing and classification and the use of packagings and tanks. The public is invited to attend without prior notification. Due to the heightened security measures participants are encouraged to arrive early to allow time for security checks necessary to obtain access to the building. In lieu of conducting a public meeting after the 28th session of the UNSCOE to present the results of the session, PHMSA will place a copy of the subcommittee's report and an updated copy of the pre-meeting summary document on PHMSA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/regs/intl/intstandards.htm*.

Documents

Copies of documents for the UNSCOE meeting and the meeting agenda may be obtained by downloading them from the United Nations Transport Division's Web site at: *http://www.unece.org/trans/main/dgdb/dgsubc/c32005.html.* This site may also be accessed through PHMSA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/regs/intl/intstandards.htm.* PHMSA's site provides additional information regarding the UNSCOE and related matters such as a summary of decisions taken at previous sessions of the UNSCOE.

Issued in Washington, DC, on October 21, 2005.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–21467 Filed 10–26–05; 8:45am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 20, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 28, 2005, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1417.

Type of Review: Extension.

Title: Indian Employment Credit.

Form: IRS form 8845.

Description: Employers can claim a credit for hiring American Indians or their spouses to work within an Indian reservation. The credit is figured by multiplying by 20% the increase in wages and health insurance costs over the comparable amount paid or incurred during calendar year 1993.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 11,314 hours.

OMB Number: 1545–1913.

Type of Review: Extension.

Title: Payment of Gift/GST Tax and/or Application for Extension of Time to File Form 709.

Form: IRS form 8892.

Description: Form 8892 was created to serve a dual purpose. First, the form enables taxpayers to request an extension of time to file 709, when they are not filing an individual income tax extension. Second, it serves as a payment voucher for taxpayers, who are filing an individual income tax extension (by Form 4868) and will have a gift tax balance due on form 709.

Respondents: Individuals and households.

Estimated Total Burden Hours: 7,400 hours.

OMB Number: 1545–1942.

Type of Review: Extension.

Title: Notice 2005–44 Charitable Contributions of Certain Motor Vehicles, Boats and Airplanes.

Description: The notice provides guidance under new section 170(f)(12) and 6720 regarding how to determine the amount of a charitable contribution for certain vehicles and the related substantiation and information reporting requirements.

Respondents: Individuals or households and Not-for-profit institutions.

Estimated Total Burden Hours: 3,041 hours.

OMB Number: 1545–1950.

Type of Review: Extension.

Title: Return by a Shareholder Making Certain Late Elections To End Treatment as a Passive Foreign Investment Company.

Form: IRS form 8621–A2.

Description: Form 8621–A is used by certain taxpayer/investors to request ending of their treatment as investing in a Passive Foreign Investment Company. News regulations are being written in support of new products. The underlying law is in IRC sections 1297 and 1298.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 65,400 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. 05–21417 Filed 10–26–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, § 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue, NW., Washington, DC, on November 1, 2005 at 3 p.m. of the following debt management advisory committee: Treasury Borrowing Advisory Committee of The Bond Market Association (''Committee'').

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, § 10(d) and Pub. L. 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, § 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Pub. L. 103–202, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions, financing estimates and technical charts. This briefing will give the press an opportunity to ask questions about financing projections and technical charts. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary. Treasury is providing less than the standard 15 days' notice of the meeting due to an unusual administrative error.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Jeff Huther, Director, Office of Debt Management, at (202) 622–1868.

Dated: October 21, 2005.

Timothy Bitsberger,

Assistant Secretary, Financial Markets.

[FR Doc. 05–21420 Filed 10–26–05; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Council to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Thursday, November 17, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL, Room 7559 IR, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–622–6440 (not a toll-free number). E-mail address: *public_liaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRSAC will be held on Thursday, November 17, 2005, from 9 a.m. to 1 p.m. in Room 3313, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed include: Redesigned Notices and Postage Reduction, Strengthening EITC Compliance and Outreach, Employment Tax Pyramiding, E-services for Reporting Agencies, Tax Shelter Strategy, and Focus on Mid-Market Taxpayer Compliance. Reports from the three IRSAC sub-groups: Large and Mid-size Business; Small Business/Self-Employed; and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRSAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–622–6440. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building. Should you wish the IRSAC to consider a written statement, please call 202–622–6440, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:P, 1111 Constitution Avenue, NW., Room 7559 IR, Washington, DC 20224 or e-mail: *public_liaison@irs.gov.*

Dated: October 21, 2005.

J. Chris Neighbor,

Designated Federal Official, Branch Chief, Liaison/Tax Forum Branch.

[FR Doc. E5–5968 Filed 10–26–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8874

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning Form 8874, New Markets Credit.

DATES: Written comments should be received on or before December 27, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3945, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: New Markets Credit.

OMB Number: 1545–1804.

Form Number: Form 8874.

Abstract: Investors to claim a credit for equity investments made in Qualified Community Development Entities use Form 8874.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 8 hours, 76 minutes.

Estimated Total Annual Burden Hours: 87,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 20, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–5956 Filed 10–26–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2005–50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Rev. Proc. 2005–50, Automatic Consent for Eligible Educational Institution to Change Reporting Methods.

DATES: Written comments should be received on or before December 27, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent for Eligible Educational Institution to Change Reporting Methods.

OMB Number: 1545–1952.

Form Number: Rev. Proc 2005–50.

Abstract: This revenue procedure prescribes how an eligible educational institution may obtain automatic consent from the Service to change its method of reporting under section 6050S of the Code and the Income Tax Regulations.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time Per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 19, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–5957 Filed 10–26–05; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
October 27, 2005

Part II

The President

Executive Order 13388—Further Strengthening the Sharing of Terrorism Information To Protect Americans

Notice of October 25, 2005—Continuation of National Emergency Regarding the Proliferation of Weapons of Mass Destruction

Federal Register
Vol. 70, No. 207
Thursday, October 27, 2005

Presidential Documents

Title 3—

The President

Executive Order 13388 of October 25, 2005

Further Strengthening the Sharing of Terrorism Information To Protect Americans

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and in order to further strengthen the effective conduct of United States counterterrorism activities and protect the territory, people, and interests of the United States of America, including against terrorist attacks, it is hereby ordered as follows:

Section 1. *Policy.* To the maximum extent consistent with applicable law, agencies shall, in the design and use of information systems and in the dissemination of information among agencies:

(a) give the highest priority to (i) the detection, prevention, disruption, preemption, and mitigation of the effects of terrorist activities against the territory, people, and interests of the United States of America; (ii) the interchange of terrorism information among agencies; (iii) the interchange of terrorism information between agencies and appropriate authorities of State, local, and tribal governments, and between agencies and appropriate private sector entities; and (iv) the protection of the ability of agencies to acquire additional such information; and

(b) protect the freedom, information privacy, and other legal rights of Americans in the conduct of activities implementing subsection (a).

Sec. 2. *Duties of Heads of Agencies Possessing or Acquiring Terrorism Information.* To implement the policy set forth in section 1 of this order, the head of each agency that possesses or acquires terrorism information:

(a) shall promptly give access to the terrorism information to the head of each other agency that has counterterrorism functions, and provide the terrorism information to each such agency, unless otherwise directed by the President, and consistent with (i) the statutory responsibilities of the agencies providing and receiving the information; (ii) any guidance issued by the Attorney General to fulfill the policy set forth in subsection 1(b) of this order; and (iii) other applicable law, including sections 102A(g) and (i) of the National Security Act of 1947, section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (including any policies, procedures, guidelines, rules, and standards issued pursuant thereto), sections 202 and 892 of the Homeland Security Act of 2002, Executive Order 12958 of April 17, 1995, as amended, and Executive Order 13311 of July 29, 2003; and

(b) shall cooperate in and facilitate production of reports based on terrorism information with contents and formats that permit dissemination that maximizes the utility of the information in protecting the territory, people, and interests of the United States.

Sec. 3. *Preparing Terrorism Information for Maximum Distribution.* To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the common standards for the sharing of terrorism information established pursuant to section 3 of Executive Order 13356 of August 27, 2004, shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 4. *Requirements for Collection of Terrorism Information Inside the United States.* To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the recommendations regarding the establishment of executive branch-wide collection and sharing requirements, procedures, and guidelines for terrorism information collected within the United States made pursuant to section 4 of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 5. *Establishment and Functions of Information Sharing Council.* (a) Consistent with section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004, there is hereby established an Information Sharing Council (Council), chaired by the Program Manager to whom section 1016 of such Act refers, and composed exclusively of designees of: the Secretaries of State, the Treasury, Defense, Commerce, Energy, and Homeland Security; the Attorney General; the Director of National Intelligence; the Director of the Central Intelligence Agency; the Director of the Office of Management and Budget; the Director of the Federal Bureau of Investigation; the Director of the National Counterterrorism Center; and such other heads of departments or agencies as the Director of National Intelligence may designate.

(b) The mission of the Council is to (i) provide advice and information concerning the establishment of an interoperable terrorism information sharing environment to facilitate automated sharing of terrorism information among appropriate agencies to implement the policy set forth in section 1 of this order; and (ii) perform the duties set forth in section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004.

(c) To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the plan for establishment of a proposed interoperable terrorism information sharing environment reported under section 5(c) of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 6. *Definitions.* As used in this order:

(a) the term ''agency'' has the meaning set forth for the term ''executive agency'' in section 105 of title 5, United States Code, together with the Department of Homeland Security, but includes the Postal Rate Commission and the United States Postal Service and excludes the Government Accountability Office; and

(b) the term ''terrorism information'' has the meaning set forth for such term in section 1016(a)(4) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 7. *General Provisions.* (a) This order:

(i) shall be implemented in a manner consistent with applicable law, including Federal law protecting the information privacy and other legal rights of Americans, and subject to the availability of appropriations;

(ii) shall be implemented in a manner consistent with the authority of the principal officers of agencies as heads of their respective agencies, including under section 199 of the Revised Statutes (22 U.S.C. 2651), section 201 of the Department of Energy Organization Act (42 U.S.C. 7131), section 103 of the National Security Act of 1947 (50 U.S.C. 403–3), section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 1501 of title 15, 503 of title 28, and 301(b) of title 31, United States Code;

(iii) shall be implemented consistent with the Presidential Memorandum of June 2, 2005, on ''Strengthening Information Sharing, Access, and Integration—Organizational, Management, and Policy Development Structures for Creating the Terrorism Information Sharing Environment;''

(iv) shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals; and

(v) shall be implemented in a manner consistent with section 102A of the National Security Act of 1947.

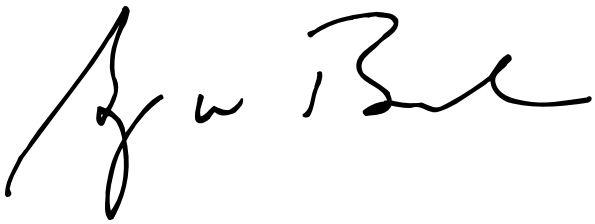
(b) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

Sec. 8. *Amendments and Revocation.* (a) Executive Order 13311 of July 29, 2003, is amended:

(i) by striking ''Director of Central Intelligence'' each place it appears and inserting in lieu thereof in each such place ''Director of National Intelligence''; and

(ii) by striking ''103(c)(7)'' and inserting in lieu thereof ''102A(i)(1)''.

(b) Executive Order 13356 of August 27, 2004, is hereby revoked.



THE WHITE HOUSE,
October 25, 2005.

[FR Doc. 05–21571
Filed 10–26–05; 8:45 am]
Billing code 3195–01–P

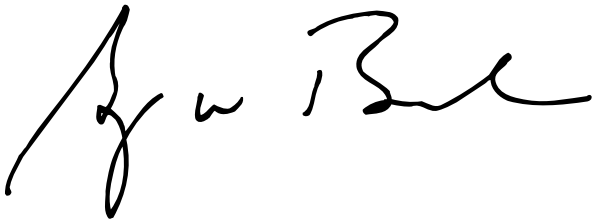
Presidential Documents

Notice of October 25, 2005

Continuation of National Emergency Regarding the Proliferation of Weapons of Mass Destruction

On November 14, 1994, by Executive Order 12938, President Clinton declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons. On July 28, 1998, the President issued Executive Order 13094 amending Executive Order 12938 to respond more effectively to the worldwide threat of weapons of mass destruction proliferation activities. On June 28, 2005, I issued Executive Order 13382 which, *inter alia*, further amended Executive Order 12938 to improve our ability to combat proliferation. Because the proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency first declared on November 14, 1994, must continue in effect beyond November 14, 2005. In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 12938, as amended.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
October 25, 2005.

[FR Doc. 05–21572
Filed 10–26–05; 8:45 am]
Billing code 3195–01–P

Federal Register

Thursday,
October 27, 2005

Part III

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: The 2006 Critical Use Exemption From the Phaseout of Methyl Bromide; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7990–1]

RIN 2060–AN18

Protection of Stratospheric Ozone: The 2006 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing an exemption to the phaseout of methyl bromide production and import for 2006 critical uses. Specifically, EPA is proposing uses that will qualify for the 2006 critical use exemption, and the amount of methyl bromide that may be produced, imported, or made available from stocks for those uses in 2006. EPA's action is taken under the authority of the Clean Air Act and reflects recent consensus Decisions taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) at the 16th Meeting of the Parties (MOP) and the 2nd Extraordinary Meeting of the Parties (ExMOP). EPA is seeking comment on both the list of critical uses, and on EPA's determination of the amounts of methyl bromide needed to satisfy those uses.

DATES: Written comments on this proposed rule must be received on or before November 28, 2005, except as otherwise noted in this paragraph. Any party requesting a public hearing must notify the contact person listed below by 5 p.m. Eastern Standard Time on November 7, 2005. If a hearing is requested it will be held on November 14, 2005. If a hearing is held, any party may submit follow-up comments in the form of rebuttal or supplementary information, but such comments must be received on or before December 12, 2005. Persons interested in attending a public hearing should consult with the contact person below regarding the location and time of the hearing. Whether or not a hearing is held, if data relevant to the critical use exemption level is received on or before November 28, 2005, any party may submit follow-up comments regarding such data, but such comments must be received on or before December 12, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in Edocket (RME) ID No. OAR–2005–0122, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
3. E-mail: *A-and-R-docket@epa.gov.*
4. Fax: (202) 343–2337, attn: Marta Montoro.
5. Mail: ''OAR–2005–0122'', Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
6. Hand Delivery or Courier. Deliver your comments to: EPA Air Docket, EPA West, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460. 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 OAR–2005–0122. 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.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, 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 docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility 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 Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Marta Montoro by telephone at (202) 343–9321, or by e-mail at *mebr.allocation@epa.gov* or by mail at Marta Montoro, U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at *http://www.epa.gov/ozone* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION: This proposed rule concerns Clean Air Act restrictions on the consumption, production and on the use of methyl bromide (class I, Group VI controlled substance) for critical uses during the calendar year of 2006. Under the Clean Air Act, methyl bromide consumption and production was phased out on January 1, 2005 apart from allowable exemptions, namely the critical use exemption and the quarantine and pre-shipment exemption. With today's action, EPA is proposing and seeking comment on the uses that will qualify for the 2006 critical use exemption, as well as specific amounts of methyl bromide that may be produced, imported, or made available from stocks for proposed critical uses in 2006.

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I. General Information

A. Regulated Entities

Entities potentially regulated by this proposed action are those associated with the production, import, export, sale, application and use of methyl bromide covered by an approved critical use exemption. Potentially regulated categories and entities include:

Category	Examples of regulated entities
Industry	Producers, Importers and Exporters of methyl bromide; Applicators, Distributors of methyl bromide; Users of methyl bromide, *e.g.* farmers of vegetable crops, fruits and seedlings; and owners of stored food commodities and structures such as grain mills and processors, Government and non-government researchers.

The above table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is aware could potentially be regulated by this proposed action. To determine whether your facility, company, business, or organization is regulated by this proposed action, you should carefully examine the regulations promulgated at 40 CFR 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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 the Office of Air and Radiation Docket & Information Center, Electronic Air Docket ID No. OAR–2005–0122. 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 EPA West, 1301 Constitution Ave. NW., Room B108, Mail Code 6102T, Washington, DC 20460, Phone: (202) 566–1742, Fax: (202) 566–1741. The materials may be inspected from 8:30 a.m. until 4:30 p.m. Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying docket materials.

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. EPA prefers that you use the electronic EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments and access the index listing of the contents of the official public docket. To locate the docket on EPA's docket Web site, select ''search,'' then key in the appropriate docket identification number, in this case OAR–2005–0122.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information (CBI) and other information whose disclosure is restricted by statute, will not be included in the official public docket and 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. 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 B.

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.

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.

II. What Is the Background to the Phaseout Regulations for Ozone-Depleting Substances?

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone depleting substances can be found at 40 CFR part 82 subpart A. The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing and subsequent ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The U.S. was one of the original signatories

to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 12, 1988. Congress then enacted, and President George H.W. Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990) which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Protocol. EPA issued new regulations to implement this legislation and has made several amendments to the regulations since that time.

III. What Is Methyl Bromide?

Methyl bromide is an odorless, colorless, toxic gas which is used as a broad-spectrum pesticide and is controlled under the CAA as a Class I ozone depleting substance (ODS). Methyl bromide is used in the U.S. and throughout the world as a fumigant to control a wide variety of pests such as insects, weeds, rodents, pathogens, and nematodes. Additional characteristics and details about the uses of methyl bromide can be found in the proposed rule on the phaseout schedule for methyl bromide published in the **Federal Register** on March 18, 1993 (58 FR 15014) and the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018).

The phaseout schedule for methyl bromide production and consumption was revised in a direct final rulemaking on November 28, 2000 (65 FR 70795), which allowed for the phased reduction in methyl bromide consumption and extended the phaseout to 2005. The revised phaseout schedule was again amended to allow for an exemption for quarantine and preshipment purposes on July 19, 2001 (66 FR 37751) with an interim final rule and with a final rule (68 FR 238) on January 2, 2003. Information on methyl bromide can be found at the following sites of the World Wide Web: *http://www.epa.gov/ozone/mbr* and *http://www.unep.org/ozone* or by contacting the Stratospheric Ozone Hotline at 1–800–296–1996.

Because it is a pesticide, methyl bromide is also regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and other statutes and regulatory authority, as well as by States under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide. Because of this status, a restricted use pesticide is subject to certain Federal and State requirements governing its sale, distribution, and use. Nothing in this final rule implementing the Clean Air Act is intended to derogate from provisions in any other Federal, State, or local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide. All entities that would be affected by provisions of this rule must continue to comply with FIFRA and other pertinent statutory and regulatory requirements for pesticides (including, but not limited to, requirements pertaining to restricted use pesticides) when importing, exporting, acquiring, selling, distributing, transferring, or using methyl bromide for critical uses. The regulations in today's action are intended only to implement the CAA restrictions on the production, consumption and use of methyl bromide for critical uses exempted from the phaseout of methyl bromide.

IV. What Is the Legal Authority for Exempting the Production and Import of Methyl Bromide for Critical Uses Authorized by the Parties to the Montreal Protocol?

Methyl bromide was added to the Protocol as an ozone depleting substance in 1992 through the Copenhagen amendment to the Protocol. The Parties authorize critical use exemptions through their Decisions.

The Parties agreed that each industrialized country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing a freeze in the level of methyl bromide production and consumption for industrialized countries. EPA published a final rule in the **Federal Register** on December 10, 1993 (58 FR 65018), listing methyl bromide as a class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 level, and, in Section 82.7 of the rule, setting forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until the year 2001, when the complete phaseout would occur (58 FR 65018). This phaseout date was established in response to a petition filed in 1991 under sections 602(c)(3) and 606(b) of the CAA of 1990, requesting that EPA list methyl bromide as a class I substance and phase out its production and consumption. This date was consistent with section 602(d) of the CAA of 1990, which for newly listed class I ozone-depleting substances provides that ''no extension [of the phaseout schedule in section 604] under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.'' EPA based its action on scientific assessments and actions by the Parties to the Montreal Protocol to freeze the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting of the Parties on Copenhagen.

At their 1995 meeting, the Parties made adjustments to the methyl bromide control measures and agreed to reduction steps and a 2010 phaseout date for industrialized countries with exemptions permitted for critical uses. At that time, the U.S. continued to have a 2001 phaseout date in accordance with the CAA of 1990 language. At their 1997 meeting, the Parties agreed to further adjustments to the phaseout schedule for methyl bromide in industrialized countries, with reduction steps leading to a 2005 phaseout for industrialized countries. In October 1998, the U.S. Congress amended the CAA to prohibit the termination of production of methyl bromide prior to January 1, 2005, to require EPA to bring the U.S. phaseout of methyl bromide in line with the schedule specified under the Protocol, and to authorize EPA to provide exemptions for critical uses. These amendments were contained in Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, October 21, 1998) and were codified in Section 604 of the CAA, 42 U.S.C. 7671c. On November 28, 2000, EPA issued regulations to amend the phaseout schedule for methyl bromide and extend the complete phaseout of production and consumption to 2005 (65 FR 70795).

On December 23, 2004 (69 FR 76982), EPA published a final rule in the **Federal Register** that established the framework for the critical use exemption; set forth a list of approved critical uses for 2005; and specified the amount of methyl bromide that could be supplied in 2005 from available stocks and new production or import to meet approved critical uses. Today, EPA is proposing the uses that will qualify as approved critical uses in 2006 and the amount of the 2006 critical use exemption.

Today's proposed action reflects Decision XVI/2, taken at the Parties' Sixteenth Meeting in November 2004; and Decision Ex.II/I, taken at the Second Extraordinary Meeting of the Parties in July 2005. In accordance with Article 2H(5), the Parties have issued several Decisions pertaining to the critical use exemption. These include Decision IX/6, which sets forth criteria for review of proposed critical uses; Decision XVI/2, which approved a portion of the 2006 nominated amounts and critical-use

categories; and Decision Ex.II/I, which approved another portion of the 2006 nominated amounts for critical-use categories. For a discussion of the relationship between the relevant provisions of the CAA and Article 2H of the Protocol, and the extent to which EPA takes into account Decisions of the Parties that interpret Article 2H, refer to the December 23, 2004 FR notice (69 FR 76984–76985). Briefly, EPA regards Decisions IX/6, XVI/2, and Decision Ex.II/1 as subsequent consensus agreements of the Parties that address the interpretation and application of the critical use provision in Article 2H(5) of the Protocol. In today's action, EPA is following the terms of these Decisions. This will ensure consistency with the Montreal Protocol and satisfy the requirements of Section 604(d)(6) and Section 614(b) of the Clean Air Act.

In Decision XVI/2, taken in November 2004, the Parties to the Protocol agreed as follows: ''for the agreed critical-use categories for 2006, set forth in section IIA to the annex to the present decision for each Party, to permit, subject to the conditions set forth in decision Ex.I/4, to the extent those conditions are applicable, the levels of production and consumption for 2006 set forth in section IIB to the annex to the present decision which are necessary to satisfy critical uses, with the understanding that additional levels of production and consumption and categories of uses may be approved by the Meeting of the Parties to the Montreal Protocol in accordance with decision IX/6.'' Section IIA of the Annex to Decision XVI/2 lists the following critical use categories for the U.S.: Cucurbits—field; dried fruit and nuts; forest nursery seedlings; nursery stock—fruit trees, raspberries, roses; strawberry runners; turfgrass; dry commodities cocoa beans; dry commodities/structures; eggplant field; mills and processors; peppers field; strawberry fruit field; tomato field; and orchard replant with a total agreed critical-use level of 6,897,680 kilograms, which is equivalent to 27% of the U.S. 1991 methyl bromide consumption baseline.

In Decision Ex.II/1, taken in July 2005, the Parties to the Protocol agreed as follows: ''for the agreed critical uses for 2006, set forth in table A of the annex to the present decision, to permit, subject to the conditions set forth in the present decision and in decision Ex. I/4, to the extent those conditions are applicable, the supplementary levels of production and consumption for 2006 set forth in table B of the annex to the present decision which are necessary to satisfy critical uses, with the understanding that additional levels and categories of uses may be approved by the Seventeenth Meeting of the Parties in accordance with decision IX/6.'' Table A of the Annex to Decision Ex.II/1 lists the following critical use categories for the U.S.: Ornamentals; dry-cured ham; dry commodities/structures (cocoa beans); dry commodities/structures (processed foods, herbs and spices, dried milk and cheese processing facilities); eggplant—field, for research only; mills and processors; peppers—field; strawberry fruit—field; tomato—field with a total agreed critical-use level of 1,117,003 kilograms, which is equivalent to 5% of the U.S. 1991 methyl bromide consumption baseline. When combined, the agreed critical-use levels for 2006 from Decision XVI/2 and from Decision Ex.II/1 total 8,074,683 kilograms, which is equivalent to 32% of the U.S. 1991 methyl bromide consumption baseline. Based, in part, on the applications underlying the U.S. 2006 nomination, the extensive review of those applications culminating in the preparation of that nomination, and the Decisions noted above, EPA is proposing to modify Columns B and C of Appendix L to 40 CFR part 82, subpart A to reflect agreed critical-use categories, locations of use, and limiting critical conditions applicable for the 2006 control period.

The question of whether, and to what extent, EPA should adjust the total critical use level agreed by the Parties for 2006 is addressed in Section E below. The question of what amount of the total should come from new production or import, and what amount should come from pre-phaseout inventories, is addressed in Section F below. For the reasons given in those sections, and based, in part, on the applications underlying the U.S. 2006 nomination, the extensive review of those applications culminating in the preparation of that nomination, and the Decisions noted above, EPA is proposing to modify the table in 40 CFR 82.8 to reflect the amount of methyl bromide that may be produced or imported, and sold from pre-phaseout inventories, for the 2006 control period.

V. What Is the Critical Use Exemption Process?

A. Background of the Process

Starting in 2002, EPA began notifying applicants as to the availability of an application process for a critical use exemption to the methyl bromide phaseout. On May 23, 2005, the Agency published a notice in the **Federal Register** (68 FR 24737) announcing the deadline to apply, and directing applicants to announcements posted on EPA's methyl bromide Web site at *http://www.epa.gov/ozone/mbr.* Applicants were told they may apply as individuals or as part of a group of users (a ''consortium'') who face the same limiting critical conditions (*i.e.,* specific conditions which establish a critical need for methyl bromide). This process has been repeated on an annual basis since then. The critical use exemption is designed to meet the needs of methyl bromide users who do not have technically and economically feasible alternatives available to them.

The criteria for the exemption are delineated in Decision IX/6 of the Parties to the Protocol. In that Decision, the Parties agreed that ''a use of methyl bromide should qualify as 'critical' only if the nominating Party determines that: (i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and (ii) there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and public health and are suitable to the crops and circumstances of the nomination.''

In response to the yearly requests for critical use exemption applications published in the **Federal Register**, applicants have provided information supporting their position that they have no technically and economically feasible alternatives to methyl bromide available to them. Applicants for the exemption have submitted information on their use of methyl bromide, on research into the use of alternatives to methyl bromide, on efforts to minimize use of methyl bromide and efforts to reduce emissions and on the specific technical and economic research results of testing alternatives to methyl bromide.

EPA's December 23, 2004, regulation describing the operational framework for the critical use exemption (69 FR 76982) established the majority of critical uses for the 2005 calendar. Today's action proposes exemptions for 2006 reflecting information that the U.S. Government submitted to the Protocol's Ozone Secretariat in its annual Nomination submission in February 2004, as approved by the Parties in July 2005. For each exemption period, EPA provides an opportunity such as this for comment on the amounts of methyl bromide that may be supplied under the critical use exemption and the end uses that may obtain this critical use methyl bromide.

The domestic review process is discussed in detail in a memo titled

''Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America'' on EDOCKET OAR–2005–0122. Briefly, the U.S. Government reviews applications using the criteria in Decision IX/6 and creates a package for submission to the Ozone Secretariat of the Protocol (the ''critical use nomination'' or CUN). The CUNs of various countries are then reviewed by the Methyl Bromide Technical Options Committee (MBTOC) and the Technical and Economic Assessment Panel (TEAP), which are independent advisory bodies to the Parties. These bodies make recommendations to the Parties regarding the nominations.

On February 7, 2004, the U.S. Government submitted the second U.S. Nomination for a Critical Use Exemption for Methyl Bromide to the Ozone Secretariat of the United Nations Environment Programme. This second nomination contained a supplemental request for critical methyl bromide for 2005 and the initial request for 2006. In June 2004, MBTOC sent questions to the U.S. Government concerning technical and economic issues in the nomination. The U.S. Government's response was transmitted on August 12, 2004. The U.S. submitted a revised request in conjunction with ''The U.S. Nomination for Critical Uses for Methyl Bromide in 2007 and Beyond.'' This revised request was for an additional amount of 622,053 kilograms of methyl bromide for a total of 2,844,985 kilograms of methyl bromide for the year 2006. This revised request was included in the U.S. rebuttal to MBTOC's recommendation issued in its October 2004 report. These documents, together with reports by the advisory bodies noted above, can be accessed on EDOCKET OAR–2005–0122.

B. How Does This Proposed Rulemaking Relate to Previous Rulemakings Regarding the Critical Use Exemption?

On December 23, 2004, EPA published in the **Federal Register** a Final Rule entitled, ''Protection of Stratospheric Ozone: Process for Exempting Critical Uses From the Phaseout of Methyl Bromide'' (the ''Framework Rule'') (69 FR 76982). That rule established the framework for the critical use exemption in the U.S, including trading provisions and recordkeeping and reporting obligations.

The Framework Rule defines the terms ''critical use allowances'' (CUAs) and ''critical stock allowances'' (CSAs) at 40 CFR 82.3. Each allowance represents the right to produce or import, or to sell from inventory, respectively, one kilogram of methyl bromide to an approved critical use. For example, a distributor with 100 CSAs may sell 100 kilograms of stockpiled pre-phaseout methyl bromide to an approved critical use. Today's action proposes the uses that will qualify as approved critical uses for 2006 and the amount of CUAs and CSAs to be allocated for those uses. In the future, EPA will continue to undertake rulemakings that address both the approved critical uses and the amounts of methyl bromide to be allocated for critical uses in specific exemption periods.

On August 30, 2005, EPA published a direct final rule and concurrent proposal relating to supplemental critical use exemptions for 2005 (70 FR 51270). These recent notices in the **Federal Register** would establish three (3) additional uses as qualifying for the critical use exemption and permit access to critical use methyl bromide for those uses in 2005. These notices would also allocate additional CSAs for supplementary amounts of critical use methyl bromide in 2005. The additional allocations for 2005 would supplement the CUAs and CSAs previously allocated for 2005 in the **Federal Register** on December 23, 2004 (69 FR 76982). In today's proposed action, the Agency is proposing: (1) To establish the list of uses that qualify for the critical use exemption in 2006; and (2) to specify the amounts of methyl bromide that may be produced or imported, or supplied from pre-phaseout inventories, for those uses in 2006. EPA seeks comment on the proposed 2006 critical uses and the amount of methyl bromide the Agency has determined to be necessary to satisfy those uses. For detailed technical and economic information on the critical uses and the U.S. Government's justifications for why there is a critical need for exempted methyl bromide, the Agency refers commenters to the E-Docket where the U.S. nominations and additional information in the form of responses to MBTOC are available. The 2004 U.S. nomination can be found at EDOCKET OAR–2003–0017 and EDOCKET OAR–2005–0122. These are the technical documents which are the basis for the Parties' authorization of critical uses and permitted exempt production and import and which form part of the basis for this rulemaking. Reports by the Protocol's advisory bodies, the MBTOC and TEAP, as well as questions to the U.S. from MBTOC, are also available in EDOCKET OAR–2005–0122.

C. What Are the Proposed Critical Uses?

In Decision XVI/2, taken in November 2004, the Parties to the Protocol agreed as follows: ''for the agreed critical-use categories for 2006, set forth in section IIA to the annex to the present decision for each Party, to permit, subject to the conditions set forth in decision Ex.I/4, to the extent those conditions are applicable, the levels of production and consumption for 2006 set forth in section IIB to the annex to the present decision which are necessary to satisfy critical uses, with the understanding that additional levels of production and consumption and categories of uses may be approved by the Meeting of the Parties to the Montreal Protocol in accordance with decision IX/6.'' Section IIA of the Annex to Decision XVI/2 lists the following critical use categories for the U.S.: Cucurbits—field; dried fruit and nuts; forest nursery seedlings; nursery stock—fruit trees, raspberries, roses; strawberry runners; turfgrass; dry commodities cocoa beans; dry commodities/structures; eggplant field; mills and processors; peppers field; strawberry fruit field; tomato field; and orchard replant with a total agreed critical-use level of 6,897,680 kilograms, which is equivalent to 27% of the U.S. 1991 methyl bromide consumption baseline.

In Decision Ex.II/1, taken in July 2005, the Parties to the Protocol agreed as follows: ''for the agreed critical uses for 2006, set forth in table A of the annex to the present decision, to permit, subject to the conditions set forth in the present decision and in decision Ex. I/4, to the extent those conditions are applicable, the supplementary levels of production and consumption for 2006 set forth in table B of the annex to the present decision which are necessary to satisfy critical uses, with the understanding that additional levels and categories of uses may be approved by the Seventeenth Meeting of the Parties in accordance with decision IX/6.'' Table A of the Annex to Decision Ex.II/1 lists the following critical use categories for the U.S.: Ornamentals; dry-cured ham; dry commodities/structures (cocoa beans); dry commodities/structures (processed foods, herbs and spices, dried milk and cheese processing facilities); eggplant—field, for research only; mills and processors; peppers—field; strawberry fruit—field; tomato—field with a total agreed critical-use level of 1,117,003 kilograms, which is equivalent to 5% of the U.S. 1991 methyl bromide consumption baseline. When combined, the agreed critical-use levels for 2006 from Decision XVI/2 and from Decision

Ex.II/1 total 8,074,683 kilograms, which is equivalent to 32% of the U.S. 1991 methyl bromide consumption baseline. Based, in part, on the applications underlying the U.S. 2006 nomination, the extensive review of those applications culminating in the preparation of that nomination, and the Decisions noted above, EPA is proposing to modify Columns B and C of Appendix L to 40 CFR part 82, subpart A to reflect agreed critical-use categories.

Under the December 23, 2004, Framework Rule (69 FR 76982), an approved critical user may obtain access to exempted production/import and limited inventories of pre-phaseout methyl bromide stocks, the combination of which constitute the supply of ''critical use methyl bromide'' intended to meet the needs of agreed critical uses.

As set out in the Framework Rule, an approved critical user is a self-identified entity who meets the following requirements:

(1) For the applicable control period, applied to EPA for a critical use exemption or is a member of a consortium that applied to EPA for a critical use exemption for a use and location of use that was included in the U.S. nomination, authorized by a Decision of the Parties to the Montreal Protocol, and then finally determined by EPA in a notice-and-comment rulemaking to be an approved critical use, and

(2) Has an area in the applicable location of use that requires methyl bromide fumigation because the person reasonably expects that the area will be subject to a limiting critical condition (LCC) during the applicable control period.

Using these criteria, an approved critical user could be a tomato farmer in Florida whose farm is over karst topography but would not include a tomato farmer in Oklahoma even if he too has a farm over karst topography because no exemption application was filed on behalf of Oklahoma tomato farmers. Similarly, a Florida tomato farmer who did not have a field with karst topography, or one of the other limiting critical conditions specified in this rule, would not be an approved critical user because the circumstance of the use is not an approved critical use.

A ''limiting critical condition'' is the basis on which the critical need for methyl bromide is demonstrated and authorized. It is defined as ''the regulatory, technical, and economic circumstances * * * that establish conditions of critical use of methyl bromide in a fumigation area.'' 40 CFR 82.3. The limiting critical condition placed on a use category reflects certain regulatory, technical, or economic factors that either prohibit the use of alternatives or represent the lack of a technically or economically feasible alternative for that use or circumstance. For example, EPA may determine that a critical use exemption for tomatoes is only necessary for areas of tomato production in karst topography even if the EPA received applications for all of U.S. fresh market tomato production. In this example, not all tomato growers would be eligible to acquire exempted critical use methyl bromide. Only those growers with production in an area with the limiting critical condition of karst topography would have access to the methyl bromide under the critical use exemption. Another example is as follows: EPA received applications for exemptions for all U.S. grain milling companies that are members of the North American Milling Association (NAMA). The Parties authorized the exemption because grain milling companies have a critical need for methyl bromide because the alternatives can not be used, in part, due to corrosivity to electronic equipment. Thus, one of the limiting critical conditions for this critical use category is the presence of sensitive electronic equipment subject to corrosivity from fumigation with the alternative. All grain mills that are members of NAMA that have sensitive electronic equipment would be eligible to acquire and use critical use methyl bromide.

EPA is proposing the critical uses for the year 2006 as well as the conditions that make these uses ''critical'' based on EPA's assessment of the technical and economic feasibility of alternatives and the potential for a significant market disruption if methyl bromide were not available for the uses proposed for 2006. This proposal is based on the information submitted by CUE applicants, as well as public and proprietary data sources. The CUE applications (except to the extent claimed confidential), the U.S. nomination, the questions and answers between the MBTOC and the U.S. Government about the nomination, and procedural memos are all available on EDOCKET OAR–2005–0122. Data submitted by the CUE applicants served as a basis for the nomination. EPA and other government experts also sought data from multiple other sources, including but not limited to the National Agricultural Statistics Service of the U.S. Department of Agriculture, the State of California Department of Pesticide Regulation, and proprietary agricultural databases available to EPA. All of the CUE applications underwent a rigorous review by highly qualified technical experts. A detailed explanation of the nomination process, including the criteria used by expert reviewers, is available in a memo titled ''2003 Nomination Process'' on EDOCKET OAR–2005–0122. The memo was originally written to describe the process leading to the 2005 critical use exemption rules, but is applicable generally to the process leading to today's action.

The U.S. Government, in developing the nomination, defined the limiting critical conditions for which exempted methyl bromide was being sought. The U.S. Government used the information referenced above to determine if (a) the lack of availability of methyl bromide for a particular use would result in significant market disruption, and (b) if there were any technically and economically feasible methyl bromide substitutes available to the user. The analysis was described in the U.S. nomination of critical uses. The nomination was then sent to the Parties to the Protocol, and the Parties used the information in the nomination and the report from the MBTOC, that was based in part on the iterative exchange of questions and answers with the U.S. Government, as the basis for the Decisions which authorized critical uses.

Based on the information described above, EPA determined that the uses in Table I, with the limiting critical conditions specified, qualify to obtain and use critical use methyl bromide in 2006. However, as discussed in Section E, some of the circumstances for some of the critical use categories have changed due to recent registrations of an alternative and therefore EPA is proposing a decrease in the total CUE level for 2006. EPA welcomes submissions of additional information regarding substitutes and alternatives for any of the uses in the Table I below. EPA wishes to note that while we may, in response to comments, reduce the quantities of critical use methyl bromide, or the types of critical uses, compared to what has been authorized by the Parties, EPA will not increase the quantities, or types, beyond those authorized by the Parties.

EPA proposes, based on the determination described in the U.S. nomination and its supporting documents, that users who are in a specific geographic location, identified below, or who are members of a specific industry consortium, identified below, or companies specifically identified below, are approved critical users

provided that such users are subject to the specified limiting critical condition.

EPA notes the reference to emission minimization techniques in paragraph 6 of Decision Ex.II/1 and urges the proposed users listed in Table I. below to use ''emission minimization techniques such as virtually impermeable films, barrier film technologies, deep shank injection and/or other techniques that promote environmental protection, whenever technically and economically feasible.'' Users of methyl bromide should make every effort to decrease overall emissions of methyl bromide by implementing measures such as the ones listed in the previous sentence, to the extent consistent with state and local laws and regulations. In addition, research is being conducted on the potential to reduce rates and emissions using high-barrier films.

TABLE I.—APPROVED CRITICAL USES

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
PRE-PLANT USES		
Cucurbits	(a) Michigan growers	With a reasonable expectation that moderate to severe soilborne fungal disease infestation, or moderate to severe disease infestation could occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
	(b) Southeastern U.S. except Georgia limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or to a lesser extent: fungal disease infestation and root knot nematodes; or with a need for methyl bromide for research purposes.
	(c) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, moderate to severe fungal disease infestation, or to a lesser extent: root knot nematodes; or with a need for methyl bromide for research purposes.
Eggplant	(a) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe disease infestation, or restrictions on alternatives due to karst geology; or with a need for methyl bromide for research purposes.
	(b) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root and collar rots, or moderate to severe southern blight infestation, and to a lesser extent: crown and root rot; or with a need for methyl bromide for research purposes.
	(c) Michigan growers	With a reasonable expectation that moderate to severe soilborne fungal disease infestation could occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) growers in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(b) International Paper with and its subsidiaries limited to growing locations in Arkansas, Alabama, Georgia, South Carolina and Texas.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(c) Public (government owned) seedling nurseries in the states of Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Nebraska, New Jersey, Ohio, Oregon, Pennsylvania, Utah, Washington, West Virginia and Wisconsin.	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe weed infestation including purple and yellow nutsedge infestation, or moderate to severe Canada thistle infestation, or moderate to severe nematodes, and to a lesser extent: fungal disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina and South Carolina.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, moderate to severe disease infestation, and to a lesser extent: nematodes and worms.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing in Washington and Oregon.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist of could occur without methyl bromide fumigation: moderate to severe yellow nutsedge infestation, or moderate to severe fungal disease infestation.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
	(f) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe disease infestation, moderate to severe Canada thistle infestation, moderate to severe nutsedge infestation, and to a lesser extent: nematodes.
	(g) Michigan herbaceous perennials growers.	With a reasonable expectation that one or more of the following limiting critical conditions already exist or could occur without methyl bromide fumigation: moderate to severe nematodes, moderate to severe fungal disease infestation, and to a lesser extent: yellow nutsedge and other weeds infestation.
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's raspberries and their contract growers in California and Washington).	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative; or with a need for methyl bromide for research purposes.
	(b) Members of the California Association of Nurserymen-Deciduous Fruit and Nut Tree Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative; or with a need for methyl bromide for research purposes.
	(c) California rose nurseries	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
Strawberry Nurseries	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes; or with a need for methyl bromide for research purposes.
	(b) North Carolina, Tennessee and Maryland growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe black root rot, or moderate to severe root-knot nematodes, or moderate to severe yellow and purple nutsedge infestation, and to a lesser extent: crown rot; or with a need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or moderate to severe fungal disease infestation, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) California table and raisin grape growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or moderate to severe fungal disease infestation, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(c) California walnut growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(d) California almond growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
Ornamentals	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe weed infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or karst topography; or with a need for methyl bromide for research purposes.
Peppers	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root, collar, crown and root rots, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less; or with a need for methyl bromide for research purposes.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or karst topography; or with a need for methyl bromide for research purposes.
	(d) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root and collar rots, or moderate to severe southern blight infestation, and to a lesser extent: crown and root rot; or with a need for methyl bromide for research purposes.
	(e) Michigan growers	With a reasonable expectation that moderate to severe fungal disease infestation would occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe black root rot or crown rot, or moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or a prohibition of the use of 1,3-dichloropropene products because local township limits for this alternative have been reached, time to transition to an alternative; or with a need for methyl bromide for research purposes.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge, or moderate to severe nematodes, or moderate to severe disease infestation, or karst topography and to a lesser extent: carolina geranium or cut-leaf evening primrose infestation; or with a need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, New Jersey, North Carolina, Ohio, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge, or moderate to severe nematodes, or moderate to severe black root and crown rot, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less; or with a need for methyl bromide for research purposes.
Tomatoes	(a) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe fungal pathogens infestation; or with a need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less, or karst topography; or with a need for methyl bromide for research purposes.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
	(c) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes; or with a need for methyl bromide for research purposes.
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	For the production of industry certified pure sod; with a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe bermudagrass, nutsedge and off-type perennial grass infestation, or moderate to severe, or moderate to severe white grub infestation; or with a need for methyl bromide for research purposes.
POST-HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association.	With a reasonable expectation that one or more of the following limiting critical conditions exists: moderate to severe infestation of beetles, weevils or moths, or older structures that cannot be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute. (For today's rule, ''pet food'' refers to domestic dog and cat food).	With a reasonable expectation that one or more of the following limiting critical conditions exists: moderate to severe infestation or beetles, moths, or cockroaches, or older structures that cannot be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(c) Kraft Foods in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions exists: older structures that cannot be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe beetle infestation, or older structures that cannot be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(e) Members of the National Pest Management Association associated with dry commodity structure fumigation (cocoa) and dry commodity fumigation (processed foods, herbs, spices, and dried milk).	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe beetle or moth infestation, or older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
Commodity Storage	(a) California entities storing walnuts, beans, dried plums, figs, raisins, dates and pistachios in California.	With a reasonable expectation that one or more of the following limiting critical conditions exists: rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 working days or less) notification for a purchase, or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives; or with a need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.
	(b) Members of the American Association of Meat Processors.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.
	(c) Nahunta Pork Center (North Carolina).	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.

D. What Are the Uses That May Obtain Methyl Bromide for Research?

The categories listed in Section F above have been designated critical uses for 2006 in Decision XVI/2 and Decision Ex.II/1 of the Parties. The amount of methyl bromide approved for research purposes is included in the amount of methyl bromide approved by the Parties for the commodities for which ''research'' is indicated as a limiting critical condition in the table above. However, the Agency is not setting aside a specific quantity of methyl bromide to be associated with research activities. Methyl bromide is needed for research purposes including experiments that require methyl bromide as a control chemical with which to compare the trial alternatives' results. EPA is proposing that the following sectors be

allowed to use methyl bromide for research purposes: cucurbits, dried fruit and nuts, nursery stock, strawberry nurseries, turfgrass, eggplant, peppers, strawberry fruit, tomatoes, and orchard replant. These are the sectors that requested methyl bromide for research in their applications to EPA.

E. What Amount of Methyl Bromide Is Necessary for Critical Uses?

In this section, EPA proposes the amount of methyl bromide that may be produced or imported for critical uses in 2006, and the amount that may be sold for critical uses from pre-phaseout inventories. Section IIB of the Annex to Decision XVI/2 lists a ''permitted level of production and consumption'' for the United States in 2006 of 6,897,680 kilograms, which is equivalent to 27% of the 1991 baseline of 25,528,270 kilograms. Table B of the Annex to Decision Ex.II/1 lists a ''permitted level of production and consumption'' for the United States in 2006 of 760,585 kilograms, which is equivalent to 3% of the 1991 baseline. When combined, the permitted level of production and consumption from the two Decisions is 7,658,265 kilograms, which is equivalent to 30% of the 1991 baseline. Paragraph 2 of Decision Ex.II/1 states, ''that a Party with a critical-use exemption level in excess of permitted levels of production and consumption for critical uses is to make up any such difference between those levels by using quantities of methyl bromide available from existing stocks.'' The difference between the agreed critical-use exemption level of 8,074,683 and the permitted level of production and consumption of 7,658,265 kilograms is 416,418 kilograms, which is equivalent to 2% of the 1991 baseline. In accordance with paragraph 2 of Decision Ex.II/1, this amount would come from stocks. This is the minimum amount that would come from stocks under today's proposed action. A further elaboration of proposed amounts that would come from stocks and those that would come from new production or import in 2006 is found below in Sections F and H.

With this action, the Agency is proposing that the critical use levels of methyl bromide for 2006 be slightly less than the amount authorized by the Parties because of recent registrations of an alternative to methyl bromide. As noted above, the U.S. Government submitted the nomination for 2006 critical use exemptions on February 7, 2004. The information in the U.S. nomination reflected the most up-to-date information on alternatives to methyl bromide that was available at that time of submission to the Parties in February 2004. In addition, through an iterative process of questions and answers with the MBTOC, the U.S. Government was able to provide new information about the status of methyl bromide alternatives in the United States for the nominated sectors up until the time the MBTOC issued its final report in the weeks prior to the 2nd Extraordinary Meeting of the Parties in July 2005. Since the MBTOC's final review and report on the 2006 nomination there have been two new actions in the U.S. relevant to uses included in Decision XVI/2 and Decision Ex.II/1. The most recent action, on July 15, 2005, was the issuance of an EPA rule establishing new Federal tolerance levels for residues of sulfuryl fluoride in or on commodities in food processing facilities (70 FR 40899). On this same day, EPA issued a Federal registration for these new uses of sulfuryl fluoride. The Agency understands that as many as 45 States subsequently issued State registrations allowing the use of sulfuryl fluoride for these new uses. EPA is soliciting comments on the verification of State registrations. In addition, on May 18, 2005, the State of California registered sulfuryl fluoride for use in mills, warehouses, stationary transportation vehicles (railcars, trucks, etc.), temporary and permanent fumigation chambers, and storage structures containing commodities listed on the State-approved label (cereal and small grains, dried fruit, and nuts). The State of California has not approved the label issued by EPA on July 15, 2005. The Federal label permits sulfuryl fluoride use for a wide range of food commodities, such as dried fruits, tree nuts, cereals and small grains, and processed food products. Prior to these registration actions, sulfuryl fluoride was not considered as a technically and economically feasible alternative in the U.S. nomination. The Agency proposes to reflect these changes in the circumstances of the use sectors for which there is a newly registered alternative in determining the final amount of methyl bromide deemed to be critical for 2006.

In today's action, with these recent actions regarding sulfuryl fluoride described in the preceding paragraph, EPA is estimating that there will be a fifteen percent (15%) uptake of sulfuryl fluoride in the 2006 calendar year by these newly permitted uses which would mean that the post-harvest users would use sulfuryl fluoride instead of 15% of the amount of methyl bromide for which they were authorized by the Parties for critical use exemptions in 2006. Thus, today's action proposes to reduce the amount of critical use methyl bromide by fifteen percent for those specific uses for which sulfuryl fluoride is now a newly legal alternative for use. Specifically, this means a fifteen percent reduction in the amount of critical use methyl bromide for the newly registered uses in California, such as mills, dried fruit and nuts, as well as a fifteen percent reduction in the amount of critical use methyl bromide for the sectors in the U.S. nomination that include food processing facilities, such as mills and processors. For the affected post-harvest sectors, the reduction would be from an authorized amount of 707,746 kilograms to an amount of 601,584 kilograms, which would be a reduction of no more than 0.42% of baseline. The Agency is estimating that there will be a 15% uptake of sulfuryl fluoride in 2006 by the specific uses for which there are recent registrations based on information found in MBTOC reports regarding projected uptake of sulfuryl fluoride for uses where there were previous registrations, as well as on information in the U.S. Government's nomination for 2007 critical use exemptions. In the MBTOC report the uptake estimate was for 10% for the 2005 calendar year for uses for which sulfuryl fluoride was registered in early 2004 (not including the most recent registration in California or the new Federal registration for food processing facilities). In the U.S. nomination for 2007, the uptake estimate is for 25% by all registered sulfuryl fluoride uses. EPA's estimate of a 15% uptake of sulfuryl fluoride in the 2006 calendar year falls between MBTOC's uptake number for 2005 and the U.S. nomination's uptake number for 2007. EPA notes that the estimated rate of uptake for 2007 takes into consideration that there have been 18 months of trials and potential adoption by similar facilities since the first sulfuryl fluoride registration action early in 2004 for mills, cereals and small grains, and cereal and small grain processed products. The Agency believes that new agricultural techniques are first adopted at a relatively slow rate. As more people/companies test the new technology the rate of adoption gradually increases. Given the short period of time since the most recent new registrations and tolerances, EPA believes that the specific uses associated with those new registrations and tolerances are unlikely to achieve a 25% rate of adoption during 2006. The 25% estimated rate of adoption contained in the U.S.

nomination for 2007 applies to circumstances (uses and locations) where the registrations occurred three years previously—early in 2004. Thus, with today's action EPA is seeking comments on the estimate for a 15% uptake of sulfuryl fluoride for the 2006 control period for those uses associated with the recent registration and tolerance actions, which occurred mid-year in 2005.

The Agency seeks comments on the proposed uptake of sulfuryl fluoride as an alternative to methyl bromide during 2006 and the corresponding proposed reduction in the critical use level for 2006. EPA seeks detailed data regarding sulfuryl fluoride as an alternative to methyl bromide in the circumstances of the sectors nominated and authorized for 2006 and the proposed uptake of sulfuryl fluoride in those sectors during 2006. Relevant information may include whether products in a sector are intended for export, and whether importing countries have established approvals or tolerance levels for use of sulfuryl fluoride. A person submitting detailed data on sulfuryl fluoride as a methyl bromide alternative, or data on any other post-harvest alterative to methyl bromide, should include:

- Historic information on pest control efficacy of current fumigant (trap catch data if available).
- Size and building composition of facility.
- Data from a range of geographic conditions.
- Data on methyl bromide which will be used for comparison purposes.
- Temperature data inside and outside the facilities.
- Trap catch data from before treatment and 3-, 7- and 14-working days after treatment.
- Information on differences in ''down time'' (non-operating time) at facility for methyl bromide and alternative.
- Amount of methyl bromide and alternative used in treatment.
- Price to treat a typical facility (both chemical prices and fumigation set-up and take-down costs).

The Agency recognizes that the status of other alternatives to methyl bromide may have changed since the finalization of the May 2005 MBTOC report and there may be updated comparative information regarding alternatives and methyl bromide, as well as new data on emission minimization techniques that would allow a user to obtain the same results with smaller quantities of methyl bromide. With today's action, EPA is soliciting new information on alternatives to methyl bromide and emission minimization techniques. In particular, a person submitting detailed data on pre-plant alternatives should include:

- Historic information on pest control efficacy of current fumigant.
- Data from a range of geographic conditions.
- Data on methyl bromide which will be used for comparison purposes.
- Yield and quality data for the alternative as compared to methyl bromide.
- Pest control data.
- Price to treat an acre of a given crop.

EPA will review updated data on the use of sulfuryl fluoride as compared to methyl bromide, and any other new information on alternatives or emission minimization techniques submitted in response to this notice, before promulgating the final critical use exemption level for 2006. The total critical use amount will not exceed the amount agreed by the Parties to the Protocol for 2006.

If adequate quantitative information is submitted, EPA will conduct an analysis that is similar to that conducted in the development of the U.S. nomination in which EPA's Office of Pesticide Programs reviews the quantity of methyl bromide requested by each applicant and adjusts the amounts needed where alternatives are not technically or economically feasible. Since the review associated with the development of the U.S. nomination is two years prior to the relevant year of exemption there may be specific situations where the critical need may have changed. In individual cases where new, more relevant and verifiable information becomes available after submission of the U.S. nomination, an additional ''post-hoc'' review to evaluate the technical and economic feasibility of alternatives may be warranted.

When considering the suitability of making a post-hoc assessment EPA considers two issues: First, whether any reductions been made in the nominated amount that are approved at the Meetings of the Parties to the Montreal Protocol, and second, the quality and verification of new data to support a post-hoc review.

In the post-hoc review process the amount requested would once again be the starting point for all calculations. Each sector would be reviewed on an individual application basis. The first assessment would involve the subtraction process that adjusts for: Double-counting, growth, quarantine and preshipment use, and use rate differences. Adjustments for double-counting is the estimate measured in kilograms in situations where an applicant has made a request for a CUE while a consortium has also made a request on their behalf in the consortium application. Growth is an adjustment in kilograms for amounts greater than the historical amount used. Adjustments for quarantine and preshipment (QPS) are for the kilograms that would qualify as QPS usage, which is part of a separate exemption category under the Protocol. Use rate differences are adjustments in kilograms to the lower of the historic use rate or requested use rate.

The second part of the assessment would involve the percent adjustments. Use rate adjustment is the use rate in kilograms per 1000 cubic meters expressed as the lowest of either the historic use rate, requested use rate, or efficacious use rate as indicated by either: Research reports, usage under similar pest and environmental conditions, or MBTOC maximum use rates. Key pest adjustment is for those pests that are not adequately controlled by methyl bromide alternatives. Regulatory adjustment is for those areas where the alternatives have additional regulatory constraints on their use. Adoption of new fumigants or control measures is the percent of the requested volume where alternatives could be adopted to replace methyl bromide. Combined impacts adjustments are the percent of the requested area where alternatives cannot be used due to key pest, regulatory, and current status in adoption of new fumigants. In each case the total area impacted is the conjoined area that is impacted by any of the individual impacts. The effects are assumed to be independently distributed unless contrary evidence is available.

When reviewing the adoption of new fumigants or control measures, any information on the relative efficacy of the alternative is critical. Examples of relevant information consists of: Historic information on efficacy of the current fumigant (comparative efficacy data should include methyl bromide as a standard whenever possible), size and building composition of facility being treated, data from a range of geographic conditions, temperature data from inside and outside the treated facilities, pest population data from before and after the treatments, information on down time between methyl bromide and alternatives, amounts of methyl bromide or alternative used, and the price to treat a typical facility including chemical, fumigation set-up and take down costs.

The kilogram amount recommended is calculated by multiplying the final amount after all subtractions and

multiplying it by the combined impacts adjustment.

If adequate quantitative information is not submitted, EPA will review the 15 percent uptake estimate in light of all information that the Agency holds and any new information received before the development of the final rule regarding the basis for that estimate. As noted above, the proposed 15 percent uptake of sulfuryl fluoride in 2006 for the limited number of uses for which there are recent registrations would result in an approximate reduction of the level of critical use methyl bromide for 2006 by 0.42% of the U.S. 1991 consumption baseline level.

F. What Are the Sources of Critical Use Methyl Bromide?

As discussed above and in the Framework Rule (69 FR 76982), an approved critical user may obtain access to exempted production/import of methyl bromide and to limited inventories of pre-phaseout methyl bromide, the combination of which constitute the supply of ''critical use methyl bromide'' intended to meet the needs of agreed critical uses. In Decision XVI/2 and Decision Ex.II/1 the Parties to the Protocol authorized agreed critical-use levels for 2006 of 8,074,683 kilograms, which is equivalent to 32% of the U.S. 1991 methyl bromide consumption baseline. As noted above, paragraph 2 of Decision Ex.II/1 states, ''that a Party with a critical-use exemption level in excess of permitted levels of production and consumption for critical uses is to make up any such difference between those levels by using quantities of methyl bromide available from existing stocks.'' The permitted level of production and consumption of critical use methyl bromide in Decision XVI/2 and Decision Ex.II/1 is 7,658,265 kilograms which is equivalent to 30% of the U.S. 1991 consumption baseline, making the amount to come from stocks equivalent to 2% of baseline.

In developing today's action, the Agency notes that Decision XVI/2 (para. 4) contains the following language, ''each Party which has an agreed critical use should ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing critical use of methyl bromide and that such procedures take into account available stocks of banked or recycled methyl bromide,'' and Decision Ex.II/1 (para. 5) contains the following slightly different language, ''each Party which has an agreed critical use renews its commitment to ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing critical use of methyl bromide and that such procedures take into account quantities of methyl bromide available from existing stocks.''

The language in these Decisions is similar to language in Decision Ex I/3, paragraph 5. In the December 23, 2004 **Federal Register** notice establishing the framework for critical use exemptions and the critical use level for 2005, EPA interpreted paragraph 5 of Decision Ex I/3 ''as meaning that the U.S. should not authorize critical use exemptions without including provisions addressing drawdown from stocks for critical uses'' (69 FR 76987). The December 23, 2004 final rule established provisions governing the sale of pre-phaseout inventories for critical uses, including the concept of critical stock allowances (CSAs) and a prohibition on sale of pre-phaseout inventories for critical uses in excess of the amount of CSAs held by the seller. In addition, EPA noted that stocks were further taken into account through the trading provisions that allow critical use allowances to be converted into critical stock allowances. Under today's proposed action, no significant changes would be made to those provisions, which would remain part of the framework for the critical use exemption and which would continue to be in accordance with Decisions of the Parties. Bearing in mind the United States' ''renewed commitment'' as stated in Decision Ex II/1, EPA is proposing an additional action based on experience with the 2005 critical use exemption. EPA is proposing to adjust the portion of critical use methyl bromide to come from exempted production or import as compared to the portion to come from stocks. With today's action, the Agency is proposing that 6,823,707 kilograms of methyl bromide, which is equivalent to 27% percent of the 1991 consumption baseline, come from new production or import, and that 1,150,824 kilograms, which is equivalent to 5% of baseline, come from pre-phaseout methyl bromide inventories. The percentage of methyl bromide proposed to come from pre-phaseout inventories is the same as the percentage that was to come from pre-phaseout inventories in the 2005 control period. To date, it does not appear that critical users have had difficulty in obtaining methyl bromide from stocks during the 2005 control period. Drawing on this experience, EPA is proposing to grant CSAs equivalent to 5% of baseline for the 2006 control period, on the assumption that users will continue to be able to access this level of stocks during 2006. There is some uncertainty in this determination, however, given that we have not come to the end of the control period, and because we anticipate that stock levels will be lower in 2006. In part because of this, EPA is proposing a safeguard to ensure that critical needs will be met should the assumption that users will be able to access this amount of stocks prove to be incorrect. EPA seeks comments on the proposed fractional portion of the 8,074,683 kilograms authorized for critical uses in 2006 that would come from pre-phaseout inventories of methyl bromide.

In developing today's proposal of the percentage that would come from new production or import as compared to the percentage that would come from pre-phaseout inventories of methyl bromide for the 2006 control period, the Agency recognizes there is still market uncertainty regarding the availability of stocks for critical uses and therefore proposes a petition process that would allow real-time responses to market conditions. The Agency is proposing a petition mechanism that will allow a critical user to demonstrate his or her inability to acquire sufficient methyl bromide from stocks. Upon receipt of a petition that meets the information criteria discussed below, EPA would review the petition and consider converting a limited number of CSAs to CUAs (up to the 30% limit agreed by the Parties to the Protocol in Decision XVI/2 and Ex.II/1). EPA believes that this petition process is warranted given the uncertainty in projecting the amount of pre-phaseout inventories that may be available for critical uses. Thus, the proposed petition process would provide an important safety mechanism for critical users.

Information To Be Submitted in Petition

EPA proposes that if you are an approved critical user who has attempted unsuccessfully to obtain methyl bromide from at least two CSA holders, you may request additional production or import of methyl bromide by submitting the following information to EPA: (a) Your name and address; (b) name of contact person and phone and fax number(s), and e-mail address; (c) the name of the organization/consortium that submitted an application for a critical use exemption and of which you are a member, (d) description of use, location and limiting critical condition qualifying for critical use methyl bromide; (e) quantity (in kilograms) of methyl bromide needed for the relevant control period and the amount acquired to date; (f) documentation or phone logs of unsuccessful attempts to place an order for a specific quantity of critical use methyl bromide with at least two

entities listed in 82.8; (g) the name, address and contract information for the distributor and the producer/importer who will be part of the adjustment transaction (converting CSAs to CUAs); (h) a letter from the distributor confirming that they hold CSAs for which they do not hold, and cannot obtain, a corresponding quantity of pre-phaseout inventories of methyl bromide; agreeing to the transfer, with EPA approval, of a specified quantity of their CSAs to an identified producer/importer for conversion to CUAs, on the condition that the producer/importer offer the distributor an opportunity to purchase a quantity of critical use methyl bromide equivalent to that produced or imported through the expenditure of the resulting CUAs; and confirming that the distributor will offer the petitioner, in turn, an opportunity to purchase the same quantity of critical use methyl bromide for critical uses; (i) a letter from the identified producer/importer agreeing to the receipt of the CSAs transferred by the distributor, requesting EPA approval to convert the CSAs to CUAs, and confirming that they will offer the distributor an opportunity to purchase a quantity of critical use methyl bromide equivalent to that produced or imported with the CUAs resulting from the transaction. The offset established in the framework rule (69 FR 76982) for trades from CUAs to CSAs would not apply to a petition for converting CUAs to CSAs. The companies involved in a petition should indicate what information they are claiming as Confidential Business Information. Information claimed as confidential will be treated in accordance with EPA's regulations on confidential business information at 40 CFR part 2 subpart B. EPA will notify petitioners of deficiencies and give them an opportunity to provide information needed to fully complete the petition. However, if petitioners do not respond to EPA's requests for additional information within 15 working days of the request and the petition remains incomplete, the petition will not be considered. A statement from a distributor that they cannot obtain stockpiled methyl bromide in a quantity corresponding to the number of CSAs they hold could be supported by on letters from local or regional suppliers indicating that stockpiled methyl bromide is unavailable.

EPA is proposing that the petitioner submit documentation for an adjustment transaction that includes a letter from a distributor certifying that they hold CSAs but do not hold corresponding supplies of pre-phaseout methyl bromide and are unable to obtain such pre-phaseout material, and that the distributor is willing to have these CSAs converted to CUAs, if authorized, in a transaction with a producer/importer. The Agency is proposing a review and authorization of the petition request to ensure there is a need for an adjustment between the amount of critical use methyl bromide from new production/import as compared with the amount from pre-phaseout inventories. In addition, the Agency must ensure that the total aggregate amount of new production/import does not exceed the limit agreed to by the Parties to the Protocol in Decision XVI/2 and Decision Ex.II/1.

EPA seeks comment on the petition requirements outlined above and has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for approval to collect this data. For additional information, please see Section VI.B, ''Paperwork Reduction Act.''

Deadline for Petitioning

EPA is proposing that petitions would be due no later than October 1st of the relevant control period. EPA is proposing that the period for petitioning end October 1st to allow sufficient time for the Agency's petition review and to assure the final authorization leaves enough time for the commercial transaction to occur within the control period to address concerns about the availability of critical use methyl bromide. EPA believes it is important to establish a fixed end-point for submission of petitions to give the petitions due consideration and ensure that total production and import for critical uses does not exceed the level agreed by the Parties to the Montreal Protocol for the control period. Because most of the information needed to support a petition should be readily available, EPA believes that the first three quarters of the calendar year (control period) should be sufficient time for petitioners to assess the market availability of critical use methyl bromide and collect and compile supporting documentation. Although EPA may request additional information from petitioners after the deadline of October 1st, the Agency will not consider petitions filed after these dates.

Length of Agency Review of Petitions

EPA is proposing a 30-working-day review period for petitions. If more information is needed, EPA will contact the applicant and specify the necessary information. EPA will consider the merits of each individual petition and industry-wide data on the availability and viability of alternatives. EPA retains the right to deny a petition based on information received regarding, *inter alia*, fraud, misrepresentation, inconsistency with Articles and Decisions under the Montreal Protocol, inconsistency with the CAA Amendments of 1990, or other reasons related to human health and the environment.

Notification of Petitioners

EPA will issue a letter to the petitioner, copying the distributor and producer/importer, stating whether the Agency is granting or denying the petition. Denial letters will state the reason for the denial. Within ten working working days after receipt of the denial letter, the petitioner may file a one-time appeal, with supporting reasons. EPA may affirm the denial or grant the petition based on the information provided by petitioner or other available evidence. If no appeal is taken by the tenth working day after receipt of the denial letter, the denial will be final on that day.

G. What Are the Critical Use Allowance Allocations?

EPA is proposing to allow limited amounts of new production or import of methyl bromide for critical uses for 2006 in the amount of 6,823,707 kilograms as shown in Table II. below. With today's action, EPA is proposing to allocate critical use allowances (CUAs) to producers and importers of methyl bromide on a pro-rata basis based on their 1991 consumption baseline levels. Each critical use allowance (CUA) is equivalent to 1 kg of critical use methyl bromide. These allowances expire at the end of the control period and, consistent with the Framework Rule, are not bankable from one year to the next. Today's proposal for allocating the following number of pre-plant and post-harvest critical use allowances (CUAs) to the entities listed below would be subject to the trading provisions at 40 CFR 82.12, which are discussed in section V.(G) of the preamble to the Framework Rule (69 FR 76982).

As discussed in section V.(E) of the preamble to the Framework Rule (69 FR 76990), EPA issues CUAs once a year except in the instance where the Parties authorize supplemental CUEs. EPA may amend allocations in a subsequent rulemaking to allocate supplemental methyl bromide for 2006.

TABLE II.—ALLOCATION OF CRITICAL USE ALLOWANCES

Company	2006 Critical use allowances for pre-plant uses* (kilograms)	2006 Critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp	3,831,117	315,974
Albemarle Corp	1,575,415	129,934
Ameribrom, Inc	870,292	129,934
TriCal, Inc	26,971	2,224
Total	6,303,796	519,910

* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in Appendix L to 40 CFR Part 82.

EPA seeks comment on the total levels of exempted production/import for critical uses in 2006.

Paragraph four of Decision Ex. I/3, taken at the 1st Extraordinary Meeting of the Parties, stated ''that Parties should endeavor to allocate the quantities of methyl bromide recommended by the Technology and Economic Assessment Panel as listed in annex II A to the report of the First Extraordinary Meeting of the Parties.'' Similarly, paragraph four of Decision Ex. II/1 states, ''that Parties that have an agreed critical use shall endeavor to license, permit, authorize or allocate the quantities of methyl bromide recommended by the Technology and Economic Assessment Panel to the specific categories of use shown in table A of the annex to the present decision.'' In accordance with Decision Ex. I/3, paragraph four, and consistent with the more recent Decision, the Agency endeavored to allocate directly on a sector-by-sector basis by analyzing and proposing this option, among others, in August of 2004. In the final Framework Rule, the Agency made a reasoned decision as to the economic, environmental and practical effects of implementing the various proposed approaches, after considering public comment. In the August 25, 2004 Allocation Framework proposed rulemaking (69 FR 52366), EPA solicited comment on both universal and sector-based allocation of critical use allowances, as well as more flexible methods for determining allocations. After comments were received, it was determined in the final Framework Rule (69 FR 76989) that a lump-sum, or universal, allocation, modified to include distinct caps for pre-plant and post-harvest uses, was the most efficient and least burdensome approach that would achieve the desired environmental results, and that there would be significant administrative and practical difficulties associated with a sector-specific approach. EPA is not aware of any factors that would alter the analysis performed during the development of the Framework rule but seeks comment on today's proposal to allocate CUAs in the same two groupings (pre-plant and post-harvest) as was done for 2005 control period.

In developing the Framework Rule and allocating CUAs for 2005, EPA examined the economic, environmental and administrative effects of various allocation options over the projected life of the CUE exemption program. The Agency found that a universal approach would offer equal environmental protection, at less cost and with easier implementation compared to the other options, such as sector-specific allocation method. The Agency adopted a modified universal approach, separating pre-plant from post-harvest uses in order to address concerns raised by smaller, less frequent and end-of-year uses.

In addition, although the approach adopted in the Framework Rule does not directly allocate allowances to each category of use, the Agency anticipates that reliance on market mechanisms will achieve similar results indirectly. As described in the August 25, 2004 notice of proposed rulemaking and accompanying regulatory impact analysis (E-Docket OAR–2003–0230), the Agency believes that under the Universal system, as divided into pre-plant and post-harvest sectors, the actual critical use will closely follow the sector breakout listed by the TEAP and incorporated into the Parties' Decision. EPA will continue to monitor sectoral use. The TEAP recommendations are based on data submitted by the U.S. which in turn are based on recent historic use data under the current methyl bromide phaseout market. In other words, the TEAP recommendations agreed to by the Parties are based on current use and the current uses are taking place in a marketplace where all methyl bromide uses in the pre-plant and post-harvest markets compete for a lump sum. A market-based lump sum system will likely operate to mirror a sector-specific allocation over time. For the reasons stated above, EPA is not proposing to change the approach adopted in the Framework Rule for the allocation of CUAs. However, in making today's proposal, EPA endeavors to seek comments on a sector-specific allocation that would reflect groupings in the U.S. nomination that were subsequently recommended by the Technology and Economic Assessment Panel for 2006.

H. What Are the Critical Stock Allowance Allocations?

EPA is proposing to allocate critical stock allowances (CSAs) to the entities listed below in Table III for the control period of 2006 in the amount of 1,150,824 kilograms.

In the Framework Rule, EPA restricted access to stocks for approved critical users as a condition of obtaining new production and import (69 FR 76987–76988). EPA is not planning to change this aspect of the critical use exemption framework through today's proposed action. Decision Ex. II/1 established two distinct levels: A critical-use exemption level and a permitted level of production and consumption. It further indicates that the difference between the two levels is to be made up ''by using quantities of methyl bromide available from existing stocks.'' The higher critical-use exemption level would have no meaning if critical users were allowed continued access to pre-phaseout inventories once the combination of new production or import and sale of pre-phaseout inventories for critical uses reached that level. Therefore, despite the absence in Decision XVI/2 or Decision Ex. II/1 of the explicit use prohibition that appeared in Decision Ex. I/3, paragraph 3, EPA continues to view the previously promulgated stock restrictions as an appropriate means of ensuring that total critical use does not

exceed the level agreed to by the Parties. The Agency also believes that the restriction on access to stocks for critical users is an expression of the United States' ''renewed commitment'' to take stocks into account and that there is a likely environmental benefit to the establishment of an upper limit because it will increase the price of methyl bromide and thereby encourage the transition to alternatives in the long run.

EPA currently possesses information on existing stocks of methyl bromide that has been claimed as confidential. With regard to data for 2003, EPA has determined that the aggregate stock information is not confidential business information and may be disclosed but is currently withholding that information due to the filing of complaints by affected businesses seeking to enjoin the Agency from its release (40 CFR 2.205). EPA will continue to follow its own regulations with respect to the treatment of this information.

TABLE III.—ALLOCATION OF CRITICAL STOCK ALLOWANCES

Company
Albemarle
Ameribrom, Inc.
Bill Clark Pest Control, Inc.
Blair Soil Fumigation
Burnside Services, Inc.
Cardinal Professional Products
Carolina Eastern, Inc.
Degesch America, Inc.
Dodson Bros.
Great Lakes Chemical Corp.
Harvey Fertilizer & Gas
Helena Chemical Co.
Hendrix & Dail
Hy Yield Bromine
Industrial Fumigation Company
J.C. Ehrlich Co.
Pacific Ag
Pest Fog Sales Corp.
Prosource One
Reddick Fumigants
Royster-Clark, Inc.
Southern State Cooperative, Inc.
Trical Inc.
Trident Agricultural Products
UAP Southeast (NC)
UAP Southeast (SC)
Univar
Vanguard Fumigation Co.
Western Fumigation
TOTAL—1,150,824 kilograms

I. Clarifications to the Framework Rule

EPA is proposing to clarify language in the Framework Rule regarding consecutive use of non-critical use methyl bromide and critical use methyl bromide. Under 82.13(dd), an approved critical user who purchases a quantity of critical use methyl bromide is required to certify, in part: ''I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide purchased during the same control period'' unless certain exceptions apply. This certification, by itself, would not preclude the user from using the critical-use methyl bromide for a treatment chamber, facility, or field that he or she had fumigated earlier that year with non-critical use methyl bromide purchased during an earlier control period. However, the prohibition at 82.4(p)(2)(vi) states: ''No person who purchases critical use methyl bromide during the control period shall use that methyl bromide on a field or structure for which that person has used non-critical use methyl bromide for the same use (as defined in Columns A and B of appendix L) in the same control period'' unless certain exceptions apply. That prohibition does not distinguish between non-critical use methyl bromide purchased during the current control period and carryover amounts purchased during earlier control periods. Most purchases will be used in the same control period in which they are bought. However, some amounts may be bought in one control period and used in a following control period, particularly when the purchase occurs close to the end of the calendar year.

In the previous **Federal Register** notice concerning the supplemental allocation for 2005, EPA proposed to change 82.4(p)(2)(vi) so that end users who had been using non-critical use methyl bromide during the first part of 2005 would not be prevented from using critical use methyl bromide on the same field or structure for the same use if they became approved critical users as a result of that supplemental rulemaking. The proposed change would also prevent adverse consequences for end users if the main allocation rule for a particular calendar year were delayed. In that instance, end users who were designated as approved critical users by the supplemental rule would not be penalized for having used non-critical use methyl bromide prior to the effective date of the rule making a supplemental allocation.

EPA is proposing to reconcile the language in 82.4(p)(2)(vi) and 82.13(dd). EPA's preferred approach is to change the language of the certification to omit the word ''purchased'' from the sentence that begins ''I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide purchased during the same control period * * *''. This approach would put the focus on actions taken during the current control period and would provide greater clarity and simplicity by eliminating the date of purchase of non-critical use methyl bromide as an issue. The change proposed in the **Federal Register** notice for the 2005 supplemental rule would provide a safeguard in the event of an administrative delay. Because that change is still pending, EPA is also considering a change to the language of the prohibition, using the current certification language as a model. Under this alternative approach, 82.4(p)(2)(vi) would read: ''No person who purchases critical use methyl bromide during the control period shall use that methyl bromide on a field or structure for which that person has used non-critical use methyl bromide, purchased during the same control period, for the same use (as defined in Columns A and B of appendix L) in the same control period'' unless certain exceptions apply. This alternative approach would employ the point of sale to the end user as a proxy for actual use, following the example of provisions in the Framework Rule that address the purchase of critical use methyl bromide. EPA is requesting comment on these and other ways to reconcile these two provisions.

J. Proposed Supplementary Critical Use Exemptions for 2006

On January 31, 2005, the U.S. Government submitted a supplemental nomination for critical use exemptions for 2006 that is equivalent to 0.02% of the 1991 U.S. baseline. The supplemental nomination for 7,070 kilograms for California dried beans was considered ''unable to assess'' by the MBTOC in their May 2005 report because of a need for clarification about the label for phosphine and the principal pest, the cowpea weevil. This supplemental nomination for 2006 will be considered by the Parties to the Protocol at their 17th Meeting in Dakar, Senegal in December 2005. The U.S. submitted additional information in August 2005 to the MBTOC responding to various questions on critical use nominations. The response included a clarification of the status of the phosphine label with regards to its use for dried beans. The MBTOC will issue another report in the fall of 2005 before the 17th Meeting. The Parties are unlikely to approve more than the amount nominated by the U.S. in this supplemental request. In anticipation of action on this supplemental nomination in December 2005, EPA is proposing to include this quantity in the critical use levels for 2006, subject to the estimate of a 15% uptake of sulfuryl fluoride due to the recent California registration. If

the Parties reach a decision that a lesser amount is appropriate, EPA will adjust the quantity accordingly in the final rule. This proposed inclusion would very slightly increase the actual amount of critical use methyl bromide allocated, without a noticeable change in the overall percentages discussed in today's action.

VI. Statutory and Executive Order Reviews

A. Executive Order No. 12866: Regulatory Planning and Review

Under Executive Order No. 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has notified EPA that it considers this a ''significant regulatory action'' under Executive Order No. 12866 and EPA has submitted it to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2179.04.

The ICR pertains only to the petitioning requirements described in Section V.F. The information collection under this rule is authorized under Sections 603(b), 603(d) and 614(b) of the Clean Air Act (CAA).

The petition requirements included in this rule are intended, in part, to:

(1) Satisfy U.S. obligations under the international treaty, The Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol), to report data under Article 7;

(2) Fulfill statutory obligations under Section 603(b) of Title VI of the Clean Air Act (CAA) for reporting and monitoring;

(3) Provide information to report to Congress on the production, use and consumption of class I controlled substances as statutorily required in Section 603(d) of the CAA.

Critical users would only need to submit the information if they were otherwise unable to obtain methyl bromide. Section V.F contains a list of the data elements required for the petition process.

Collection activity	Number of respondents	Total number of responses	Hours per response	Total hours
Familiarization with Petition Process by end users	2,000	20	1	20
Submission of Data to EPA (Petitioner)	20	20	3	60
Submission of Letter to EPA Documenting Lack of Inventory (Distributor)	30	3	.25	.75
Submission of Letter to EPA Accepting Conversion of CSAs to CUAs (Producer/Importer)	4	2	.25	.5
Report to EPA Documenting Expended Allowances (Producer/Importer)	4	2	.25	.5
Total Burden Hours			4.75	81.75

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under E-Docket OAR–2005–0122. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after October 27, 2005, a comment to OMB is best assured of having its full effect if OMB receives it by November 28, 2005. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business

that is identified by the North American Industry Classification System (NAICS) Code in the Table below; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less that 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Category	NAICS code	SIC code	NAICS small business size standard (in number of employees or millions of dollars)
Agricultural production	1112—Vegetable and Melon farming.	0171—Berry Crops	$0.75 million.
	1113—Fruit and Nut Tree Farming	0172—Grapes.	
	1114—Greenhouse, Nursery, and Floriculture Production.	0173—Tree Nuts	
		0175—Deciduous Tree Fruits (except apple orchards and farms).	
		0179—Fruit and Tree Nuts, NEC	
		0181—Ornamental Floriculture and Nursery Products.	
		0831—Forest Nurseries and Gathering of Forest Products.	
Storage Uses			$6 million.
	115114—Postharvest Crop activities (except Cotton Ginning).	2041—Flour and Other Grain Mill Products.	
	311211—Flour Milling	2044—Rice Milling	$21.5 million.
	311212—Rice Milling	4221—Farm Product Warehousing and Storage.	
	493110—General Warehousing and Storage.	4225—General Warehousing and Storage.	
Distributors and Applicators	493130—Farm Product Warehousing and Storage.	0721—Crop Planting, Cultivation, and Protection.	$6 million.
Producers and Importers	115112—Soil Preparation, Planting and Cultivating.		500 employees.
	325320—Pesticide and Other Agricultural Chemical Manufacturing.	2879—Pesticides and Agricultural Chemicals, NEC.	

Agricultural producers of minor crops and entities that store agricultural commodities are categories of affected entities that contain small entities. This rule only affects entities that applied to EPA for a de-regulatory exemption. In most cases, EPA received aggregated requests for exemptions from industry consortia. On the exemption application, EPA asked consortia to describe the number and size distribution of entities their application covered. EPA estimated that 3,218 entities petitioned EPA for an exemption for the 2005 control period. EPA received requests from a comparable number of entities for the 2006 control period. Since many applicants did not provide information on the distribution of sizes of entities covered in their applications, EPA estimated that between ¼ to ⅓ of the entities may be small businesses based on the definition given above. In addition, other categories of affected entities do not contain small businesses based on the above description.

After considering the economic impacts of today's proposed rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' (5 U.S.C. 603–604). Thus, an Agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves a regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since this rule exempts methyl bromide for approved critical uses after the phaseout date of January 1, 2005, this is a de-regulatory action which will confer a benefit to users of methyl bromide. EPA believes the estimated de-regulatory value for users of methyl bromide is between $20 million to $30 million annually. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a written statement is required under Section 202, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Section 203 of the UMRA requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Section 204 of the UMRA requires the Agency to develop

a process to allow elected state, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local and tribal governments, in the aggregate, or by the private sector, in any one year. Today's action seeks comments on proposals made in accordance with obligations under the international treaty, The Montreal Protocol on Substances that Deplete the Ozone Layer, as well as requirements set forth by Congress in Section 604(d)(6) of the Clean Air Act. Viewed as a whole, all of today's amendments do not create a Federal mandate resulting in costs of $100 million or more in any one year for State, local and tribal governments, in the aggregate, or for the private sector. Thus, today's proposed rule is not subject to the requirements of Sections 202 and 205 of the UMRA. EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, EPA is not required to develop a plan with regard to small governments under Section 203. Finally, because this proposal does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected State, local, and tribal officials under Section 204.

E. Executive Order No. 13132: Federalism

Executive Order No. 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The phrase ''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 Section 6 of Executive Order No. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct control costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct control costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order No. 13132. Today's proposed rule is expected to primarily affect producers, suppliers, importers and exporters and users of methyl bromide. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order No. 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order No. 13175. Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. The proposed rule does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order No. 13175 does not apply to this proposed rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order No. 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order No. 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under Section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action'' as defined in Executive Order No. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed rule does not pertain to any segment of the energy production economy nor does it regulate any manner of energy use. Therefore, we have concluded that this proposed rule is not likely to have any adverse energy effects.

I. The National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law. No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to

identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 82

Environmental protection; Environmental treaty; Montreal Protocol on Substances that Deplete the Ozone Layer; Ozone depletion; Methyl bromide; Chemicals; Exports, Imports, Production, Reporting and recordkeeping requirements.

Dated: October 21, 2005.

Stephen L. Johnson,

Administrator.

40 CFR part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.8 is amended by revising paragraphs (c)(1) and (c)(2) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(c) * * *

(1) Allocated critical use allowances granted for specified control period.

Company	2006 Critical use allowances for pre-plant* (kilograms)	2006 Critical uses allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp	3,831,117	315,974
Albemarle Corp	1,575,415	129,934
Ameribrom, Inc	870,292	129,934
TriCal, Inc	26,971	2,224
Total	6,303,796	519,910

* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to this subpart.

(2) Allocated critical stock allowances granted for specified control period.

Company
Albemarle
Ameribrom, Inc.
Bill Clark Pest Control, Inc.
Blair Soil Fumigation
Burnside Services, Inc.
Cardinal Professional Products
Carolina Eastern, Inc.
Degesch America, Inc.
Dodson Bros.
Great Lakes Chemical Corp.
Harvey Fertilizer & Gas
Helena Chemical Co.
Hendrix & Dail
Hy Yield Bromine
Industrial Fumigation Company
J.C. Ehrlich Co.
Pacific Ag
Pest Fog Sales Corp.
Prosource One
Reddick Fumigants
Royster-Clark, Inc.
Southern State Cooperative, Inc.
Trical Inc.
Trident Agricultural Products
UAP Southeast (NC)
UAP Southeast (SC)
Univar
Vanguard Fumigation Co.
Western Fumigation
TOTAL—1,150,824 kilograms

3. Section 82.13 is amended by revising paragraph (dd) and adding paragraph (ee) to read as follows:

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

* * * * *

(dd) Every approved critical user purchasing an amount of critical use methyl bromide or purchasing fumigation services with critical use methyl bromide must, for each request, identify the use as a critical use and certify being an approved critical users. The approved critical user certification will state, in part: I certify, under penalty of law, ''I am an approved critical user and I will use this quantity of methyl bromide for an approved critical use. My action conforms to the requirements associated with the critical use exemption published in 40 CFR part 82. I am aware that any agricultural commodity within a treatment chamber, facility or field I fumigate with critical use methyl bromide cannot subsequently or concurrently be fumigated with non-critical use methyl bromide during the same control period, excepting a QPS exemption or a treatment for a different use (*e.g.*, a different crop or commodity). I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide during the same control period, excepting a QPS treatment for a different use (*e.g.*, a different crop or commodity), unless a local township limit now prevents me from using methyl bromide alternatives or I have now become an approved critical user as a result of rulemaking.'' The certification will also indicate that type of critical use methyl bromide purchased, the acreage/square footage treated and will be signed and dated by the approved critical user.

(ee) Petition Process for Critical Use Methyl Bromide.

(1) By October 1 of the relevant control period, an approved critical user may petition the Director of the Office of Atmospheric Programs to convert a quantity of critical stock allowances held by an identified distributor to critical use allowances to be expended by an identified producer/importer. The approved critical user, or a consortium acting on the user's behalf, must submit the following information. The entities that provide information to be included in a petition should indicate what information they are claiming as confidential business information. Information claimed as confidential will be treated in accordance with EPA's regulations on confidential business information at 40 CFR part 2, subpart B.

(i) Name and address;

(ii) Name of contact person and phone and fax number(s), and e-mail address;

(iii) The name of the organization/consortium that submitted an application for a critical use exemption and of which the approved critical user is a member;

(iv) Description of use, location and limiting critical condition qualifying for critical use methyl bromide;

(v) Quantity (in kilograms) of methyl bromide needed for the relevant control period and the amount acquired to date;

(vi) Documentation or phone logs of unsuccessful attempts to place an order for a specific quantity of critical use

methyl bromide with at least two entities listed in 82.8;

(vii) The name, address and contact information for the distributor and the producer/importer who will be part of the adjustment transaction (converting critical stock allowances (CSAs) to critical use allowances (CUAs));

(viii) A letter from the distributor confirming that they hold critical stock allowances (CSAs) for which they do not hold, and cannot obtain, a corresponding quantity of pre-phaseout inventories of methyl bromide; agreeing to the transfer, with EPA approval, of a specified quantity of their critical stock allowances (CSAs) to an identified producer/importer for conversion to critical use allowances (CUAs), on the condition that the producer/importer offer the distributor an opportunity to purchase a quantity of critical use methyl bromide equivalent to that produced or imported through the expenditure of the resulting critical use allowances (CUAs); and confirming that the distributor will offer the petitioner, in turn, an opportunity to purchase the same quantity of critical use methyl bromide for critical uses;

(ix) A letter from the identified producer/importer agreeing to the receipt of the critical stock allowances (CSAs) transferred by the distributor, requesting EPA approval to convert the critical stock allowances (CSAs) to critical use allowances (CUAs), and confirming that they will offer the distributor an opportunity to purchase a quantity of critical use methyl bromide equivalent to that produced or imported with the critical use allowances (CUAs) resulting from the transaction.

(2) If the Director of the Office of Atmospheric Programs notifies the petitioner of deficiencies in the submitted information, the petitioner will have 15 working days to submit the missing information. If the petitioner does not submit the missing information within the 15 working days, the Director of the Office of Atmospheric Programs will not further consider the petition.

(3) Within 30 working days of receipt of a fully complete petition, the Director of the Office of Atmospheric Programs will issue a letter to the petitioner, and copies to the distributor and producer/importer identified as being involved in the transaction, either granting or denying the petition. The Director of the Office of Atmospheric Programs will consider the information received in accordance with paragraph (ee)(1) of this section and other available information such as the availability and technical and economic feasibility of stockpiles and the industry-wide progress on implementing alternatives. The Director of the Office of Atmospheric Programs may deny a petition, make a determination to deny, in full or in part, a petition to convert a quantity of critical stock allowances (CSAs) to critical use allowances (CUAs) for one or more of the following reasons:

(i) The need for the quantity of methyl bromide in the petition can be supplied from existing stocks held by other distributors, or from critical use methyl bromide produced or imported with critical use allowances (CUAs) held by other distributors;

(ii) The need for the quantity of methyl bromide in the petition can be met by an alternative to methyl bromide due to changed circumstances in the situation of the approved critical use category;

(iii) There is evidence of fraud or misrepresentation;

(iv) Approval of the petition would be inconsistent with U.S. commitments and obligations under the provisions of the Montreal Protocol or (including Decisions agreed by the Parties);

(v) Approval of the petition would be inconsistent with the Clean Air Act;

(vi) Granting the petition may reasonably be expected to endanger human health or the environment.

(4) Within 10 working days of receipt of a letter (the ''denial letter'') from the Director of the Office of Atmospheric Programs denying, in full or in part, the petition to convert a quantity of critical stock allowances (CSAs) to critical use allowances (CUAs), the petitioner may submit a one-time appeal with elaborated information. Within 10 working days, the Director of the Office of Atmospheric Programs may affirm the denial or determination to deny the petition to convert a quantity of critical stock allowances (CSAs) to critical use allowances (CUAs) or make a determination to grant the petition to convert a quantity of critical stock allowances (CSAs) to critical use allowances (CUAs) in light of the information evidence submitted with the appeal and other available information. If no appeal is submitted by the tenth day after receipt of the denial letter notice outlining a determination by the Director of the Office of Atmospheric Programs to deny or grant a petition, the denial will be final on that day.

* * * * *

4. Appendix L is revised to read as follows:

Appendix L to Part 82 Subpart A—Approved Critical Uses, and Limiting Critical Conditions for Those Uses for the 2006 Control Period

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
PRE-PLANT USES		
Cucurbits	(a) Michigan growers	With a reasonable expectation that moderate to severe soilborne fungal disease infestation, or moderate to severe disease infestation could occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
	(b) Southeastern U.S. except Georgia limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or to a lesser extent: fungal disease infestation and root knot nematodes; or with a need for methyl bromide for research purposes.
	(c) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, moderate to severe fungal disease infestation, or to a lesser extent: root knot nematodes; or with a need for methyl bromide for research purposes.

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
Eggplant	(a) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe disease infestation, or restrictions on alternatives due to karst geology; or with a need for methyl bromide for research purposes.
	(b) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root and collar rots, or moderate to severe southern blight infestation, and to a lesser extent: crown and root rot; or with a need for methyl bromide for research purposes.
	(c) Michigan growers	With a reasonable expectation that moderate to severe soilborne fungal disease infestation could occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) Growers in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Arkansas, Alabama, Georgia, South Carolina and Texas.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(c) Public (government owned) seedling nurseries in the states of Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Nebraska, New Jersey, Ohio, Oregon, Pennsylvania, Utah, Washington, West Virginia and Wisconsin.	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe weed infestation including purple and yellow nutsedge infestation, or moderate to severe Canada thistle infestation, or moderate to severe nematodes, and to a lesser extent: fungal disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina and South Carolina.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, moderate to severe disease infestation, and to a lesser extent: nematodes and worms.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing in Washington and Oregon.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist of could occur without methyl bromide fumigation: moderate to severe yellow nutsedge infestation, or moderate to severe fungal disease infestation.
	(f) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: moderate to severe disease infestation, moderate to severe Canada thistle infestation, moderate to severe nutsedge infestation, and to a lesser extent: nematodes.
	(g) Michigan herbaceous perennials growers.	With a reasonable expectation that one or more of the following limiting critical conditions already exist or could occur without methyl bromide fumigation: moderate to severe nematodes, moderate to severe fungal disease infestation, and to a lesser extent: yellow nutsedge and other weeds infestation.
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's raspberries and their contract growers in California and Washington).	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
	(b) Members of the California Association of Nurserymen-Deciduous Fruit and Nut Tree Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, medium to heavy clay soils, or a prohibition of the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
	(c) California rose nurseries	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached.
Strawberry Nurseries	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes; or with a need for methyl bromide for research purposes.

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
	(b) North Carolina, Tennessee and Maryland growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe black root rot, or moderate to severe root-knot nematodes, or moderate to severe yellow and purple nutsedge infestation, and to a lesser extent: crown rot; or with a need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or moderate to severe fungal disease infestation, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) California table and raisin grape growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or moderate to severe fungal disease infestation, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(c) California walnut growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(d) California almond growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe nematodes, or replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
Ornamentals	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe weed infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or karst topography; or with a need for methyl bromide for research purposes.
Peppers	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached; or with a need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root, collar, crown and root rots, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less; or with a need for methyl bromide for research purposes.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or karst topography; or with a need for methyl bromide for research purposes.
	(d) Georgia growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or moderate to severe pythium root and collar rots, or moderate to severe southern blight infestation, and to a lesser extent: crown and root rot; or with a need for methyl bromide for research purposes.

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
	(e) Michigan growers	With a reasonable expectation that moderate to severe fungal disease infestation would occur without methyl bromide fumigation; or with a need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe black root rot or crown rot, or moderate to severe yellow or purple nutsedge infestation, or moderate to severe nematodes, or a prohibition of the use of 1,3-dichloropropene products because local township limits for this alternative have been reached, time to transition to an alternative; or with a need for methyl bromide for research purposes.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge, or moderate to severe nematodes, or moderate to severe disease infestation, or karst topography and to a lesser extent: carolina geranium or cut-leaf evening primrose infestation; or with a need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, New Jersey, North Carolina, Ohio, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge, or moderate to severe nematodes, or moderate to severe black root and crown rot, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less; or with a need for methyl bromide for research purposes.
Tomatoes	(a) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe fungal pathogens infestation; or with a need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation, or moderate to severe nematodes, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less, or karst topography; or with a need for methyl bromide for research purposes.
	(c) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, or moderate to severe nematodes; or with a need for methyl bromide for research purposes.
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	For the production of industry certified pure sod; with a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe bermudagrass, nutsedge and off-type perennial grass infestation, or moderate to severe, or moderate to severe white grub infestation; or with a need for methyl bromide for research purposes.
POST-HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association.	With a reasonable expectation that one or more of the following limiting critical conditions exists: moderate to severe infestation of beetles, weevils or moths, or older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute. (For today's rule, "pet food" refers to domestic dog and cat food).	With a reasonable expectation that one or more of the following limiting critical conditions exists: moderate to severe infestation or beetles, moths, or cockroaches, or older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(c) Kraft Foods in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions exists: older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe beetle infestation, or older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions
	(e) Members of the National Pest Management Association associated with dry commodity structure fumigation (cocoa) and dry commodity fumigation (processed food, herbs, spices, and dried milk).	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe beetle or moth infestation, or older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
Commodity Storage	(a) California entities storing walnuts, beans, dried plums, figs, raisins, dates and pistachios in California.	With a reasonable expectation that one or more of the following limiting critical conditions exists: rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 working days or less) notification for a purchase, or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives; or with a need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.
	(b) Members of the American Association of Meat Processors.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.
	(c) Nahunta Pork Center (North Carolina).	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe red legged ham beetle, cheese/ham skipper, dermested beetle or ham mite infestation.

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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