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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE232, Special Condition 23–172–SC]

Special Conditions; Garmin AT, Inc.; EFIS on the Raytheon A36; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Garmin AT, Inc., 2345 Turner Rd. SE, Salem, OR 97302, for a Supplemental Type Certificate for the Raytheon A36. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of an electronic flight instrument system (EFIS) display, Model G–1000, manufactured by Garmin International Inc., for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is November 7, 2005. Comments must be received on or before December 19, 2005.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE232, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE232. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Wes Ryan, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4127.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE232.'' The postcard will be date stamped and returned to the commenter.

Background

On March 8, 2004, Garmin AT, Inc., 2345 Turner Rd. SE, Salem, OR 97302, made an application to the FAA for a new Supplemental Type Certificate for the Raytheon A36. The Raytheon A36 is currently approved under TC No. 3A15. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Garmin AT, Inc. must show that the Raytheon A36 meets its original certification basis, as listed on Type Data Sheet 3A15, the additional certification requirements added for the G1000 system, exemptions, if any; and the special conditions adopted by this rulemaking action. The additional certification requirements for the G1000 system include 23.1301, 23.1309, 23.1311, 23.1322, 23.1353 and other rules at the amendment appropriate for the date of application. Further details of the certification basis for the installation of the G1000 EFIS are available on request.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Garmin AT, Inc. plans to incorporate certain novel and unusual design features into the Raytheon A36 for which the airworthiness standards do

not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid-state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions, whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon A36. Should Garmin AT, Inc. apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special

conditions are issued as part of the type certification basis for the Raytheon A36 airplane modified by Garmin AT, Inc. to add the G1000 EFIS system.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on November 7, 2005.

William J. Timberlake,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22917 Filed 11–17–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE233, Special Condition 23–173–SC]

Special Conditions; Garmin AT, Inc.; EFIS on the Raytheon Model B58; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Garmin AT, Inc., 2345 Turner Rd., SE., Salem, Oregon 97302, for a Supplemental Type Certificate for the Raytheon Model B58. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of an electronic flight instrument system (EFIS) display, Model G–1000, manufactured by Garmin International Inc., for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is November 3, 2005. Comments must be received on or before December 19, 2005.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE233, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE233. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

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Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE233.'' The postcard will be date stamped and returned to the commenter.

Background

On March 8, 2004, Garmin AT, Inc., 2345 Turner Rd., SE., Salem, Oregon 97302, made an application to the FAA for a new Supplemental Type Certificate for the Raytheon Model 58. The Raytheon Model 58 is currently approved under TC No. 3A16. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Garmin AT, Inc. must show that the Raytheon Model 58 meets its original certification basis, as listed on Type Data Sheet 3A16, the additional certification requirements added for the G1000 system, exemptions, if any; and the special conditions adopted by this rulemaking action. The additional certification requirements for the G1000 system include § 23.1301, § 23.1309, § 23.1311, § 23.1322, § 23.1353 and other rules at the amendment appropriate for the date of application. Further details of the certification basis for the installation of the G1000 EFIS are available on request.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Garmin AT, Inc. plans to incorporate certain novel and unusual design features into the Raytheon Model 58 for

which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid-state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions, whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Model 58. Should Garmin AT, Inc. apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special

conditions are issued as part of the type certification basis for the Raytheon Model 58 airplane modified by Garmin AT, Inc. to add the G1000 EFIS system.

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on November 3, 2005.

William J. Timberlake,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22918 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21951; Directorate Identifier 2005–CE–39–AD; Amendment 39–14381; AD 2005–24–01]

RIN 2120–AA64

Airworthiness Directives; CENTRAIR 101 Series Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for all CENTRAIR 101 series gliders. This AD requires you to make pen and ink changes to the Limitations Section of the glider maintenance manual to eliminate contradictory information concerning the structural life limit. This AD results from a review by FAA of the Limitations Section of the CENTRAIR Model 101AP glider maintenance manual that revealed conflicting information concerning the structural life limit. We are issuing this AD to assure that the published life limit is adhered to and to prevent structural failure of the glider once this life limit is reached.

DATES: This AD becomes effective on January 3, 2006.

ADDRESSES: To get the service information identified in this AD, contact CENTRAIR, Aerodome B.P.N. 44, 36300 Le Blanc, France; telephone: 02.54.37.07.96; facsimile: 02.54.37.48.64.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21951; Directorate Identifier 2005–CE–39–AD.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? A review by FAA of the Limitations Section of the CENTRAIR Model 101AP glider maintenance manual revealed conflicting information concerning the structural life limit. Page 5.1 of this manual specifies inspection criteria upon accumulating 3,000 hour time-in-service (TIS). However, page 5.01 of the manual identifies a structural life limit of 3,000-hour TIS. CENTRAIR has verified that all the 101 series gliders delivered to the United States have a 3,000-hour life limit with no current extension.

Cumulative fatigue damage and fatigue cracking damage would sufficiently reduce residual strength of the airframe and result in failure of the airframe.

What is the potential impact if FAA took no action? If this situation is not corrected, the published life limit may not be adhered to and the structural integrity of the glider could be compromised.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all CENTRAIR 101 series gliders. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 22, 2005 (70 FR 48918). The NPRM proposed to require you to make pen and ink changes to the Limitations Section of the glider maintenance manual to eliminate contradictory information concerning the structural life limit.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many gliders does this AD impact? We estimate that this AD affects 51 gliders in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected gliders? We estimate the following costs to do this change of the maintenance manual:

Labor cost	Parts cost	Total cost per glider	Total cost on U.S. operators
1 work hour × $65 = $65	Not Applicable.	$65	$3,315

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? 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 AD.

Regulatory Findings

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

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21951; Directorate Identifier 2005–CE–39–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2005–24–01 CENTRAIR: Amendment 39–14381; Docket No. FAA–2005–21951; Directorate Identifier 2005–CE–39–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on January 3, 2006.

What Other ADs Are Affected By This Action?

(b) None.

What Gliders Are Affected by This AD?

(c) This AD affects Models 101, 101A, 101AP, and 101P gliders, all serial numbers, certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of a review by FAA of the Limitations Section of the CENTRAIR Model 101AP glider maintenance manual that revealed conflicting information concerning the structural life limit. The actions specified in this AD are intended to assure that the published life limit is adhered to and to prevent structural failure of the glider once this life limit is reached.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
Using pen and ink, change Section 5.1 of the Limitations Section of the CENTRAIR Gliders CENTRAIR 101—101 P–101 A–101 AP Maintenance Manual under ''General Inspection,'' to read, ''The general inspection should be executed every 5 years until the 3,000-hour time-in-service structural life limit is met.'' The above change enforces the 3,000-hour structural life limit set out in page 5.01—Life Limits of the maintenance manual.	Within the next 30 days after January 3, 2006 (the effective date of this AD).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the maintenance manual as specified in paragraph (e) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Note: Section 5.0 of the Limitations Section of the CENTRAIR Gliders CENTRAIR 101—101 P–101 A–101 AP Maintenance Manual, date of approval, December 16, 1983, references 14 CFR 91.163. The Code of Federal Regulations has changed. The correct reference is § 91.403.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

May I Get Copies of the Document Referenced in This AD?

(g) You may obtain the service information referenced in this AD from CENTRAIR, Aerodome B.P.N. 44, 36300 Le Blanc, France; telephone: 02.54.37.07.96; facsimile: 02.54.37.48.64. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21951; Directorate Identifier 2005–CE–39–AD.

Issued in Kansas City, Missouri, on November 10, 2005.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22872 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22006; Airspace Docket No. 05–ACE–30]

Modification of Class E Airspace; Sheldon Municipal Airport, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Sheldon Municipal Airport, IA.

EFFECTIVE DATE: 0901 UTC, December 22, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–502A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on October 3, 2005 (70 FR 57497). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 22, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on November 2, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–22915 Filed 11–17–05; 8:45am]

BILLING CODE 4929–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22005; Airspace Docket No. 05–ACE–29]

Modification of Class E Airspace; Wellington Municipal Airport, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Wellington Municipal Airport, KS.

EFFECTIVE DATE: 0901 UTC, December 22, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64296; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on October 3, 2005 (70 FR 57498). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 22, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on November 2, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–22916 Filed 11–17–05; 8:45 am]

BILLING CODE 4929–13–M

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Part 907

[NCPPC 112]

Compact Council Procedures for Compliant Conduct and Responsible Use of the Interstate Identification Index (III) System for Noncriminal Justice Purposes

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule that establishes procedures for ensuring compliant conduct and responsible use of the Interstate Identification Index (III) System for noncriminal justice purposes as authorized by Article VI of the Compact.

EFFECTIVE DATE: This rule is effective on December 19, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, 2331 Philips Road, Tallahassee, Florida 32308–5333, telephone number (850) 410–7100.

SUPPLEMENTARY INFORMATION: This document finalizes the Compact Council rule proposed in the **Federal Register** on February 17, 2005 (70 FR 8050). The Compact Council requested that comments on the proposed rule be provided by March 21, 2005. Comments were not submitted; however, the Council made editorial changes.

Administrative Procedures and Executive Orders

Administrative Procedure Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact), an interstate and Federal-State compact which was approved and enacted into legislation by Congress pursuant to Pub. L. 105–251. The Compact Council is composed of 15 members (with 11 state and local governmental representatives).

The Compact Council is not a federal agency as defined in the Administrative Procedure Act. Accordingly, rulemaking by the Compact Council pursuant to the Compact is not subject to the Act. However, the Compact specifically provides that the Compact Council shall prescribe rules and procedures for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes, and

mandates that such rules, procedures, or standards established by the Compact Council be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. No actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801–804) is not applicable to the Compact Council's rule because the Compact Council is not a ''Federal agency'' as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 907

Privacy, Accounting, Auditing.

■ The National Crime Prevention and Privacy Compact Council is adding part 907 to chapter IX of title 28 Code of Federal Regulations to read as follows:

PART 907—COMPACT COUNCIL PROCEDURES FOR COMPLIANT CONDUCT AND RESPONSIBLE USE OF THE INTERSTATE IDENTIFICATION INDEX (III) SYSTEM FOR NONCRIMINAL JUSTICE PURPOSES

Sec.
907.1 Purpose and authority.
907.2 Applicability.
907.3 Assessing compliance.
907.4 Methodology for resolving noncompliance.
907.5 Sanction adjudication.

Authority: 42 U.S.C. 14616.

§ 907.1 Purpose and authority.

Part 907 establishes policies and procedures to ensure that use of the III System for noncriminal justice purposes complies with the National Crime Prevention and Privacy Compact (Compact) and with rules, standards, and procedures established by the Compact Council regarding application and response procedures, record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation for noncriminal justice purposes. The rule is established pursuant to Article VI of the Compact, which authorizes the Compact Council to promulgate rules, procedures, and standards governing the use of the III System for noncriminal justice purposes. The rule requires responsible authorized access to the System and proper use of records that are obtained from the System. The rule provides comprehensive procedures for a coordinated compliance effort among the Compact Council, the FBI, and local, State and Federal government agencies, and encourages the cooperation of all affected parties.

§ 907.2 Applicability.

This rule applies to III System access for noncriminal justice purposes as covered by the Compact, *see* 42 U.S.C. 14614 and 14616, and use of information obtained by means of the System for such purposes. The rule establishes procedures for ensuring that the FBI's and Compact Party States' criminal history record repositories carry out their responsibilities under the Compact, as set out in the National Fingerprint File (NFF) Qualification Requirements, and that local, State and Federal government agencies using the III System for noncriminal justice purposes comply with the Compact and with applicable Compact Council rules.

§ 907.3 Assessing compliance.

(a) The FBI CJIS Division staff regularly conducts systematic compliance reviews of state repositories. These reviews may include, as necessary, reviews of III System user agencies, including governmental and nongovernmental noncriminal justice entities that submit fingerprints to the State repositories and criminal justice and noncriminal justice agencies with direct access to the III System. These reviews may include, as necessary, the governmental and nongovernmental noncriminal justice entities authorized to submit fingerprints directly to the FBI. The reviews may consist of systematic analyses and evaluations, including on-site investigations, and shall be as comprehensive as necessary to adequately ensure compliance with the Compact and Compact Council rules. Violations may also be reported or detected independently of a review.

(b) The FBI CJIS Division staff or the audit team established to review the FBI's noncriminal justice use of the III System shall prepare a draft report describing the nature and results of each review and set out all findings of compliance and noncompliance, including any reasons for noncompliance and the circumstances surrounding the noncompliance. If the agency under review is the FBI or another Federal agency, the draft report shall be forwarded to the FBI Compact Officer. If the agency under review is a State or local agency in a Party State, the draft report shall be forwarded to the State Compact Officer. If the agency under review is a State or local agency in a Nonparty State, the draft report shall be forwarded to the chief administrator of the State repository.

(c) The Compact Officer of the FBI or a Party State or the chief administrator of the State repository in a Nonparty State shall be afforded the opportunity to forward comments and supporting materials to the FBI CJIS Division staff or to the audit team.

(d) The FBI CJIS Division staff or the audit team shall review any comments and materials received and shall incorporate applicable revisions into a final report. The final report shall be provided to the Compact Officer of the FBI or a Party State or the chief administrator of the State repository in a Nonparty State to whom the draft report was sent. If the agency under review is a State or local agency, a copy of the report shall be provided to the FBI Compact Officer. If the agency under review is being reviewed for the first time, the letter transmitting the report shall provide that sanctions will not be imposed regarding any deficiencies set out in the report. The letter shall also advise, however, that the deficiencies must be remedied and failure to do so before the agency is

reviewed again will result in the initiation of remedial action pursuant to § 907.4.

§ 907.4 Methodology for resolving noncompliance.

(a) Subsequent to each compliance review that is not a first-time agency review, the final report shall be forwarded to the Compact Council Sanctions Committee (Sanctions Committee). The Sanctions Committee shall review the report and if it concludes that no violations occurred or no violations occurred that are serious enough to require further action, it shall forward its conclusions and recommendations to the Compact Council Chairman. If the Compact Council Chairman approves the Sanctions Committee's recommendations, the Compact Council Chairman shall send a letter to this effect to the FBI or Party State Compact Officer or the chief administrator of the state repository in a Nonparty State that has executed a Memorandum of Understanding. For all remaining states, the Compact Council Chairman shall forward the recommendations to the FBI Director or Designee who, upon approval of the recommendations, shall send a letter to this effect to the chief administrator of the state repository. If the agency under review is a state or local agency, a copy of the Compact Council Chairman's or FBI Director's or Designee's letter shall be provided to the FBI Compact Officer.

(b) Should the Sanctions Committee conclude that a violation has occurred that is serious enough to require redress, the Sanctions Committee shall recommend to the Compact Council a course of action necessary to bring the offending agency into compliance and require the offending agency to provide assurances that subsequent violations will not occur. In making its recommendation, the Sanctions Committee shall consider the minimal action necessary to ensure compliance or shall explain why corrective action is not required. This may include, but not be limited to, requiring a plan of action by the offending agency to achieve compliance, with benchmarks and performance measures, and/or requiring the agency to seek technical assistance to identify sources of the problem and proposed resolutions. If the Compact Council or, when applicable, the FBI Director or Designee approves the Sanctions Committee's recommendations, progressive actions shall be initiated as set forth below. The letters referred to in this paragraph (907.4(b)) shall be from the Compact Council Chairman when the offending agency is the FBI or another federal agency, a state or local agency in a Party State, or a state or local agency in a Nonparty State that has executed a Memorandum of Understanding. The documentation and written responses from the aforementioned agencies to such letters shall be sent to the Compact Council Chairman. For all remaining states, the Compact Council Chairman shall forward the Compact Council's recommendations to the FBI Director or Designee who, upon approval of the recommendations, shall send the letters; accordingly, all documentation and written responses relating to the FBI Director's or Designee's letters shall be sent to the FBI Director or Designee who shall make such letters available to the Compact Council Chairman. If the offending agency is an agency other than the FBI or a state repository, any response letters from the offending agency shall be sent to the Compact Officer of the FBI or Party State or the chief administrator of the state repository in a Nonparty State and shall outline the course of action the offending agency will undertake to correct the deficiencies and provide assurances that subsequent violations will not recur.

(1) As noted above, a letter shall be sent to the Compact Officer of the FBI or Party State or the chief administrator of the state repository in a Nonparty State identifying the violations and setting out the actions necessary to come into compliance. The letter shall provide that if compliance is not achieved and assurances provided that minimize the probability that subsequent violations will occur, and non-compliance is not excused, the Compact Council may authorize the FBI to refuse to process requests for criminal history record checks for noncriminal justice purposes from the offending agency and, if the offending agency is a criminal justice agency, may request the Director of the FBI to take appropriate action against the offending agency consistent with the recommendations of the Compact Council. The letter shall direct the Compact Officer of the FBI or Party State or the chief administrator of the state repository in a Nonparty State to submit a written response within 30 calendar days from the date of the letter, unless a more expeditious response is required. If the offending agency is a state or local agency, a copy of the Compact Council Chairman's or FBI Director's or Designee's letter shall be provided to the FBI Compact Officer. The Compact Council Chairman shall refer the response letter to the Sanctions Committee for appropriate action.

(2) If the Sanctions Committee deems the response letter under paragraph (b)(1) of this section to be insufficient, or if no response is received within the allotted time, the Sanctions Committee shall report its finding to the Compact Council. If the Compact Council agrees with the Sanctions Committee's finding, a letter shall be sent to the Director of the FBI (if the offending agency is the FBI or another federal agency) or to the head of the state agency in which the state repository resides (if the offending agency is a state or local agency), requesting assistance in correcting the deficiencies. The letter shall provide that the offending agency is being placed on probationary status. A copy of the letter shall be sent to the Compact Officer of the FBI or Party State or the chief administrator of the state repository in a Nonparty State. If the offending agency is a state or local agency, a copy of the Compact Council Chairman's or FBI Director's or Designee's letter shall be provided to the FBI Compact Officer. A written response to the letter shall be required within 20 calendar days from the date of the letter unless a more expeditious response is required. The Compact Council Chairman shall refer the response letter to the Sanctions Committee for appropriate action.

(3) If the Sanctions Committee deems the response letter under paragraph (b)(2) of this section to be insufficient, or if no response is received within the allotted time, the Sanctions Committee shall report its finding to the Compact Council. If the Compact Council agrees with the Sanctions Committee's finding, a letter shall be sent to the U. S. Attorney General (if the offending agency is the FBI or another federal agency) or to the elected/appointed state official who has oversight of the department in which the state repository resides (if the offending agency is a state or local agency), requesting assistance in correcting the deficiencies. If the state official is not the Governor, a copy of the letter shall be sent to the Governor. A copy of the letter shall also be sent to the FBI Compact Officer and (if the offending agency is a state or local agency) to the State Compact Officer or the chief administrator of the state repository in a Nonparty State. The letter shall provide that a written response is required within 20 calendar days of the date of the letter, and that if a sufficient response is not received within that time, sanctions may be imposed that could result in suspension of the offending agency's access to the III System for noncriminal justice

purposes. The Compact Council Chairman shall refer the response letter to the Sanctions Committee for appropriate action.

(4) If no response letter is received under paragraph (b)(3) of this section within the allotted time, or if the Sanctions Committee deems the response to be insufficient, the Sanctions Committee shall report its finding to the Compact Council. If the Compact Council agrees with the Sanctions Committee's finding, the Compact Council Chairman or the FBI Director or Designee shall direct the FBI Compact Officer to take appropriate action to suspend noncriminal justice access to the III System by the offending agency. If the offending agency is a criminal justice agency, the Compact Council Chairman shall request the Director of the FBI to take appropriate action to suspend noncriminal justice access to the III System by the offending agency.

(5) Reinstatement of full service by the FBI shall occur after the Compact Officer of the FBI or a Party State or the chief administrator of the state repository in a Nonparty State provides satisfactory documentation that the deficiencies have been corrected or a process has been initiated to correct the deficiencies. Upon approval of the documentation by the Sanctions Committee in consultation with the Compact Council Chairman, the Compact Council Chairman or the FBI Director or Designee shall request the FBI Compact Officer to take appropriate action to reinstate full service. Letters to this effect shall be sent to all persons who have previously received letters relating to the deficiencies and resulting suspension of service. The decision to reinstate full service shall be considered for ratification by the Compact Council at its next regularly scheduled meeting.

(c) For good cause, the Compact Council Chairman and the FBI Director or Designee shall be authorized to extend the number of days allowed for the response letters required by paragraphs (b)(1) through (3) of this section.

§ 907.5 Sanction adjudication.

(a) A Compact Officer of the FBI or a Party State or the chief administrator of the state repository in a Nonparty State may dispute a sanction under this Part by asking the Compact Council Chairman for an opportunity to address the Compact Council.

(b) Unresolved disputes based on the Compact Council's issuance of sanctions under this Part may be referred to the Compact Council Dispute Adjudication Committee when pertaining to disputes described under ARTICLE XI(a) of the Compact.

(c) Nothing prohibits the Compact Council from requesting the FBI to exercise immediate and necessary action to preserve the integrity of the III System pursuant to Article XI(b) of the Compact.

Dated: November 1, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–22850 Filed 11–17–05; 8:45 am]

BILLING CODE 4410–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7998–8]

Massachusetts: Extension of Interim Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The EPA is extending the expiration date from January 1, 2006 to January 1, 2011 for the interim authorization under the Resource Conservation and Recovery Act, of the Massachusetts program for regulating Cathode Ray Tubes (''CRTs''). Massachusetts was granted interim authorization to assume the responsibility under the Toxicity Characteristics Rule (''TC Rule'') for regulating CRTs, on November 15, 2000 with an expiration date of January 1, 2003. This expiration date was subsequently extended until January 1, 2006. As this interim authorization is soon due to expire, an extension is needed for the reasons explained below. EPA is publishing this rule to authorize the extension without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this extension during the comment period, the decision to extend the interim authorization will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and the separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This extension of the interim authorization will become effective on January 17, 2006 and remain in effect until January 1, 2011 unless EPA receives adverse written comment by December 19, 2005. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this extended authorization will not take immediate effect.

ADDRESSES: Submit your comments by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. E-mail: Robin Biscaia, *biscaia.robin@epa.gov.*
3. Mail: Robin Biscaia, Hazardous Waste Unit (CHW), EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023;
4. Hand Delivery or Courier. Deliver your comments to Robin Biscaia, Hazardous Waste Unit, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023;

Instructions: We must receive your comments by December 19, 2005. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through 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.

Dockets containing copies of the Commonwealth of Massachusetts' revision application, the materials which the EPA used in evaluating the revision, and materials relating to the State-specific and site-specific Federal regulation changes, have been established at the following two locations: (i) Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours Monday through Friday 9 a.m. to 5 p.m., tel: (617) 556–1096; and (ii) EPA Region I Library, One

Congress Street—11th Floor, Boston, MA 02114–2023, business hours Monday through Thursday 10 a.m. to 3 p.m., tel: (617) 918–1990. Records in these dockets are available for inspection and copying during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023, telephone: (617) 918–1642.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

Pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, states which have been authorized to administer the Federal hazardous waste program under RCRA section 3006(b), 42 U.S.C. 6926(b), have a continuing obligation to update their programs to meet revised Federal requirements. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279. For example, States must revise their programs to regulate the additional wastes determined to be hazardous as a result of using the Toxicity Characteristics Leaching Procedure (''TCLP'') test adopted by the EPA on March 29, 1990, in the TC Rule 55 FR 11798. The EPA may grant final authorization to a State revision if it is equivalent to, consistent with, and no less stringent than Federal RCRA requirements.

In the alternative, as provided by RCRA section 3006(g), 42 U.S.C. 6926(g), for updated Federal requirements promulgated pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), such as the TC Rule, the EPA may grant interim (i.e., temporary) authorization to a State revision so long as it is *substantially* equivalent to Federal RCRA requirements.

B. What Decisions Have We Made in This Rule?

1. Background

The TC Rule grants authority over wastes which first became classified as hazardous as a result of using the ''TCLP'' test, such as many CRTs. *See* 55 FR 11798, 11847–11849 (March 29, 1990). CRTs are the glass picture tubes found inside television and computer monitors. Because of their high lead content, CRTs generally fail the TCLP test. Thus, under the EPA's current regulations, CRTs generally become hazardous wastes when they are discarded (e.g., when sent for disposal or reclamation rather than being reused). However, the EPA has recognized that certain widely generated wastes may pose lower risks during accumulation and transport than other hazardous wastes. Thus the EPA has listed certain wastes as Universal Wastes which are subject to reduced regulation and has allowed authorized States to add other appropriate wastes as Universal Wastes. *See* 40 CFR part 273.

On August 4, 2000, Massachusetts adopted regulations which revised its regulatory program as it relates to CRTs. The State adopted a three-part approach: (1) Intact CRTs being disposed are subject to full hazardous waste requirements (along with crushed or ground up CRTs); (2) intact CRTs that may still be reused (without reclamation) generally are considered commodities exempt from hazardous waste requirements; and, finally, (3) intact CRTs which will not be reused, but which instead will be crushed and recycled (i.e., as spent materials being reclaimed), are subject to reduced requirements which track some but not all of the EPA's Universal Waste Rule requirements. As explained in the **Federal Register** on November 15, 2000, 65 FR 68915, and further explained in a legal memorandum contained in the Administrative Record, dated January 21, 2000 entitled ''Massachusetts' Regulation of CRTs,'' the EPA determined that the State program was ''substantially equivalent'' to Federal RCRA requirements. Therefore, the EPA granted Massachusetts interim authorization to regulate CRTs under the TC Rule. The State program was determined to be only ''substantially'' rather than fully equivalent to the federal RCRA program because the maximum flexibility allowed under the federal program was to regulate hazardous CRTs being reclaimed as a Universal Waste, whereas Massachusetts regulates intact CRTs heading to reclamation less stringently in certain respects than does the Universal Waste Rule.

2. Today's Decision

There have been no changes in either the Federal or Massachusetts regulations applicable to CRTs since November 15, 2000. Therefore, the State program remains substantially equivalent (but not fully equivalent) to current Federal RCRA requirements, for the reasons previously stated. Absent further EPA action, the authority to regulate the CRTs would revert to the EPA as of January 1, 2006, and full hazardous waste regulations would become applicable to many CRTs in Massachusetts.

Like Massachusetts, the EPA has recognized that regulating intact CRTs as a fully regulated hazardous waste can discourage recycling of the CRTs and, thus, be counter-productive. Therefore, it is environmentally important not to allow the interim authorization of the Massachusetts regulations to expire.

On June 12, 2002, the EPA proposed to adopt regulations to reduce RCRA regulatory requirements for CRTs. *See* 67 FR 40508. If the proposed rule is adopted, intact CRTs heading for reclamation will no longer be classified as solid or hazardous wastes. Thus, they will no longer need to be handled in accordance with either full hazardous waste or Universal Waste Rule requirements. Therefore, if and when the proposed rule is adopted, the Massachusetts CRT program will no longer be less stringent than the federal program. It will be equivalent to the federal program in exempting commodity CRTs from regulations while fully regulating CRTs being disposed, and will be more stringent than the federal program in partially regulating intact CRTs being reclaimed and in fully regulating crushed or ground up CRTs even when they are recycled. However, the final EPA CRT rule is not expected to be issued until after January 1, 2006.

The general deadline for the expiration of interim authorization for HSWA regulations set in 40 CFR 271.24 is January 1, 2003. The EPA believes that extension of the interim authorization of the Massachusetts CRT program beyond the generally applicable deadline of January 1, 2003 is appropriate in the unusual circumstances presented. An extension to January 1, 2011 will enable the Massachusetts program to continue to operate pending the EPA's final decision on its own CRT Rule. This should give the EPA sufficient time to finalize its own CRT Rule. If the final EPA CRT Rule is the same as the proposed rule or otherwise remains at least as flexible as the Massachusetts CRT Rule, then the EPA should be able to later grant final authorization to the Massachusetts CRT Rule, as soon as the EPA CRT Rule is adopted. If the final EPA CRT Rule is more stringent than the Massachusetts CRT Rule, the EPA

and State can address the resulting situation at that time.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that for CRTs regulated under the TC Rule, a facility in Massachusetts subject to RCRA will have to continue to comply with the authorized State requirements instead of the Federal requirements in order to comply with RCRA. The Commonwealth of Massachusetts has enforcement responsibilities under its State hazardous and solid waste programs for violations of such programs, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003.

This action does not impose additional requirements on the regulated community because the state regulations for which interim authorization to Massachusetts is being extended by today's action are already in effect under state law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

F. What Has Massachusetts Previously Been Authorized For?

Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. EPA granted authorization for changes to their program on September 30, 1998, effective November 30, 1998 (63 FR 52180), October 12, 1999, effective that date (64 FR 55153) and March 12, 2004, effective that date (69 FR 11801), in addition to the previously discussed November 15, 2000 interim authorization of the Massachusetts CRT Rule (65 FR 68915) and the extension EPA granted to that rule on October 31, 2002, effective January 1, 2003 (67 FR 66338).

G. What Changes Are We Authorizing in Today's Action?

The Massachusetts regulations authorized by today's action are the same as those listed in the chart set forth in the **Federal Register** document dated November 15, 2000 (65 FR 68915, 68918). Today's action simply extends the interim authorization previously granted from January 1, 2006 to January 1, 2011.

H. Where Are the Revised State Rules Different From the Federal Rules?

The differences between the State and Federal regulations with respect to CRTs are discussed in the November 15, 2000 **Federal Register** document. Notwithstanding these differences, the EPA believes that the State regulations are substantially equivalent to the Federal regulations and, thus, the State continues to qualify to have interim authorization. During the interim authorization period, for CRTs regulated under the TC Rule, these state regulations will operate in lieu of the Federal hazardous waste regulations.

I. Who Handles Permits After This Authorization Takes Effect?

Massachusetts will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Massachusetts is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Massachusetts?

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag tribe). Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Massachusetts' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We are today authorizing, but not codifying the enumerated revisions to the Massachusetts program. We reserve the amendment of 40 CFR part 272, subpart W for the codification of Massachusetts' program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 9, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 05–22891 Filed 11–17–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 041213348–5285–02; I.D. 110904E]

RIN 0648–AS95

Endangered and Threatened Wildlife and Plants: Endangered Status for Southern Resident Killer Whales

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

ACTION: Final rule.

SUMMARY: NOAA's National Marine Fisheries Service (NMFS) is issuing a final determination to list the Southern Resident killer whale distinct population segment (DPS) as endangered under the Endangered Species Act of (ESA) 1973. Following an update of the status review of Southern Resident killer whales (*Orcinus orca*) under the ESA, NMFS published a proposed rule to list the Southern Resident killer whale DPS as threatened on December 22, 2004. After considering public comments on the proposed rule and other available information, we reconsidered the status of Southern Residents and are issuing a final rule to list the Southern Resident killer whale DPS as an endangered species. The prohibition on take of an endangered species will go into effect at the time this final rule is effective (see **DATES**).

DATES: This final rule is effective February 16, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment during normal business hours at the NMFS, Protected Resources Division, 7600 Sand Point Way NE, Seattle, WA, 98115. The final rule, references and other materials relating to this determination can be found on our website at *www.nwr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Lynne Barre at the address above or at (206) 526–4745, or Ms. Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 713–1401, ext. 180.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2001, we received a petition from the Center for Biological Diversity and 11 co-petitioners (CBD, 2001) to list Southern Resident killer whales as threatened or endangered under the ESA. On August 13, 2001, we provided notice of our determination that the petition presented substantial information indicating that a listing may be warranted and requested information to assist with a status review to determine if Southern Resident killer whales warranted listing under the ESA (66 FR 42499). To assist in the status review, we formed a Biological Review Team (BRT) of scientists from our Alaska, Northwest, and Southwest Fisheries Science Centers. We convened a meeting on September 26, 2001, to gather technical information from co-managers, scientists, and individuals having research or management expertise pertaining to killer whale stocks in the North Pacific Ocean. Additionally, the BRT discussed its preliminary scientific findings with Tribal, State and Canadian co-managers on March 25, 2002. The BRT considered information from the petition, the September and March meetings, and comments submitted in response to our information request in preparing a final scientific document on Southern Resident killer whales (NMFS, 2002).

After conducting the status review, we determined that listing Southern Resident killer whales as a threatened or endangered species was not warranted because Southern Resident killer whales did not constitute a species as defined by the ESA. The ESA's definition of species includes subspecies and ''distinct population segments.'' The agency considers a group of organisms to be a DPS when it is both discrete from other populations and significant to the taxon to which it belongs (61 FR 4722; February 7, 1996). We considered Southern Resident killer whales in the context of the global taxon (i.e., all killer whales worldwide) and found that the population did not meet the significance criterion for consideration as a DPS. The finding, along with supporting documentation, was published on July

1, 2002 (67 FR 44133). The 2002 status review and other documents supporting the ''not warranted'' finding are available on the internet (see Electronic Access). Because of the uncertainties regarding killer whale taxonomy (i.e., whether the killer whale should be considered as one species or as multiple species and/or subspecies), we announced we would reconsider the taxonomy of killer whales within 4 years.

The scientific information evaluated during the ESA status review indicated that Southern Resident killer whales may be depleted under the Marine Mammal Protection Act (MMPA). We initiated consultation with the Marine Mammal Commission (Commission) in a letter dated June 25, 2002, and published an advance notice of proposed rulemaking (ANPR) on July 1, 2002 (67 FR 44132), to request pertinent information regarding the status of the stock and potential conservation measures that may benefit these whales. After considering comments received in response to the ANPR and from the Commission, we published a proposed rule to designate the Southern Resident stock of killer whales as depleted (68 FR 4747; January 30, 2003) and solicited comments on the proposal. Based on the best scientific information available, consultation with the Commission, and consideration of public comment, we determined that the Southern Resident stock of killer whales was depleted under the MMPA (68 FR 31980; May 29, 2003) and announced our intention to prepare a Conservation Plan. We published a Notice of Availability of a Proposed Conservation Plan for Southern Resident Killer Whales on October 3, 2005 (70 FR 57565).

On December 18, 2002, the Center for Biological Diversity (and other plaintiffs) challenged our ''not warranted'' finding under the ESA in U.S. District Court. The U.S. District Court for the Western District of Washington issued an order on December 17, 2003, which set aside our ''not warranted'' finding and remanded the matter to us for redetermination of whether the Southern Resident killer whales should be listed under the ESA (Center for Biological Diversity v. Lohn, 296 F. Supp. 2d. 1223 (W.D. Wash. 2003)). The District Court held that ''[w]hen the best available science indicates that the 'standard taxonomic distinctions' are wrong . . . NMFS must rely on the best available science.''

As a result of the court's order, we reconvened a BRT in 2004 to consider new scientific and commercial data available since 2002 and update the status review for Southern Residents. We announced the status review update and requested that interested parties submit pertinent information to assist us with the update (69 FR 9809; March 2, 2004). In addition, we co-sponsored a Cetacean Taxonomy workshop in 2004, which included a special session on killer whales. The papers and reports from the workshop were made available to the BRT.

In August 2004, we met with Washington State and Tribal co-managers to provide information on the status review update and receive comments. These comments were evaluated by the BRT, which then prepared a final status review document for Southern Resident killer whales (NMFS, 2004). The BRT agreed that Southern Residents likely belong to an unnamed subspecies of resident killer whales in the North Pacific, which includes the Southern and Northern Residents, as well as the resident killer whales of Southeast Alaska, Prince William Sound, Kodiak Island, the Bering Sea and Russia (but not transients or offshores). The BRT concluded that the Southern Residents are discrete and significant with respect to the North Pacific resident taxon and therefore should be considered a DPS. In addition, the BRT conducted a population viability analysis which modeled the probability of species extinction under a range of assumptions. Based on the findings of the status review and an evaluation of the factors affecting the DPS, we published a proposed rule to list the Southern Resident killer whales as threatened on December 22, 2004 (69 FR 76673).

Natural History of Killer Whales

Killer whales are one of the most strikingly pigmented of all cetaceans, making field identification easy. Killer whales are black dorsally and white ventrally, with a conspicuous white oval patch located slightly above and behind the eye. A highly variable gray or white saddle is usually present behind the dorsal fin. Sexual dimorphism occurs in body size, flipper size, and height of the dorsal fin. More detailed information regarding this species' distribution, behavior, genetics, morphology, and physiology are contained in the BRT's status review documents (NMFS, 2002, 2004) and the Washington State Status Report for the Killer Whale (Wiles, 2004).

Killer whales are classified as top predators in the food chain and are the world's most widely distributed marine mammal (Leatherwood and Dahlheim, 1978; Heyning and Dahlheim, 1988). Although observed in tropical waters and the open sea, they are most abundant in coastal habitats and high latitudes. In the northeastern Pacific Ocean, killer whales occur in the eastern Bering Sea (Braham and Dahlheim, 1982) and are frequently observed near the Aleutian Islands (Scammon, 1874; Murie, 1959; Waite *et al.*, 2001). They reportedly occur year-round in the waters of southeastern Alaska (Scheffer, 1967) and the intercoastal waterways of British Columbia and Washington State (Balcomb and Goebel, 1976; Bigg *et al.*, 1987; Osborne *et al.*, 1988). There are occasional reports of killer whales along the coasts of Washington, Oregon, and California (Norris and Prescott, 1961; Fiscus and Niggol, 1965; Rice, 1968; Gilmore, 1976; Black *et al.*, 1997; NMFS, 2004), both coasts of Baja California (Dahlheim *et al.*, 1982), the offshore tropical Pacific (Dahlheim *et al.*, 1982), the Gulf of Panama, and the Galapagos Islands. In the western North Pacific, killer whales occur frequently along the Russian coast in the Bering Sea, the Sea of Okhotsk, the Sea of Japan, and along the eastern side of Sakhalin and the Kuril Islands (Tomilin, 1957). There are numerous accounts of their occurrence off China (Wang, 1985) and Japan (Nishiwaki and Handa, 1958; Kasuya, 1971; Ohsumi, 1975). Data from the central Pacific are scarce. They have been reported off Hawaii, but do not appear to be abundant in these waters (Tomich, 1986; Caretta *et al.*, 2001).

The killer whale is the largest species within the family Delphinidae. Various scientific names have been assigned to the killer whale (Hershkovitz, 1966; Heyning and Dahlheim, 1988). These various names can be explained by sexual and age differences in the size of the dorsal fin, individual variations in color patterns, and the cosmopolitan distribution of the animals. The genus *Orcinus* is currently considered monotypic with geographical variation noted in size and pigmentation patterns. Two proposed Antarctic species, *O. nanus* (Mikhalev *et al.*, 1981) and *O. glacialis* (Berzin and Vladimirov, 1982; Berzin and Vladimirov, 1983), both appear to refer to the same type of smaller individuals. However, because of significant uncertainties regarding the limited specimen data, these new taxa have not been widely accepted by the scientific community. New observations of color pattern, size, habitat and feeding ecology have led to the conclusion that there are three types of killer whales in Antarctica (Pitman and Ensor, 2003). Recent genetic investigations note marked differences between some forms of killer whale

(Hoelzel and Dover, 1991; Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001). Killer whale taxonomy was reviewed as part of the ''Workshop on Shortcomings of Cetacean Taxonomy in Relation to Needs of Conservation and Management'' held on April 30 – May 2, 2004 in La Jolla, California, and the results were published in a report (Reeves *et. al.*, 2004).

Ecotypes of Killer Whales

Killer whales in the Eastern North Pacific region (which includes the Southern Resident killer whales) have been classified into three forms, or ecotypes, termed residents, transients, and offshore whales. Significant genetic differences occur among resident, transient, and offshore killer whales (Stevens *et al.*, 1989; Hoelzel and Dover, 1991; Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001; Hoelzel *et al.*, 2002). The three forms also vary in morphology, ecology, and behavior. All of these characteristics play an important role in determining whether the monotypic species *O. orca* can be subdivided under the ESA.

Resident Killer Whales

Resident killer whales in the Eastern North Pacific are noticeably different from both the transient and offshore forms. The dorsal fin of resident whales is rounded at the tip and falcate (curved and tapering). Resident whales have a variety of saddle patch pigmentations with five different patterns recognized (Baird and Stacey, 1988). Resident whales occur in large, stable pods with membership ranging from 10 to approximately 60 whales. Their presence has been noted in the waters from California to Alaska. The primary prey of resident whales is fish. A recent summary of the differences between resident and transient forms is found in Baird (2000).

Resident killer whales in the North Pacific consist of the following groups: Southern, Northern, Southern Alaska (includes Southeast Alaska and Prince William Sound whales), western Alaska, and western North Pacific Residents. The Southern Resident killer whale assemblage contains three pods-- J pod, K pod, and L pod--and is considered a stock under the MMPA. Their range during the spring, summer, and fall includes the inland waterways of Puget Sound, Strait of Juan de Fuca, and Southern Georgia Strait. Their occurrence in the coastal waters off Oregon, Washington, Vancouver Island, and more recently off the coast of central California in the south and off the Queen Charlotte Islands to the north has been documented. Little is known about the winter movements and range of the Southern Resident stock. Southern Residents have not been seen to associate with other resident whales, and mitochondrial and nuclear genetic data suggest that Southern Residents interbreed with other killer whale populations rarely if at all (Hoelzel et al., 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Transient Killer Whales

Transient whales occur throughout the Eastern North Pacific with a preference towards coastal waters. Their geographical range overlaps that of the resident and offshore whales. Individual transient killer whales have been documented to move great distances reflecting a large home range (Goley and Straley, 1994). There are several differences between transient and resident killer whales; these have most recently been summarized by Baird (2000). The dorsal fin of transient whales tends to be more erect (i.e., straighter at the tip) than those of resident and offshore whales. Saddle patch pigmentation of Transient killer whales is restricted to three patterns (Baird and Stacey, 1988). Pod structure is small (e.g., fewer than 10 whales) and dynamic in nature. The primary prey of transient killer whales is other marine mammals. Transient whales are not known to intermix with resident or offshore whales. Recent genetic investigations indicate that up to three genetically different groups of transient killer whales exist in the eastern North Pacific (the ''west coast'' Transients, the ''Gulf of Alaska Transients'' and the AT1 pod) (Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Offshore Killer Whales

Offshore killer whales are similar to resident whales, but can be distinguished (i.e., their fins appear to be more rounded at the tip with multiple nicks on the trailing edge, smaller overall size, less sexual dimorphism), but these characteristics need to be further quantified. Offshore whales have been seen in considerably larger groups (up to 200 whales) than residents or transients have. They are known to range from central coastal Mexico to Alaska and occur in both coastal and offshore waters (300 miles off Washington State). While foraging, it is assumed that the main target is fish, but observations of feeding events are extremely limited. Offshore whales are not known to intermingle with resident or transient whales. Genetic analysis indicates that offshore whales are substantially reproductively isolated from other killer whale populations (Barrett-Lennard, 2000; Hoelzel *et al.*, 2004).

Summary of Comments Received in Response to the Proposed Rule

NMFS held public hearings and meetings in February 2005 to provide information on the proposed listing under the ESA, answer questions, and receive comments. We received 34 written comments from government agencies, non-profit groups and members of the public, as well as peer review comments. An additional 1,292 form letters were submitted via e-mail. All of the comments supported listing Southern Resident killer whales under the ESA, with the exception of three comments, two of which addressed issues other than the listing and one which stated ''no comment.''

A joint NMFS/FWS policy requires us to solicit independent expert review from at least three qualified specialists, concurrent with the public comment period (59 FR 34270, July 1, 1994). We solicited technical review of the proposed listing determinations from 10 independent experts selected from the academic and scientific community. In December 2004 the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input. We received comments from one of the independent experts from whom we had requested technical review of the proposed listing determinations. The independent expert reviewer was generally supportive of the scientific principles underlying the DPS determination and proposed listing determination. The reviewer, however, went on to consider the status of all North Pacific resident whales, and suggested that the extinction of Southern Resident killer whales would lead to a significant gap in the range of all North Pacific residents, indicating that all residents should be considered endangered (see comment 6 and response). There was substantial overlap between the comments from the independent expert reviewer and the substantive public comments. The comments were sufficiently similar that we have responded to the reviewer's comments through our general responses below.

Comment 1: The majority of commenters, including the peer reviewer, supported a listing of Southern Resident killer whales as endangered rather than threatened. Arguments for an endangered listing

included: the BRT's statement that the Southern Residents are ''at risk for extinction;'' the high likelihood of extinction for some scenarios in the population viability analysis; the small population size; the susceptibility to catastrophic events; the fact that Canada and Washington State consider the Southern Residents endangered; comparisons to criteria used for other species of whales (for example, in the Recovery Plan for the North Atlantic Right Whale (*Eubalaena glacialis*)(NMFS, 2005)); criteria used by other organizations (for example, the World Conservation Union criterion that populations with fewer than 50 mature individuals are critically endangered (NMFS, 2004)); the recent fluctuations in abundance, including a significant decline; and the pervasive nature and uncertainty of the factors that may be causing population fluctuations or keeping the population at low levels of abundance.

Response: In our proposed rule we acknowledged the factors pointing to a conclusion that Southern Resident killer whales are ''in danger of extinction,'' but also recognized the mitigating factors pointing instead to a conclusion that they are not yet in danger, though likely to become so in the foreseeable future. After balancing the conflicting factors, we gave greater weight to the mitigating factors and proposed a threatened determination. However, after considering information received during the comment period and peer review process, and re-analyzing the factors affecting the Southern Residents, we agree it is appropriate to give greater weight to the threats facing the Southern Resident DPS, and are now listing the DPS as endangered in this final rule.

We continue to disagree that many of the reasons offered by commenters compel a finding under the ESA that the Southern Resident killer whale DPS is ''in danger of extinction'' as opposed to ''likely to become an endangered species.'' The BRT was not making a legal finding when it characterized the Southern Residents as ''at risk for extinction.'' Such a characterization is equally consistent with a determination that the population is likely to become an endangered species in the foreseeable future. Population viability analysis is a useful tool for many purposes, but should be used cautiously in making a determination that a given population is ''in danger of extinction,'' as the peer reviewer observed, because of numerous uncertainties. While some of the scenarios had a high probability of extinction, others did not. We are also not persuaded that the small population size alone, its susceptibility to catastrophic events, or the comparison to other criteria (such as the IUCN or Right Whale criteria) compel a determination of ''endangered.'' The DPS we have delineated is likely naturally small, even at historical levels, and accordingly would always face some level of demographic, stochastic and catastrophic risks. The fact that other entities might classify the population in a certain way is useful information but does not determine the outcome of an inquiry under the standards of the ESA.

Other information provided during the comment period and peer review process, however, compelled us to give greater weight to the threats facing the Southern Resident DPS than to the mitigating factors. The peer reviewer and others highlight the ongoing and potentially changing nature of pervasive threats, in particular, disturbance from vessels, the persistence of legacy toxins and the addition of new ones into the whales' environment, and the potential limits on prey availability (primarily salmon) given uncertain future ocean conditions. The peer reviewer correctly observed that these risks are unlikely to decline (and are likely to increase) in the future. The small number of reproductive age males and high mortality rates for this group are also a concern. And while the population of Southern Residents is not naturally large, the intensity of the threats is increased by the small number of animals currently in the population. The combination of factors responsible for past population declines are unclear, may continue to persist and could worsen before conservation actions are successful, which could potentially preclude a substantial population increase.

In sum, our analysis concluded that the risks to the Southern Resident killer whale DPS represent both ''current [and] threatened destruction or modification of the species' habitat,'' and, to a lesser extent, ''overutilization'' both for commercial and recreational purposes that are likely contributing to the fluctuations in abundance and exacerbating the risk of extinction naturally faced by a small population. After reconsidering the statutory factors listed in section 4(a)(1) in light of the peer reviewer and public comments, and reevaluating our initial balancing of the risks and mitigating factors, we have determined that Southern Residents are ''in danger of extinction.''

Comment 2: Several commenters and the peer reviewer suggested that critical habitat was necessary for the recovery of Southern Residents and urged NMFS to designate critical habitat for Southern Resident killer whales as soon as possible. Specific suggestions for critical habitat areas were general and included ''most of Puget Sound,'' ''Puget Sound and the Straits of Georgia and Juan de Fuca'' and ''all internal waters of Washington State.''

Response: We concur that designating critical habitat is useful for the recovery of Southern Resident killer whales. In our proposal to list the Southern Resident DPS, we included information on potential physical and biological features that are essential to conservation and that may require special management considerations. We requested comments on the appropriateness of considering the suggested features to assist in developing a proposal for critical habitat designation. We have reviewed the comments provided and the best available scientific information on ''essential features'', and we are developing a proposal for critical habitat for Southern Resident killer whales.

Comment 3: Several commenters and the peer reviewer mentioned sound and its effects on killer whales, raising specific concerns about Navy activities and sonar use. One commenter noted that ''noise'' should be considered in identifying the essential features of critical habitat and another suggested that ESA section 7 consultations should be conducted on military actions, including Navy use of mid-frequency sonar.

Response: The Proposed Conservation Plan for Southern Resident Killer Whales developed under the MMPA includes conservation measures to address potential effects of sound, including military sonar. Section 7(a)(2) of the ESA requires Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or to destroy or adversely modify critical habitat. Once this listing becomes effective, Federal agencies must consult on actions that may affect Southern Resident killer whales.

In our proposal to list the Southern Resident DPS, we included information on potential physical and biological features that are essential to conservation and that may require special management considerations. One of the potential essential features was ''sound levels that do not exceed thresholds that inhibit communication or foraging activities or result in temporary or permanent hearing loss.'' We are developing a proposed rule designating critical habitat which will provide additional detail on the essential features.

Comment 4: Several commenters raised whale watching vessels in particular as a threat to Southern Resident killer whales and made suggestions to address their potential effects. Suggestions included requiring distance limits of vessels to whales, reducing the number of vessels, addressing the impacts of vessels sounds, licensing commercial operators, establishing whale watching and protected zones, and increasing enforcement.

Response: We presently have little information about the effects of vessel activity on killer whales. Whales may evade vessels near them, expending energy in the process. Vessel noise may interfere with communication among whales, or with their ability to locate prey. We are uncertain, however, about the extent to which these effects interfere with the survival and recovery of the Southern Residents. The MMPA prohibits ''take'' of marine mammals, which includes harassment, and existing agency guidelines recommend that vessel operators remain at least 100 yards away from all whales, including Southern Resident killer whales, in order to avoid take. In some cases, operating a vessel in the vicinity of whales may result in a take. The Proposed Conservation Plan for Southern Resident Killer Whales acknowledges the data gaps for vessel effects and recommends monitoring vessel activity around the whales, and evaluating the adequacy of the existing guidelines and regulations. The Plan also announces our intention to consider new regulations regarding vessel operation around whales and/or the creation of protected areas.

Comment 5: Several commenters noted the need for continued research to fill important data gaps to help guide management and conservation actions, particularly research on the Southern Residents' winter range and feeding.

Response: The Northwest Fisheries Science Center is conducting research on these and other high priority questions, and developing a long-term research plan to address the data gaps that exist for Southern Resident killer whales. The Proposed Conservation Plan for Southern Resident Killer Whales summarizes the needed research and monitoring actions. The Plan cross-references specific conservation measures requiring additional research with the appropriate research actions.

Comment 6: The peer reviewer commented that if extirpation of the Southern Residents would leave a significant gap in the range of North Pacific residents for purposes of meeting the ''significance'' prong of the DPS policy, their range must represent a ''significant portion of [the] range'' of the unnamed North Pacific resident subspecies. The peer reviewer, therefore, considered the subspecies in danger of extinction ''in a significant portion of its range,'' warranting listing of the entire unnamed subspecies of North Pacific residents.

Response: The reviewer's observation addresses the similarities between the DPS policy's criterion of ''significance'' and the statutory definition of an ''endangered species,'' which encompasses a species that is ''in danger of extinction in all or a significant portion of its range.'' However, the statutory provision for listing units below the subspecies level (DPSs) gives us the authority and the discretion to list only that portion of a larger taxonomic unit that is actually at risk. Otherwise, whenever we find that a group of organisms constitutes a DPS by virtue of the fact that it is discrete and its extirpation would leave a significant gap in the range of the species or subspecies, we would be required to list the entire species or subspecies. This conclusion would be inapposite to the statutory provision that allows for listing of a DPS.

In its initial status review and resulting report, the BRT considered the extinction risk of the combined populations of Southern, Northern, and Alaska Residents and concluded that the larger group had a zero extinction risk in 300 years under the most reasonable scenario (NMFS, 2002). It is therefore more reasonable to list only that portion of the subspecies that is at risk (i.e., the Southern Resident DPS), rather than the entire subspecies.

Determination of Species under the ESA

To be considered for listing under the ESA, a group of organisms must constitute a ''species,'' which is defined in section 3 of the ESA to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' Guidance on what constitutes a DPS is provided by the joint NMFS-U.S. Fish and Wildlife Service (FWS) interagency policy on vertebrate populations (61 FR 4722; February 7, 1996). To be considered a DPS, a population, or group of populations, must be ''discrete'' from other populations and ''significant'' to the taxon (species or subspecies) to which it belongs.

The 2004 BRT concluded that present data do not adequately support recognition of any new species, although multiple species of killer whales may exist and may be confirmed in the future. Accordingly, North Pacific transients and residents should be considered as belonging to a single species. The BRT agreed that the Southern and Northern Residents, as well as the resident killer whales of Southeast Alaska, Prince William Sound, Kodiak Island, the Bering Sea and Russia, likely comprise a subspecies that is distinct from the transients and offshore killer whale ecotypes in the North Pacific. The smallest likely taxon to which the Southern Residents belong would be resident killer whales in the North Pacific, an unnamed subspecies of O. orca. Under the DPS policy, the relevant issues, then, are whether the Southern Residents are discrete from other populations of, and significant to, this subspecies.

Although we have limited genetic data, the available information indicates that Southern Residents are genetically distinct and that there is a high degree of reproductive isolation from other North Pacific resident killer whales (NMFS, 2004). Southern Resident killer whales have a core summer range that is spatially separate from other North Pacific Resident whales, including their closest neighbor, the Northern Residents. In addition, Southern Residents exhibit behaviors unique with respect to other North Pacific Residents. Southern Residents exhibit a distinct ''greeting'' behavior. They have not been observed using rubbing beaches or taking fish from longline gear, behaviors which appear to be unique to other North Pacific Resident Populations. Based on range, demography and behavior, as well as genetics, the BRT determined that Southern Residents meet the criterion for ''discreteness'' under the DPS policy.

The BRT also concluded that the Southern Residents are significant with respect to the North Pacific resident taxon based on evaluation of ecological setting, range, genetic differentiation, behavioral and cultural diversity. The Southern Residents are the only North Pacific residents to spend a substantial amount of time in the California Current ecosystem and appear to occupy an ecological setting distinct from other North Pacific resident populations. Loss of the Southern Residents would result in a gap in the range of the North Pacific residents. The Southern Residents differ markedly from other North Pacific Residents populations at both nuclear and mitochondrial genes. In addition, there are differences in cultural traditions, and the Southern Residents may have unique knowledge of the timing and location of salmon runs in

the southern part of the range of North Pacific residents.

The BRT concluded that Southern Residents were discrete and significant, and therefore should be considered a DPS. The Southern Resident DPS of the unnamed subspecies of North Pacific resident killer whales was the unit we evaluated for risk of extinction and proposed for ESA listing in December 2004.

Summary of Factors Affecting the DPS and Viability Assessment

Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth considerations for listing species. We must list a species if it is endangered or threatened because of any one or a combination of the following factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The 2004 BRT identified the factors that currently pose a risk for Southern Residents and discussed whether they might continue in the future. Concern remains about whether reduced quantity or quality of prey are affecting the Southern Resident population. In addition, levels of organochlorine contaminants are not declining appreciably and those of many ''newly emerging'' contaminants (e.g., brominated flame retardants) are increasing, so Southern Residents are likely at risk for serious chronic effects similar to those demonstrated for other marine mammal species (e.g., immune and reproductive system dysfunction). Other important risk factors that may continue to impact Southern Residents are sound and disturbance from vessel traffic as well as oil spills. The Proposed Conservation Plan for Southern Resident Killer Whales, developed under the MMPA, provides a more detailed discussion of the potential risk factors (70 FR 57565; October 3, 2005).

Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

Several factors have modified the Southern Residents' habitat, including contaminants, vessel traffic, and changes in prey availability. Salmon populations have declined due to degradation of aquatic ecosystems resulting from modern land use changes (e.g., agriculture, hydropower, urban development), harvest and hatchery practices. Beginning in the early 1990s, 27 ESUs of salmon and steelhead in Washington, Oregon, Idaho, and California have been listed as threatened or endangered under the ESA. Reductions in prey availability may force the whales to spend more time foraging, and could lead to reduced reproductive rates and higher mortality.

Despite the enactment of modern pollution controls in recent decades, studies have documented high levels of PCBs and DDTs in Southern Resident killer whales (Ross *et al.*, 2000, Ylitalo *et al.*, 2001). These and other chemical compounds have the ability to induce immune suppression, reproductive impairment, and other physiological effects, as observed in studies on other marine mammals. In addition, high levels of ''newly emerging'' contaminants, such as PBDEs (flame retardants), that may have similar negative effects have been found in killer whales and have an expanding presence in the environment (Rayne *et al.*, 2004).

Commercial shipping, whale watching, ferry operations, and recreational boating traffic have expanded in recent decades. Several studies have linked vessels with short-term behavioral changes in Northern and Southern Resident killer whales (Kruse, 1991; Kriete, 2002; Williams *et al.*, 2002a; 2002b; Foote et al., 2004). Potential impacts from vessels and sound are poorly understood and may affect foraging efficiency, communication, and/or energy expenditure through physical presence or increased underwater sound levels or both. Collisions with vessels are also a potential source of injury.

Overutilization for commercial, recreational, scientific, or educational purposes

The capture of killer whales for public display during the 1970s likely depressed their population size and altered the population characteristics sufficiently to severely affect their reproduction and persistence (Olesiuk et al., 1990). However, there have not been any removals for public display since the 1970s. Whale watching can be considered a form of utilization of Southern Resident killer whales. Under existing prohibitions on take under the MMPA, commercial and recreational whale watching must be conducted without causing harassment of the whales. While NMFS, commercial whale watch operators, and nongovernmental organizations have developed guidelines to educate boaters on how to avoid harassment, there are still concerns regarding compliance with the guidelines and potential violations of the MMPA, increased numbers of vessels engaged in whale watching, and cumulative effects on the whales.

Disease or Predation

While disease has not been implicated in the recent decline of Southern Resident killer whales, high contaminant levels may be affecting immune function in the whales, increasing their susceptibility to disease. The cohesive social structure and presence of all whales in a localized area at one time also has implications should a disease outbreak occur.

Inadequacy of Existing Regulatory Mechanisms

Current levels of contaminants in the environment indicate that previous regulatory mechanisms were not sufficient to protect killer whales. While the use of PCBs and DDT is prohibited under existing regulations, they persist in the environment, possibly for decades, and are also transported via oceans and the atmosphere from areas where their use has not been banned. In addition, there are new emerging contaminants that may have similar negative effects that are not currently regulated.

Other Natural or Human-Made Factors Affecting Continued Existence

Due to its proximity to Alaska's crude oil supply, Puget Sound is one of the leading petroleum refining centers in the U.S. with about 15 billion gallons of crude oil and refined petroleum products transported through it annually (Puget Sound Action Team, 2005). In marine mammals, acute exposure to petroleum products can cause changes in behavior and reduced activity, inflammation of mucous membranes, lung congestion, pneumonia, liver disorders and neurological damage (Geraci and St. Aubin, 1990). The Exxon Valdez oil spill was identified as a potential source of mortality for resident and transient killer whales in Prince William Sound, Alaska (Dahlheim and Matkin, 1994) and has raised concerns about potential implications for Southern Residents, particularly if the entire population is together in the vicinity of a spill. In addition, there may be additional anthropogenic factors that have not yet been identified as threats for Southern Resident killer whales, particularly in their winter range which is not well known.

Viability Analysis

The BRT conducted a population viability analysis (PVA) to synthesize the potential biological consequences of a small population size, a slowly increasing or a declining population trend, and the potential risk factors identified above. The probability of the Southern Resident population becoming extinct was estimated using demographic information from the yearly census through 2003. The most optimistic model (29–year data set) predicted that the probability of Southern Residents becoming extinct (that is, no surviving animals) was less than 0.1 to 3 percent in 100 years and 2 to 42 percent in 300 years. Using the most pessimistic model (the last 10 years of data), the probability of meeting a quasi-extinction threshold (that is, such a small number of animals in the population that they could not reasonably be expected to persist), the probability of meeting the threshold ranged from 39 to 67 percent in 100 years to 76 to 98 percent in 300 years. For both scenarios, the higher percentages in each range were associated with higher probability and magnitude of potential catastrophic mortality events (such as oil spills), as well as with a smaller carrying capacity (that is, assuming the habitat can only support a population of 100 whales).

The BRT modeled combinations of a variety of parameters, some of which are unknown and difficult to estimate or predict (such as carrying capacity and probability of catastrophic mortality, respectively). Accordingly, multiple scenarios were analyzed in order to understand how these parameters would affect the probability that the population would become extinct. For the unknown or uncertain parameters, the BRT used a range of inputs in the model, and this resulted in a range of results. Where the analyses produced high probabilities of extinction, these were associated with the highest levels of potential catastrophic mortality, small carrying capacity, and the use of only a subset of available data. Scenarios incorporating the most optimistic parameters produced probabilities of extinction that were low, but not insignificant. However, there is no indication that the optimistic scenario is the most likely. Therefore, the PVA extinction probabilities, even under the most optimistic conditions, indicate that Southern Resident killer whales are at risk of extinction.

Overall, the BRT was concerned about the viability of the Southern Resident DPS and concluded that it is at risk of extinction because of either small-scale impacts over time (e.g., reduced fecundity or subadult survivorship) or a major catastrophe (e.g., disease outbreak or oil spill). Additionally, the small population size of this killer whale DPS makes it potentially vulnerable to Allee effects (e.g., inbreeding depression) that could cause a further decline. The small number of breeding males, as well as possible reduced fecundity and subadult survivorship in the L-pod, may limit the population's potential for rapid growth in the near future. Although the Southern Resident DPS has demonstrated the ability to recover from lower levels in the past and has shown an increasing trend over the last several years, the factors responsible for the decline are unclear (NMFS, 2002; NMFS, 2004). These factors may still exist and may continue to persist, which could potentially preclude a substantial population increase.

Efforts Being Made to Protect Southern Resident Killer Whales

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after taking into account efforts being made to protect a species. Therefore, in making ESA listing determinations, we first identify factors that have led to a species or DPS decline and assess the level of extinction risk. We then assess existing efforts being made to protect the species to determine if those measures ameliorate the risks faced by the DPS.

In judging the efficacy of existing protective efforts, we rely on the joint NMFS-FWS ''Policy for Evaluation of Conservation Efforts When Making Listing Decisions'' (''PECE;'' 68 FR 15100; March 28, 2003). PECE provides direction for the consideration of protective efforts identified in conservation agreements, conservation plans, management plans, or similar documents (developed by Federal agencies, state and local governments, Tribal governments, businesses, organizations, and individuals) that have not yet been implemented, or have been implemented but have not yet demonstrated effectiveness. The policy articulates several criteria for evaluating the certainty of implementation and effectiveness of protective efforts to aid in determination of whether a species warrants listing as threatened or endangered.

The Southern Resident killer whale stock was designated as depleted under the MMPA, and a Conservation Plan is under development. A Proposed Conservation Plan for Southern Resident Killer Whales providing conservation measures, research and monitoring tasks intended to restore the population was released for public comment on October 3, 2005 (70 FR 57565). In addition to the conservation planning process, NMFS has responded to requests for immediate conservation actions by implementing and supporting several programs. Working in partnerships with The Seattle Aquarium and The Whale Museum in Friday Harbor, Washington, we have supported education, outreach, and stewardship activities in order to increase public awareness about the conservation status and needs of killer whales. To promote responsible viewing of killer whales, we have also provided support for additional hours of on-water stewardship through the Soundwatch program and enforcement presence through the Washington Department of Fish and Wildlife (WDFW).

On April 3, 2004, the Washington Fish and Wildlife Commission added Washington State's killer whale population to the list of the state's endangered species. The state endangered designation is given to native Washington species that are seriously threatened with extinction throughout all or a significant portion of that range within the state (WAC 232–12–297). The designation directs special management attention and priority to recover the species in Washington. WDFW is working with us on conservation strategies for killer whales.

Southern Resident killer whales are listed as endangered and Northern Residents are listed as threatened under Canada's Species at Risk Act (SARA). Under SARA ''endangered species'' means a wildlife species that is facing imminent extirpation or extinction and ''threatened species'' means a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction. Canada's Department of Fisheries and Oceans has convened a Recovery Team, which includes WDFW and NMFS staff members, and has released a Draft Recovery Strategy for Southern and Northern Resident Whales under SARA (DFO, 2005).

In addition to conservation and recovery planning efforts, our Northwest Fisheries Science Center (NWFSC) is engaged in an active research program for Southern Resident killer whales. Research that is currently being conducted is designed to fill identified data gaps and to improve our understanding of the risk factors that may be affecting the decline or recovery of the Southern Resident killer whales. The new information from research will

be used to enhance our understanding of the risk factors affecting recovery, thereby improving our ability to develop and evaluate the effectiveness of management measures.

In addition to protective efforts for Southern Resident killer whales, there are a number of protective efforts underway for West Coast salmonid Evolutionarily Significant Units (ESUs). NMFS recently announced its intent to develop recovery plans for listed Pacific salmon ESUs (70 FR 39231; July 7, 2005). Considerable progress has been made for several watershed areas already, and a draft recovery plan for Puget Sound Chinook was submitted to the agency by Shared Strategy for Puget Sound. The draft plan (written by Shared Strategy, the non-profit group that represents broad salmon recovery interests in the region) is part of what will be a dozen more watershed-level recovery plans that will eventually form the foundation for NMFS's own comprehensive, regional plan for salmon and steelhead in the Northwest.

Informed by the public comments received and based on our review of existing protective efforts, we conclude that collective efforts do not provide sufficient certainty of implementation and effectiveness to substantially ameliorate the level of assessed extinction risk for Southern Resident killer whales. While we acknowledge that many of the ongoing protective efforts are likely to promote the conservation of listed killer whales and their prey, most efforts are relatively recent and thus untested, some are voluntary, and many will require research results to fill important data gaps before we can evaluate their effectiveness. We conclude that existing protective efforts lack the certainty of implementation and effectiveness to preclude listing Southern Resident killer whales, particularly in light of the uncertainties regarding the risk factors. Nonetheless, we will continue to encourage these and other future protective efforts, and we will continue to collaborate with international, tribal, Federal, state, and local entities to promote and improve efforts being made to protect the Southern Resident killer whales and their prey.

Summary of Changes from Proposed Listing Determination

The only change from the proposed listing determination is that we are listing the Southern Resident killer whale DPS as an endangered species, rather than a threatened species.

Final Listing Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species in the foreseeable future throughout all or a portion of its range (16 U.S.C. 1532 (6) and (20)). Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation to protect and conserve the species.

We reviewed the petition, the reports of the BRT (NMFS, 2002, 2004), co-manager comments, Cetacean Taxonomy workshop papers and reports, other available published and unpublished information, and comments received in response to the proposed listing determination. We consulted with species experts and other individuals familiar with killer whales. On the basis of the best available scientific and commercial information available, we conclude that the Southern Resident killer whale DPS is in danger of extinction.

In December 2004, we proposed to list the Southern Resident killer whale DPS as ''threatened.'' We identified several risks to the Southern Residents' viability, including ''the population decline from 1996–2001, the limited number of reproductive age males, the presence of females of reproductive age that are not having calves, and that the factors for the decline may continue to persist.'' We also expressed concern about the small population size, which makes the whales susceptible to demographic and stochastic risks (genetic inbreeding or genetic drift, and natural variations in population size or composition). The small population size, combined with their socially cohesive nature, also makes them susceptible to catastrophic risks, such as oil spills or a disease outbreak. We also cited mitigating factors such as the small population increase in the past several years and the presence of males and females that would reach sexual maturity in the coming years. In balancing the risks against the mitigating factors, we concluded the Southern Resident killer whale DPS was not presently ''in danger of extinction,'' but was likely to become so in the foreseeable future.

We have reconsidered the relative weight we gave the risk factors and the mitigating factors in formulating our proposal, in light of information and analysis received during the comment period, and now find the Southern Resident killer whale DPS ''in danger of extinction.''

As described in the Summary of Factors affecting the DPS and more fully in the ''Proposed Conservation Plan for Southern Resident Killer Whales,'' contaminants such as organochlorines and brominated flame retardants continue to be discharged into the environment, persist for decades, and are known to accumulate in top predators, including killer whales. Southern Residents are likely at risk for serious chronic effects similar to those demonstrated for other marine mammal species, such as immune and reproductive system dysfunction. All current members of the Southern Resident killer whale DPS that have been tested have high levels of toxins in their tissues, and these levels are not likely to significantly decrease over their life spans.

Southern Residents are also at risk because of sound and disturbance from vessel traffic in Puget Sound, a factor that is likely to increase in the future. Trends in salmonid populations and recent cycles of ocean conditions resulting in lowered salmon abundance (the Southern Residents' main prey) are also a likely factor in declines in the Southern Resident killer whale population. The destruction or modification of the whales' habitat (and, to a lesser extent, their overutilization for commercial and recreational purposes) through disturbance from vessels, the persistence of legacy toxins and the addition of new ones into the whales' environment, and the potential limits on prey availability (primarily salmon) given uncertain future ocean conditions, puts them in danger of extinction. The individual and cumulative effects of the threats are more pronounced due to the small size of the population and the fluctuations in its abundance.

Although a number of protective efforts are underway for both Southern Resident killer whales and their prey, we conclude that existing protective efforts lack the certainty of implementation and effectiveness to change our conclusion about the risk to Southern Resident killer whales, particularly in light of the uncertainties regarding the risk factors. Based on the best scientific and commercial data available, the comments received, and after taking into account efforts being made to protect Southern Resident killer whales, we are listing the Southern Resident DPS as endangered. The Southern Resident killer whale DPS will

be listed under the ESA as endangered as of the effective date of this rule. The Southern Resident killer whale DPS does not include killer whales from J, K or L pod placed in captivity prior to listing, nor does it include their captive born progeny.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations and agencies subject to U.S. jurisdiction.

Sections 7(a)(2) of the ESA requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or to adversely modify critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us.

Examples of Federal actions that may affect Southern Resident killer whales include coastal development, oil and gas development, seismic exploration, point and non-point source discharge of persistent contaminants, contaminated waste disposal, adoption of water quality standards, regulation of newly emerging chemical contaminants, vessel operations and noise level standards and fishery management practices.

Sections 10(a)(1)(A) and (B) of the ESA provide us with authority to grant exceptions to the ESA's section 9 ''take'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) for scientific purposes or to enhance the propagation or survival of a listed species. Activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets killer whales.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species, as long as the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Activities potentially requiring a section 10(a)(1)(B) incidental take permit include scientific research not targeting killer whales that incidentally takes Southern Resident killer whales.

Our Policies on Endangered and Threatened Wildlife

On July 1, 1994, we and FWS published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270) and a policy to identify, to the maximum extent possible, those activities that would or would not constitute a violation of section 9 of the ESA (59 FR 34272).

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

NMFS and FWS published in the **Federal Register** on July 1, 1994 (59 FR 3472), a policy that NMFS shall identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of our ESA listing on proposed and ongoing activities within the species' range. At the time of the final rule, NMFS must identify to the extent known, specific activities that will not be considered likely to result in violation of section 9, as well as activities that will be considered likely to result in violation. We believe that, based on the best available information, the following actions will not result in a violation of section 9:

1. Federally funded or approved projects for which ESA section 7 consultation has been completed, and that are conducted in accordance with any terms and conditions we provide in an incidental take statement accompanying a biological opinion.

2. Takes of killer whales that we authorize pursuant to section 10 of the ESA.

There are many activities that we believe could potentially ''take'' Southern Resident killer whales. Activities that we believe could result in violation of section 9 prohibitions against ''take'' of the Southern Resident killer whale DPS include, but are not limited to, the following:

1. Coastal development that adversely affects Southern Resident killer whales (e.g., dredging, land clearing and grading, waste treatment/disposal, pile driving).

2. Discharging or dumping toxic chemicals or other pollutants into areas used by Southern Resident killer whales.

3. Operating vessels in a manner that disrupts foraging, resting or care for young, results in noise levels that disrupt foraging, communication, resting or care for young, or has the potential to cause injury to individuals or groups of whales.

4. Land/water use or fishing practices that result in reduced availability of prey species during periods when Southern Resident killer whales are present.

These lists are not exhaustive. They are intended to provide some examples of the types of activities that we might consider as constituting a take of Southern Resident killer whales under the ESA and its implementing regulations. Questions regarding whether specific activities will constitute a violation of the section 9 take prohibition, and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Effective Date of the Final Listing Determination

We recognize that numerous parties may be affected by the listing of the Southern Resident killer whale DPS under the ESA. To permit an orderly implementation of the consultation requirements applicable to endangered species, the final listing will take effect on February 16, 2006 (see **DATES**).

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(3)) as: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary.

Section 4(a)(3)(a) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat. Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure that they do not fund, authorize or carry out any actions that are likely to destroy or adversely modify that habitat. This requirement is in addition to the section 7 requirement that Federal agencies ensure that their actions do not jeopardize the continued existence of listed species.

In our proposal to list the Southern Resident DPS, we included information on potential physical and biological features that are essential to conservation and that may require special management considerations. We requested comments on the appropriateness of considering the suggested features to assist in developing a proposal for critical habitat designation. We have reviewed the comments provided and the best available scientific information on ''essential features'', and will initiate rulemaking to designate critical habitat.

Classification

National Environmental Policy Act (NEPA)

ESA listing decisions are exempt from the requirements to prepare an environmental assessment or environmental impact statement under the NEPA. See NOAA Administrative Order 216–6.03(e)(1) and Pacific Legal Foundation v. Andrus, 675 F. 2d 825 (6th Cir. 1981). Thus, we have determined that the final listing determination for the Southern Resident killer whale DPS described in this notice is exempt from the requirements of the NEPA of 1969.

Executive Order (E.O.) 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this rule is exempt from review under E.O. 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

E.O. 13084- Consultation and Coordination with Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This final rule does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this final rule. Nonetheless, we will continue to inform potentially affected tribal governments, solicit their input, and coordinate on future management actions.

E.O. 13132 - Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific directives for consultation in situations where a regulation will preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this final rule. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, the proposed rule was provided to the relevant state agencies in each state in which the species is believed to occur, and these agencies were invited to comment. We have conferred with the State of Washington in the course of assessing the status of Southern Resident killer whales, and considered, among other things, state and local conservation measures. Washington has listed killer whales under the Washington Administrative Code 232–12–014 and is coordinating with us to develop a Conservation Plan.

References

A list of references cited in this notice is available upon request (see **ADDRESSES**) or via the Internet at *http://www.nwr.noaa.gov*. Additional information, including agency reports and written comments, is also available at this Internet address.

List of Subjects in 50 CFR Part 224

Endangered marine and anadromous species.

Dated: November 10, 2005.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 224 is amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. In § 224.101, paragraph (b), add the following to the List of Endangered Marine and Anadromous Species, in alphabetical order under MARINE MAMMALS:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(b) *Marine mammals.** * * Killer whale (*Orcinus orca*), Southern Resident distinct population segment, which consists of whales from J, K and L pods, wherever they are found in the wild, and not including Southern Resident killer whales placed in captivity prior to listing or their captive born progeny; * * *

* * * * *

[FR Doc. 05–22859 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 110905G]

Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

ACTION: Temporary rule; inseason orders.

SUMMARY: NMFS publishes the Fraser River salmon inseason orders regulating salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2005 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing times and areas for the gear types of U.S. treaty Indian and all-citizen fisheries during the period the Panel exercised jurisdiction over these fisheries.

DATES: Each of the following inseason actions was effective upon announcement on telephone hotline numbers as specified at 50 CFR 300.97(b)(1); those dates and times are listed herein. Comments will be accepted through December 5, 2005.

ADDRESSES: Comments may be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700-Bldg. 1, Seattle, WA 98115–0070. Information relevant to this document is available for public review during business hours at the office of the Regional Administrator, Northwest Region, NMFS.

Comments can also be submitted via e-mail at the

Fraser2005salmon.nwr@noaa.gov, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments and include the I.D. number 110905G in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: David Cantillon, (206) 526–4140.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631–3644.

Under authority of the Act, Federal regulations at 50 CFR part 300, subpart F provide a framework for implementation of certain regulations of the Commission and inseason orders of the Commission's Fraser Panel for U.S. sockeye and pink salmon fisheries in the Fraser River Panel Area.

The regulations close the U.S. portion of the Fraser River Panel Area to U.S. sockeye and pink salmon fishing unless opened by Panel orders which are given effect by inseason regulations published by NMFS. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations. The Regional Administrator, Northwest Region, NMFS, issues the inseason orders. Official notification of these inseason actions of NMFS is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1). Inseason orders must be published in the Federal Register as soon as practicable after they are issued (50 CFR 300.97(b)(4)). Due to the frequency with which inseason orders are issued, publication of individual orders is impractical. Therefore, the 2005 orders are being published in this single document to avoid fragmentation.

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by NMFS during the 2005 fishing season. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220–22:

Order No. 2005-01: Issued 2 p.m., July 29, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12:00 p.m. (noon) Monday, August 1, 2005, to 12 p.m. (noon), Wednesday, August 3, 2005.

Order No. 2005-02: Issued 1 p.m., August 2, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Wednesday, August 3, 2005, to 12 p.m. (noon), Saturday, August 6, 2005.

Order No. 2005-03: Issued 2 p.m., August 5, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Saturday, August 6, 2005, to 12 p.m. (noon), Monday, August 8, 2005.

Order No. 2005-04: Issued 2 p.m., August 7, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Monday, August 8, 2005, to 12 p.m. (noon), Wednesday, August 10, 2005.

Order No. 2005-05: Issued 2 p.m., August 9, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12:00 p.m. (noon) Wednesday, August 10, 2005, to 12 p.m. (noon), Saturday, August 13, 2005.

Order No. 2005-06: Issued 1 p.m., August 12, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Saturday, August 13, 2005, to 12 p.m. (noon), Wednesday, August 17, 2005.

Order No. 2005-07: Issued 2 p.m., August 19, 2005.

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Saturday, August 20, 2005, to 12 p.m. (noon), Tuesday, August 23, 2005.

Order No. 2005-08: Issued 3:30 p.m., August 22, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon) Tuesday, August 23, 2005, to 12:00 p.m. (noon), Saturday, August 27, 2005.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Friday, August 26, 2005, to 8 a.m., Saturday, August 27, 2005.

All Citizen Fisheries

Areas 7 and 7A Gillnet: Open to fishing from 3 p.m. until 7 p.m. on Thursday, August 25, 2005.

Areas 7 and 7A Reef Net: Open to fishing from 6 a.m. until 2 p.m. on Thursday, August 25, 2005.

Order No. 2005-09: Issued 1:30 p.m., August 26, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 12 p.m. (noon), Saturday, August 27, 2005, to 12 p.m. (noon) Tuesday, August 30, 2005.

Areas 6, 7, and 7A: Open to net fishing from 8 a.m., Saturday, August 27, 2005, to 9 p.m., Sunday, August 28, 2005.

All Citizen Fisheries

Areas 7 and 7A Gillnet: Open to fishing from 2 p.m. until 8 p.m. on Monday, August 29, 2005.

Areas 7 and 7 Purse Seine: Open to fishing from 8 a.m. until 6 p.m. on Monday, August 29, 2005.

Areas 7 and 7A Reef Net: Open to fishing from 12 p.m. (noon) until 6 p.m. on Monday, August 29, 2005.

Order No. 2005-10: Issued 12 p.m., September 2, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 4 a.m., Saturday, September 3, 2005, to 12 p.m. (noon) Wednesday, September 7, 2005.

Areas 6, 7, and 7A: Open for drift gillnets and purse seines from 4 a.m., Saturday, September 3, 2005, to 9 p.m. Monday, September 5, 2005, in the area southerly and easterly of a straight line drawn from Iwersen's dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

All Citizen Fisheries

Areas 7 and 7A Gillnet: Open to fishing from 8 a.m. until 11:59 p.m. (Midnight) on Tuesday, September 6, 2005, in the area southerly and easterly of a straight line drawn from Iwersen's dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

Areas 7 and 7A Purse Seine: Open to fishing from 5 a.m. until 9 p.m. on Tuesday, September 6, 2005, in the area southerly and easterly of a straight line drawn from Iwersen's dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

Order No. 2005-11: Issued 4 p.m., September 6, 2005.

All Citizen Fisheries

Areas 7 and 7A Gillnet: Open to fishing from 8 a.m. until 11:59 p.m. (Midnight) on both Wednesday, September 7, and Friday, September 9, 2005.

Areas 7 and 7A Purse Seine: Open to fishing from 5 a.m. until 9 p.m. on both Wednesday, September 7, and Friday, September 9, 2005.

Areas 7 and 7A Reef Net: Open to fishing from 5 a.m. until 9 p.m. on both Wednesday, September 7, and Friday, September 9, 2005.

Order No. 2005-12: Issued 12 p.m., September 9, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Open for drift gillnets from 5 a.m., Saturday, September 10, 2005, to 9 p.m. Monday, September 12, 2005.

Areas 6, 7, and 7A: Open for drift gillnets and purse seines from 5 p.m., Saturday, September 10, 2005, to 9 p.m. Monday, September 12, 2005.

All Citizen Fisheries

Areas 7 and 7A Gillnet: Open to fishing from 8 a.m. until 11:59 p.m. (Midnight) on both Tuesday, September 13, and Wednesday, September 14, 2005.

Areas 7 and 7A Purse Seine: Open to fishing from 5 a.m. until 9 p.m. on both Tuesday, September 13, and Wednesday, September 14, 2005.

Areas 7 and 7A Reef Net: Open to fishing from 5 a.m. until 9 p.m. on both Tuesday, September 13, and Wednesday, September 14, 2005.

Order No. 2005-13: Issued 12 p.m., September 12, 2005.

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Relinquish regulatory control effective 12:01 a.m., Tuesday, September 13, 2005.Order No. 2005-14: Issued 12 p.m., September 16, 2005.

The Fraser River Panel approved the following relinquishment of regulatory control in U.S. Puget Sound Panel waters:

Areas 6, 6A, and 7: Relinquish regulatory control effective 12:01 a.m., Saturday, September 17, 2005.

Area 7A: Relinquish regulatory control in that portion of Area 7A lying east and south of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts in the State of Washington to the East Point Light on Saturna Island in the province of British Columbia, Canada, effective 12:01 a.m., Saturday, September 17, 2005.

The Assistant Administrator for Fisheries NOAA (AA), finds that good cause exists for the inseason orders to be issued without affording the public prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) as such prior notice and opportunity for comments is impracticable and contrary to the public interest. Prior notice and opportunity for public comment is impracticable because NMFS has insufficient time to allow for prior notice and opportunity for public comment between the time the stock abundance information is available to determine how much fishing can be allowed and the time the fishery must open and close in order to harvest the appropriate amount of fish while they are available.

Moreover, such prior notice and opportunity for public comment is impracticable because not closing the fishery upon attainment of the quota would allow the quota to be exceeded and thus compromise the conservation objectives established preseason, and it does not allow fishers appropriately controlled access to the available fish at the time they are available.

The AA also finds good cause to waive the 30-day delay in the effective date, required under 5 U.S.C. 553(d)(3), of the inseason orders. A delay in the effective date of the inseason orders would not allow fishers appropriately controlled access to the available fish at that time they are available.

This action is authorized by 50 CFR 300.97, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 3636(b).

Dated: November 14, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–22862 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 111505B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12 noon, local time, November 17, 2005, through June 30, 2006.

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

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.01 million lb (0.46 million kg) (66 FR 17368, March 30, 2001).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the **Federal Register**. NMFS has determined the commercial quota of 1.01 million lb (0.46 million kg) for Gulf group king mackerel in the western zone will be

reached on November 16, 2005. Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed effective 12 noon, local time, November 17, 2005, through June 30, 2006, the end of the fishing year. The boundary between the eastern and western zones is 87°31′06″ W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones or subzones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones or subzones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action is required by 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

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

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

Dated: November 15, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–22902 Filed 11–15–05; 2:16 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 111405B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2005 Tilefish Commercial Fishery

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for tilefish (goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and tilefish) in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the tilefish quota for the commercial fishery will have been reached by November 21, 2005. This closure is necessary to protect the tilefish resource.

DATES: Closure is effective 12:01 a.m., local time, November 21, 2005, until 12:01 a.m., local time, on January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, telephone 727–824–5350, fax 727–824–5308, e-mail *Jason.Rueter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for tilefish in the Gulf of Mexico at 0.44 million lb (200,000 kg) for the current fishing year, January 1 through December 31, 2005.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register.** Based on current statistics, NMFS has determined that the available commercial quota of 0.44 million lb (200,000 kg) for tilefish will be reached on or before November 21, 2005. Accordingly, NMFS is closing the commercial tilefish fishery in the Gulf of Mexico EEZ from 12:01 a.m., local time, on November 21, 2005, until 12:01 a.m., local time, on January 1, 2006. The operator of a vessel with a valid reef fish permit having tilefish aboard must have landed and bartered, traded, or sold such tilefish prior to 12:01 a.m., local time, November 21, 2005.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of tilefish in or from the Gulf of Mexico EEZ, and the sale or purchase of tilefish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of tilefish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, November 21, 2005, and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. These procedures are unnecessary because the regulation requiring the closure has been subject to notice and comment, and all that remains is to notify the public of the closure. For these same reasons, there is good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is waived.

This action is required by 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: November 15, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–22901 Filed 11–15–05; 2:16 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050426117-5117-01; I.D. 110905D]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #9 - Adjustment of the Recreational Fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon

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

ACTION: Temporary rule; modification of fishing seasons; request for comments.

SUMMARY: NMFS announces a regulatory modification in the recreational fishery from Leadbetter Point, WA, to Cape Falcon, OR (Columbia River Subarea). Effective Friday, September 9, 2005, the daily bag limit for the Columbia River Subarea was modified as follows: ''All salmon, except no Chinook retention, two fish per day, all retained coho must have a healed adipose fin clip.'' All other restrictions remain in effect as announced for 2005 ocean salmon fisheries, and by previous inseason actions. This action was necessary to conform to the 2005 management goals, and the intended effect is to allow the fishery to operate within the seasons and quotas specified in the 2005 annual management measures.

DATES: Effective 0001 hours local time (l.t.), Friday, September 9, 2005, until either the overall Chinook quota or coho quota is taken, or 2359 hours l.t., September 30, 2005, whichever is earlier; after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures.

Comments will be accepted through December 5, 2005.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206-526-6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments can also be submitted via e-mail at the *2005salmonIA9.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include [050426117–5117–01 and/or I.D. 110905D] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator (RA) has adjusted the recreational fishery from Leadbetter Point, WA, to Cape Falcon, OR (Columbia River Subarea), with one regulatory modification. On September 7, 2005, the Regional Administrator determined that the Chinook catch was near the overall Chinook quota and that the Columbia River Subarea Chinook guideline had been achieved. Therefore, effective Friday, September 9, 2005, the daily bag limit for the Columbia River Subarea was modified as follows: ''All salmon, except no Chinook retention, two fish per day, all retained coho must have a healed adipose fin clip.''

All other restrictions remain in effect as announced for 2005 ocean salmon fisheries, and by previous inseason actions. This action was necessary to conform to the 2005 management goals, and the intended effect is to allow the fishery to operate within the seasons and quotas specified in the 2005 annual management measures. An inseason conference call was scheduled on Tuesday, September 13, 2005, to evaluate the status of the catch from the U.S.-Canada Border to Cape Falcon, Oregon, and make any inseason actions if warranted. Modification of the species that may be caught and landed during specific seasons and the establishment or modification of limited retention regulations is authorized by regulations at 50 CFR 660.409(b)(1)(ii). Modification in recreational bag limits and recreational fishing days per calendar week is authorized by regulations at 50 CFR 660.409 (b)(1)(iii).

In the 2005 annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), NMFS announced the recreational fisheries: the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea) opened July 1 through the earlier of September 18 or a 12,667 marked coho subarea quota with a subarea guideline of 4,300 Chinook; the area from Cape Alava to Queets River, WA (La Push Subarea) opened July 1 through the earlier of September 18 or a 3,067 marked coho subarea quota with a subarea guideline of 1,900 Chinook; the area from Queets River to Leadbetter Point, WA (Westport Subarea) opened June 26 through the earlier of September 18 or a 45,066 marked coho subarea quota with a subarea guideline of 28,750 Chinook; the area from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea) opened July 3 through the earlier of September 30 or a 60,900-marked coho subarea quota with a subarea guideline of 8,200 Chinook. The Neah Bay and La Push Subareas were opened Tuesday through Saturday, and the Westport and Columbia River Subareas were opened Sunday through Thursday. All subareas had a provision specifying that there may be a conference call no later than July 27 to consider opening seven days per week. All subareas were restricted to a Chinook minimum size limit of 24 inches (61.0 cm) total length. In addition, all of the subarea bag limits were for all salmon, two fish per day, no more than one of which may be a Chinook, with all retained coho required to have a healed adipose fin clip.

The recreational fisheries in the area from Cape Alava, WA, to Cape Falcon, OR (La Push, Westport, and Columbia River Subareas), were modified by Inseason Action #5 (70 FR 47727, August 15, 2005), effective Friday, July 29, 2005, to be open seven days per week, with a modified daily bag limit as follows: ''All salmon, two fish per day, and all retained coho must have a healed adipose fin clip.'' All other restrictions remain in effect as announced for 2005 Ocean Salmon Fisheries.

The recreational fishery from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), was modified by Inseason Action #6 (70 FR 52035, September 1, 2005), effective Tuesday, August 16, 2005, to a have a daily bag limit as follows: ''All salmon, two fish per day, and all retained coho must have a healed adipose fin clip.'' All other restrictions remain in effect as

announced for 2005 Ocean Salmon Fisheries.

The recreational fishery from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), was modified by Inseason Action #8 (70 FR 55303, September 21, 2005), effective Tuesday, August 30, 2005, to be open seven days per week. All other restrictions remain in effect as announced for 2005 ocean salmon fisheries, and by previous inseason actions.

On September 7, 2005, the RA consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the Chinook and coho catch rates, and effort data indicated that the Chinook catch was near the overall Chinook quota and that the Columbia River Subarea Chinook guideline had been achieved. As a result, on September 7, 2005, the states recommended, and the RA concurred, that effective Friday, September 9, 2005, the daily bag limit for the Columbia River Subarea was modified as follows: ''All salmon, except no Chinook retention, two fish per day, all retained coho must have a healed adipose fin clip.'' All other restrictions remain in effect as announced for 2005 ocean salmon fisheries, and by previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason action procedures of 50 CFR 660.411, actual notice to fishers of the already described regulatory action was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would unnecessarily limit fishers appropriately controlled access to available fish during the scheduled fishing season.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: November 14, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–22858 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040429134–4135–01; I.D. 110905F]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #11—Adjustment of the Commercial Salmon Fishery from the Oregon-California Border to Humboldt South Jetty, California

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

ACTION: Closure; request for comments.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from the Oregon-California Border to Humboldt South Jetty, CA, was modified to close at midnight on Friday, September 16, 2005. This action was necessary to conform to the 2005 management goals, and the intended effect is to allow the fishery to operate within the seasons and quotas specified in the 2005 annual management measures.

DATES: Closure effective 2359 hours local time (l.t.), September 16, 2005, after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through December 5, 2005.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments can also be submitted via e-mail at the *2005salmonIA11.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www/regulations.gov*. Follow the instructions for submitting comments, and include [050426117–5117–01 and/or I.D. 110905F] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator closed the commercial salmon fishery in the area from the Oregon-California Border to Humboldt South Jetty, CA, effective at midnight on Friday, September 16, 2005. On September 16, the Regional Administrator determined that available catch and effort data indicated that the quota of 6,000 Chinook salmon would be reached by midnight.

Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2005 annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), NMFS announced the commercial fishery in the area from the Oregon-California Border to Humboldt South Jetty, CA (California Klamath Management Zone), would open September 3 through the

earlier of September 30 or a 6,000 Chinook quota.

On September 16, 2005, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and California Department of Fish and Game. Information related to catch to date, the Chinook catch rate, and effort data indicated that it was likely that the Chinook quota would be reached by midnight. As a result, the State of California recommended, and the Regional Administrator concurred, that the area from the Oregon-California Border to Humboldt South Jetty, CA, close effective at midnight on Friday, September 16, 2005. All other restrictions that apply to this fishery remained in effect as announced in the 2005 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the state. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason action procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the time the action was effective by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agency have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery closure must be implemented to avoid exceeding the quota. Because of the rate of harvest in this fishery, failure to close the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and possibly reduced yield of the stocks in the future. For the same reasons, the AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3).

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: November 14, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–22863 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 222
Friday, November 18, 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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–144620–04]

RIN 1545–BD70

Partner's Distributive Share

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: The proposed regulations provide rules for testing the substantiality of an allocation under section 704(b) where the partners are look-through entities or members of a consolidated group, provide additional guidance on the effect of other provisions, such as section 482, upon the tax treatment of a partner with respect to the partner's distributive share under section 704(b), and revise the existing rules for determining the partners' interests in a partnership. The proposed regulations affect partnerships and their partners. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by January 25, 2006. Outlines of topics to be discussed at the public hearing scheduled for February 15, 2006, at 10 a.m., must be received by January 25, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–144620–04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–144620–04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS internet site at *http://www.irs.gov/regs* or via the Federal eRule making Portal at *http://www.regulations.gov* (IRS REG–144620–04). The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Timothy J. Leska, (202) 622–3050; concerning submissions and the hearing LaNita Van Dyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Subchapter K is intended to permit taxpayers to conduct joint business activities through a flexible economic arrangement without incurring an entity-level tax. To achieve this goal of a flexible economic arrangement, partners are generally permitted to decide among themselves how a partnership's items will be allocated. Section 704(a) of the Internal Revenue Code (Code) provides that a partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided, be determined by the partnership agreement.

Section 704(b) places a significant limitation on the general flexibility of section 704(a). Specifically, section 704(b) provides that a partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances) if the allocation to a partner under the partnership agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect. Thus, the statute provides that partnership allocations either must have substantial economic effect or must be in accordance with the partner's interest in the partnership.

Section 1.704–1(b)(2)(i) provides that the determination of whether an allocation of income, gain, loss, or deduction to a partner has substantial economic effect involves a two-part analysis. First, the allocation must have economic effect within the meaning of § 1.704–1(b)(2)(ii). Second, the economic effect of the allocation must be substantial within the meaning of § 1.704–1(b)(2)(iii).

For an allocation to have economic effect, it must be consistent with the underlying economic arrangement of the partners. This means that, in the event that there is an economic benefit or burden that corresponds to the allocation, the partner to whom the allocation is made must receive such economic benefit or bear such economic burden. § 1.704–1(b)(2)(ii)*(a)*. Under § 1.704–1(b)(2)(ii)(*b*), an allocation of income, gain, loss, or deduction (or item thereof) to a partner generally has economic effect if, and only if, throughout the full term of the partnership, the partnership agreement provides: (1) For the determination and maintenance of the partners' capital accounts in accordance with § 1.704–1(b)(2)(iv); (2) for liquidating distributions to the partners to be made in accordance with the positive capital account balances of the partners; and (3) for each partner to be unconditionally obligated to restore the deficit balance in the partner's capital account following the liquidation of the partner's partnership interest. In lieu of satisfying the third requirement, the partnership may satisfy the qualified income offset rules set forth in § 1.704–1(b)(2)(ii)(*d*). An allocation also may be deemed to have economic effect if it satisfies the economic effect equivalence rules of § 1.704–1(b)(2)(ii)(*i*).

Section 1.704–1(b)(2)(iii)(*a*) provides as a general rule that the economic effect of an allocation (or allocations) is substantial if there is a reasonable possibility that the allocation (or allocations) will affect substantially the dollar amounts to be received by the partners from the partnership, independent of tax consequences. Notwithstanding the previous sentence, the economic effect of the allocation (or allocations) is not substantial if, at the time the allocation (or allocations) becomes part of the partnership agreement, (1) the after-tax economic consequences of at least one partner may, in present value terms, be enhanced compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement, and (2) there is a strong likelihood that the after-tax economic consequences of no partner will, in present value terms, be substantially diminished compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement. In determining the after-tax economic benefit or detriment to a partner, tax consequences that result from the interaction of the allocation with such partner's tax

attributes that are unrelated to the partnership will be taken into account.

If the partnership agreement provides for an allocation of income, gain, loss, deduction or credit to a partner that does not have substantial economic effect, then the partner's distributive share of that item is determined in accordance with the partner's interest in the partnership. References in section 704(b) or § 1.704–1 to a partner's interest in the partnership, or to the partners' interests in the partnership, signify the manner in which the partners have agreed to share the economic benefit or burden (if any) corresponding to the income, gain, loss, deduction, or credit (or item thereof) that is allocated, taking into account all facts and circumstances relating to the economic arrangement of the partners.

Section 1.704–1(b)(3)(i) provides that all partners' interests are presumed to be equal (determined on a per capita basis). However, this presumption may be rebutted by the taxpayer or the IRS by establishing facts and circumstances that show that the partners' interests in the partnership are otherwise.

Section 1.704–1(b)(1)(iii) provides that an allocation that is respected under section 704(b) nevertheless may be reallocated under other provisions, such as section 482, section 704(e)(2), section 706(d) (and related assignment of income principles), and § 1.751–1(b)(2)(ii).

On April 21, 2004, temporary regulations (TD 9121) relating to the proper allocation of partnership expenditures for foreign taxes were published in the **Federal Register** (69 FR 21405). In the preamble to those regulations, the IRS and the Treasury Department indicated a concern that some partnerships are taking the position that, in determining if the economic effect of a partnership allocation is substantial, they need not consider the tax consequences to an owner of the partner that result from the allocation. This position is inconsistent with the policies underlying the substantial economic effect rules, because it would allow a partnership to make tax-advantaged allocations if the tax advantages of the allocations accrue to an owner of a partner, rather than to the partner itself.

Explanation of Provisions

These proposed regulations provide that the interaction of a partnership allocation with the tax attributes of owners of look-through entities must be taken into account when testing the substantiality of the allocation to a partner that is a look-through entity. For this purpose, look-through entities include partnerships, S corporations, trusts, certain controlled foreign corporations, and entities that are disregarded for federal tax purposes, such as qualified subchapter S subsidiaries under section 1361(b)(3), entities that are disregarded under §§ 301.7701–1 through 301.7701–3 of the Procedure and Administration Regulations, or qualified real estate investment trusts (REIT) subsidiaries within the meaning of section 856(i)(2). In general, look-through entities are entities that flow certain tax consequences through to their owners. Although regulated investment companies (RICs) and REITs have certain flow-through characteristics, the regulations do not include them in the list of look-through entities, because the Treasury Department and the IRS believe that the burdens of a rule requiring taxpayers to look through these entities in determining the substantiality of partnership allocations generally would outweigh the benefits of such a rule. However, if necessary, RICs and REITs or other look-through entities may be added to the list of look-through entities in future guidance. Comments are requested regarding the treatment of controlled foreign corporations as look-through partners for purposes of § 1.704–1(b)(2)(iii)(*a*)(*2*) of these proposed regulations. Specifically, comments are requested concerning whether the rule should be limited to those situations in which the controlled foreign corporation owns greater than a threshold minimum percentage interest in the partnership, or only by taking into account the tax attributes of those U.S. shareholders of the controlled foreign corporation owning above a threshold percentage of the stock of the controlled foreign corporation.

The regulations also provide that the interaction of a partnership allocation with the tax attributes of the consolidated group must be taken into account when testing the substantiality of the allocation to a partner that is a member of a consolidated group. A member of a consolidated group is a member of a group filing (or required to file) consolidated returns for the tax year. See § 1.1502–1(h).

The proposed regulations clarify that for purposes of § 1.704–1(b)(2)(iii)(*a*)(*1*), the after-tax economic consequences of a partner resulting from an allocation or allocations must be compared to the after-tax economic consequences to that partner if the allocation or allocations were made in accordance with the partners' interests in the partnership. The proposed regulations also remove the per capita presumption in § 1.704–1(b)(3)(i), which reaches the correct result in very few cases. Finally, the regulations include an example illustrating a fact pattern to which, apart from the application of section 704(b), other sections may apply.

Proposed Effective Date

These regulations are generally proposed to apply for partnership taxable years beginning on or after the date on which final regulations are published in the **Federal Register**. No inference is intended as to the tax consequences of partnership allocations made in taxable years beginning before the effective date of these regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for February 15, 2006, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit

written or electronic comments by January 25, 2006, and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by January 25, 2006. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of this regulation is Timothy J. Leska, Office of the Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.704–1 is amended as follows:

1. Paragraph (b)(1)(ii)(*a*) is amended by adding a sentence at the end of the paragraph.
2. Paragraph (b)(1)(iii) is amended by revising the first three sentences and adding a new fourth sentence.
3. Paragraph (b)(2)(iii)(*a*) is redesignated as paragraph (b)(2)(iii)(*a*)(*1*) and revised.
4. A new paragraph (b)(2)(iii)(*a*)(*2*) is added.
5. The last two sentences of paragraph (b)(3)(i) are removed.
6. Paragraph (b)(5) *Example 29* and *Example 30* are added.

The additions and revisions read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) * * *

(1) * * *

(ii) *Effective dates.* (*a*)* * * Paragraph (b)(2)(iii)(*a*)(*2*) and paragraph (b)(5) *Example 30* of this section apply to taxable years beginning on or after the date on which final regulations are published in the **Federal Register**.

(iii) *Effect of other sections.* The determination of a partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) under section 704(b) and this paragraph (b) is not conclusive as to the tax treatment of a partner with respect to such distributive share. For example, an allocation of loss or deduction to a partner that is respected under section 704(b) and this paragraph (b) may not be deductible by such partner if the partner lacks the requisite motive for economic gain (see, e.g., *Goldstein* v. *Commissioner*, 364 F.2d 734 (2d. Cir. 1966)), or may be disallowed for that taxable year (and held in suspense) if the limitations of section 465 or section 704(d) are applicable. Similarly, an allocation that is respected under section 704(b) and this paragraph (b) nevertheless may be reallocated under other provisions, such as section 482, section 704(e)(2), section 706(d) (and related assignment of income principles), and § 1.751–1(b)(2)(ii). See paragraph (b)(5) *Example 29* of this section. * * *

(2) * * *

(iii) *Substantiality*—(*a*) *In general*—(*1*) *Fundamental principles.* Except as otherwise provided in this paragraph (b)(2)(iii), the economic effect of an allocation (or allocations) is substantial if there is a reasonable possibility that the allocation (or allocations) will affect substantially the dollar amounts to be received by the partners from the partnership, independent of tax consequences. Notwithstanding the preceding sentence, the economic effect of an allocation (or allocations) is not substantial if, at the time the allocation (or allocations) becomes part of the partnership agreement, the after-tax economic consequences of at least one partner may, in present value terms, be enhanced compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement (and, thus, the allocation or allocations were allocated among the partners in accordance with the partners' interests in the partnership), and there is a strong likelihood that the after-tax economic consequences of no partner will, in present value terms, be substantially diminished compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement (and, thus, the allocation or allocations were allocated among the partners in accordance with the partners' interests in the partnership). In determining the after-tax economic benefit or detriment to a partner, tax consequences that result from the interaction of the allocation with such partner's tax attributes that are unrelated to the partnership will be taken into account. See paragraph (b)(5) *Examples 5* and *9* of this section. The economic effect of an allocation is not substantial in the two situations described in paragraphs (b)(2)(iii)(*b*) and (*c*) of this section. However, even if an allocation is not described therein, its economic effect may be insubstantial under the general rules stated in this paragraph (b)(2)(iii)(*a*). References in this paragraph (b)(2)(iii) to allocations include capital account adjustments made pursuant to paragraph (b)(2)(iv)(*k*) of this section.

(*2*) *Partners that are look-through entities or members of a consolidated group*—(*i*) *Rule.* For purposes of this paragraph (b)(2)(iii), in determining the after-tax economic benefit or detriment to any partner that is a look-through entity, the tax consequences that result from the interaction of the allocation with the tax attributes of any person that owns an interest in such a partner, whether directly or indirectly through one or more look-through entities, must be taken into account, and, in determining the after-tax economic benefit or detriment to any partner that is a member of a consolidated group (within the meaning of § 1.1502–1(h)), the tax consequences that result from the interaction of the allocation with the tax attributes of the consolidated group and with the tax attributes of another member with respect to a separate return year must be taken into account. See paragraph (b)(5) *Example 30* of this section.

(*ii*) *Definition.* For purposes of this paragraph (b)(2)(iii)(*a*)(*2*), a *look-through entity* means—

(*A*) A partnership;

(*B*) A subchapter S corporation;

(*C*) A trust;

(*D*) An entity that is disregarded for Federal tax purposes, such as a qualified subchapter S subsidiary under section 1361(b)(3), an entity that is disregarded as an entity separate from its owner under §§ 301.7701–1 through 301.7701–3 of this chapter, or a qualified REIT subsidiary within the meaning of section 856(i)(2).

(*E*) A controlled foreign corporation, as defined in section 957(a), but only with respect to allocations of items of income, gain, loss, or deduction that enter into the corporation's computation of subpart F income or would enter into that computation if such items were allocated to the corporation (collectively, subpart F items). For purposes of this paragraph (b)(2)(iii)(*a*)(*2*)(*ii*)(*E*), the rule in paragraph (b)(2)(iii)(*a*)(*2*)(*i*) of this section shall apply only by taking into account the tax attributes of a person that is a United States shareholder of the controlled foreign corporation the

amount of whose inclusions of gross income under section 951(a) are affected by the partnership's allocations of subpart F items (or would be affected if such items were allocated to the corporation).

* * * * *

(5) *Examples.* * * *

Example 29. (i) B, a domestic corporation, and C, a controlled foreign corporation, form BC, a partnership organized under the laws of country X. B and C each contribute 50 percent of the capital of BC. B and C are wholly-owned subsidiaries of A, a domestic corporation. Substantially all of BC's income would not be subpart F income if earned directly by C. The BC partnership agreement provides that, for the first fifteen years, BC's gross income will be allocated 10 percent to B and 90 percent to C, and BC's deductions and losses will be allocated 90 percent to B and 10 percent to C. The partnership agreement also provides that, after the initial fifteen year period, BC's gross income will be allocated 90 percent to B and 10 percent to C, and BC's deductions and losses will be allocated 10 percent to B and 90 percent to C.

(ii) Apart from the application of section 704(b), the Commissioner may reallocate or otherwise not respect the allocations under other sections. See paragraph (b)(1)(iii) of this section. For example, BC's allocations of gross income, deductions, and losses may be evaluated and reallocated (or not respected), as appropriate, if it is determined that the allocations result in the evasion of tax or do not clearly reflect income under section 482.

Example 30. PRS is a partnership with three partners, A, B, and C. A is a corporation that is a member of a consolidated group within the meaning of § 1.1502–1(h). B is a subchapter S corporation that is wholly-owned by D, an individual. C is a partnership with two partners, E, an individual, and F, a corporation that is member of a consolidated group within the meaning of § 1.1502–1(h). For purposes of paragraph (b)(2)(iii) of this section, in determining the after-tax economic benefit or detriment of an allocation to A, the tax consequences that result from the interaction of the allocation to A with the tax attributes of the consolidated group in which A is a member must be taken into account. In determining the after-tax economic benefit or detriment of an allocation to B, the tax consequences that result from the interaction of the allocation with the tax attributes of D must be taken into account. In determining the after-tax economic benefit or detriment of an allocation to C, the tax consequences that result from the interaction of the allocation with the tax attributes of E and the consolidated group in which F is a member must be taken into account.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 05–22281 Filed 11–17–05; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7998–7]

Massachusetts: Extension of Interim Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to extend the expiration date from January 1, 2006 to January 1, 2011 for the interim authorization under the Resource Conservation and Recovery Act, of the Massachusetts program for regulating Cathode Ray Tubes (''CRTs''). Massachusetts was granted interim authorization to assume the responsibility under the Toxicity Characteristics Rule (''TC Rule'') for regulating CRTs on November 15, 2000, with an expiration date of January 1, 2003. This expiration date was subsequently extended until January 1, 2006. As this interim authorization is soon due to expire, an extension is needed for the reasons explained elsewhere in today's **Federal Register**. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is publishing a rule to authorize the extension without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this extension during the comment period, the decision to extend the interim authorization will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and this separate document in this proposed rules section of this **Federal Register** will serve as the proposal to authorize the changes. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by December 19, 2005.

ADDRESSES: Send any written comments to Robin Biscaia, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; telephone: (617) 918–1642. Documents related to EPA's previous decision to grant interim authorization (regarding regulation of CRTs) and the materials which EPA used in now considering the extension (the ''Administrative Record'') are available for inspection and copying during normal business hours at the following locations: Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., telephone: (617) 556–1096; or EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours: 10 a.m. to 3 p.m., Monday through Thursday, telephone: (617) 918–1990.

Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023, telephone: (617) 918–1642.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: November 9, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 05–22892 Filed 11–17–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG23

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for 12 Species of Hawaiian Picture-Wings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), announce the reopening of the comment period on the proposal to list 12 species of Hawaiian picture-wings as endangered to allow peer reviewers and all interested parties another opportunity to submit comments on the rule.

DATES: Comments from all interested parties must be received by December 2, 2005.

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

1. You may submit comments and information to Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office (PIFWO), U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, P.O. Box 50088, Honolulu, HI 96850;

2. You may hand-deliver written comments and information to our PIFWO at the address given above;

3. You may also send comments by electronic mail (e-mail) to *12pic_species_listing@fws.gov.* For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section; or

4. You may fax your comments to 808/792–9581.

All comments and materials received, as well as supporting documentation used in preparation of the proposed rule, will be available for public inspection, by appointment during normal business hours at our PIFWO at the above address.

FOR FURTHER INFORMATION CONTACT: Patrick Leonard, Field Supervisor, at the above address (telephone 808/792–9400; facsimile 808/792–9581).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 2001, we published a proposed rule to list as endangered 12 species of Hawaiian picture-wings: *Drosophila aglaia, D. differens, D. hemipeza, D. heteroneura, D. montgomeryi, D. mulli, D. musaphilia, D. neoclavisetae, D. obatai, D. ochrobasis, D. substenoptera,* and *D. tarphytrichia* (66 FR 3964).

These insect species, known as Hawaiian picture-wings, are part of the intensely studied family, Drosophilidae, found throughout the main islands of the Hawaiian archipelago. Hawaiian picture-wings are known for their elaborate markings on otherwise clear wings. They also have been called the ''birds of paradise'' of the insect world because of their spectacular courtship displays and defense of their territories.

As many as 1,000 species of Hawaiian picture-wing may exist, each adapted not only to a particular island, but to a specific habitat type. Individual species have adapted to a wide diversity of ecosystems ranging from desert-like habitats to rain forests and swamplands. In many cases, a species requires a specific native plant host during portions of its breeding cycle.

Each of the 12 Hawaiian picture-wing species in the proposed listing rule is found only on a single island, and each breeds only on a single or a few related species of plants, some of which are also listed as threatened or endangered species. Six of the picture-wing species are found on Oahu; three species, on the island of Hawaii (Big Island); and one species, on each of the islands of Kauai, Molokai, and Maui. One of the Big Island species was thought to be extinct until an extremely small population was rediscovered in 1993.

Threats to the continued existence of these species include habitat degradation caused by feral animals and nonnative weeds, habitat loss from fire, biological pest control, and predation from alien ants and wasps. Three of the picture-wing species exist in such a small number of populations that naturally occurring events such as hurricanes and landslides could eliminate them.

In our January 17, 2001, proposed rule and associated notifications, we requested that all interested parties submit comments, data, or other information that might contribute to the development of a final rule. A 60-day comment period closed on March 19, 2001. The comment period was reopened on October 4, 2005, and closed on November 3, 2005, to allow another opportunity to submit comments on the rule (70 FR 57851). We are reopening the comment period again to give additional time for all interested parties to submit comments on the proposed listing.

Pursuant to a settlement agreement approved by the United States District Court for the District of Hawaii on August 31, 2005, the Service must make a final listing decision for these 12 Hawaiian picture-wing species by April 17, 2006. If the final listing determination results in the listing of one or more of the 12 species and a critical habitat designation is found to be prudent, the Service must submit to the **Federal Register** a proposed critical habitat determination by September 15, 2006, and a final critical habitat determination by April 16, 2007 (*Center for Biological Diversity* v. *Allen*, CV–05–27400326 JE).

Public Comments Solicited

We intend that any final action resulting from the proposal be as accurate and as effective as possible. Therefore, we are reopening the comment period again to give additional time for all interested parties to consider the information provided in the proposed rule and submit comments on the proposed listing. Comments from the public regarding the proposed rule are sought, especially concerning:

(1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to the 12 Hawaiian picture-wing species;

(2) The location of any additional populations of the 12 Hawaiian picture-wing species;

(3) Additional information on the range, distribution, and population sizes of these species;

(4) Current or planned activities in the areas inhabited by the 12 Hawaiian picture-wing species and the possible impacts of these activities on these species;

(5) The reasons why critical habitat is or is not prudent as provided by section 4 of the Act; and

(6) Comments on the basis of the original proposed rule to list, or the basis for determining that these twelve picture-wings represent separate species.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to *12pic_species_listing@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: RIN 1018–AG23'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our PIFWO at 808/792–9400. Please note that the Internet address, *12pic_species_listing@fws.gov,* will be closed at the termination of the public comment period.

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

Comments and materials received, as well as supporting documentation used in preparation of the January 17, 2001, proposal to list the 12 Hawaiian picture-wings as endangered, will be available for inspection, by appointment, during normal business hours at our PIFWO at the address given above.

Author

The primary author of this notice is Michael Richardson, U.S. Fish and Wildlife Service (see **ADDRESSES** section above).

Authority

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

Dated: November 8, 2005.

Marshall P. Jones Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 05–22827 Filed 11–17–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 70, No. 222

Friday, November 18, 2005

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

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

Supplementary Information:

OMB Number: OMB 0412–0514.

Form Number: N/A.

Title: USAID Regulation 1—Rules and Procedures Applicable to Commodity Transactions Financed by USAID (22 CFR part 201).

Type of Submission: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) finances transactions under Commodity Import Programs and needs to assure that the transaction complies with applicable statutory and regulatory requirements. In order to assure compliance and request refunds when appropriate, information is required from host country importers, suppliers receiving USAID funds, and banks making payments for USAID.

Annual Reporting Burden:

Respondents: 335.

Total annual responses: 2,643.

Total annual hours requested: 1,042 hours.

Dated: November 7, 2005.

Joanne Paskar,

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

[FR Doc. 05–22847 Filed 11–17–05; 8:45am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Notice of Funds Availability Inviting Applications for Innovative Ways To Enhance the Economic Viability of Underserved and Limited-Resource Farmers and Ranchers

Announcement Type: Notice of Funds Availability (NOFA) inviting applications from qualified organizations for fiscal year (FY) 2006 funding.

Catalog of Federal Domestic Assistance Number and Program: 10.443 Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers.

SUMMARY: This is a request by the Farm Service Agency (FSA) for proposals for applications for cooperative agreements for FY 2006 to help underserved and limited resource farmers and ranchers become more efficient operators and more economically viable. FY 2005 funding for similar cooperative agreements was $2 million. This notice is being issued prior to passage of a final Department of Agriculture Appropriations Bill to allow applicants sufficient time to prepare and submit proposals and give FSA sufficient time to process applications within FY 2006. An additional Notice of Funding Availability will be published announcing the funding level for FY 2006 once an appropriations act has been enacted. FSA requests proposals from eligible 501(c)(3) nonprofit organizations, land grant institutions, including Tuskegee University, State governments, and Federally-Recognized Indian Tribal Governments, interested in competitively awarded cooperative agreements, to demonstrate innovative and unique approaches to equip underserved and limited-resource farmers and ranchers, including beginning farmers and ranchers, to become more efficient and economically viable.

Proposals should demonstrate innovative and unique ways to help underserved and limited-resource farmers and ranchers improve their economic viability through training, technical assistance, improved farming practices, and more effective marketing approaches.

Underserved and limited-resource farmers and ranchers have different challenges to economic viability due to location, educational assets, age, and landownership. The need to properly address these challenges through education, training, technical assistance and the most creative ways of outreach is critical to the continued existence of the small farm.

People in, or entering into, farming have an array of backgrounds and varied levels of current farm and farm business experience and knowledge. More and more qualified alien immigrants are entering American farming. Often, they are unfamiliar with productive marketing practices, acquisition of land, government assistance, and crop and animal production diversity.

While there are no significant legal obstacles to becoming a farmer in the United States, many barriers to successful farming exist. Among those barriers are (1) increasing capital expenses, (2) progressive managerial requirements, and (3) competition with large-scale producers.

Among limited-resource farmers, a subgroup, the underserved farmer, faces even more barriers to achieving success. In recognition of the dynamic needs of limited-resource and underserved farmers, FSA solicits proposals for innovative approaches to assisting the diverse limited-resource and underserved farm community.

DATES: Applications should be submitted as soon as possible, but no later than 5 p.m. eastern time, December 19, 2005. Applications received after that date will not be accepted and will be returned to the applicant. Applicants must ensure that the service they use to deliver their applications can do so by the deadline. Due to security concerns, packages sent to the Agency by mail have been delayed several days or even weeks.

I. Paperwork Reduction Act

This notice requires a new collection of information only for the Project Proposal. An emergency request for

approval of that collection has been approved by OMB through January 31, 2006, under OMB Control Number 0560–0250. FSA intends to publish in the **Federal Register** a notice requesting public comments on this collection and will request a regular 3-year approval from OMB.

II. Funding Opportunity Description

Background

This solicitation is issued pursuant to 7 U.S.C. 2204b(b)(4) authorizing the Secretary of Agriculture to enter into cooperative agreements to improve the coordination and effectiveness of Federal programs affecting rural areas. The primary objective of this solicitation for cooperative agreements is to assist limited-resource and underserved farmers and ranchers to become economically viable. Thousands of rural residents have chosen or will choose to farm but lack the essential skills and resources to acquire and maintain economic viability. Therefore, FSA will provide financial assistance via cooperative agreements to increase opportunities of the most needy limited resource and underserved farmers and ranchers to achieve economic viability as the result of increased technical assistance and training. FSA is publishing this NOFA prior to passage of a final appropriations act to give applicants time to complete their applications and to provide the Agency sufficient time to select and process the selected applications within the current fiscal year. Cooperative agreements will only be awarded if the project is determined to be economically viable and technically feasible. Also, the cooperative agreements in this solicitation are subject to the availability of adequate funding and may not be awarded if funds are not appropriated to the agency that may be used for this purpose, or budgetary authority for this program is otherwise revoked or not available.

Definitions

The following definitions are applicable to this NOFA:

Agency or FSA: The Department of Agriculture's Farm Service Agency or its successor.

Beginning Farmers and Ranchers: Farmers and ranchers who have not operated a farm or ranch, or have operated a farm or ranch for not more than ten years.

Farm Land: Land used for commercial agriculture crops, poultry and livestock enterprises, or aquaculture.

Federally Recognized Indian Tribal Government: The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, (85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs. Their Web site is *www.doi.gov/bureau-affairs.html.*

Land Grant Institution:

(1) An 1890 institution, including Tuskegee University, or 1862 institution, (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), including West Virginia State College.

(2) An Indian tribal community college or an Alaska Native cooperative college.

(3) A Hispanic-serving institution (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

(4) A 1994 institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

Limited-resource farmer or rancher: A low-income owner or operator of a family-size farm.

National Office: FSA Headquarters in Washington, DC.

Non-Profit Organization: Any corporation, trust, association, cooperative, or other organization that:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Is an organization that is recognized by the Internal Revenue Service as being exempt from Federal income tax under section 501(3)(c) of the Internal Revenue Code.

Socially disadvantaged farmer or rancher: One of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of the group without regard to their individual qualities. For purposes of this program, socially disadvantaged groups are women, African Americans, American Indians, Alaskan Natives, Hispanics, and Asian Americans and Pacific Islanders.

Underserved and Limited-Resource Farmers and Ranchers: Farmers and ranchers who do not have easy access to information and resources due to barriers such as language, cultural and other socio-economic factors, including socially disadvantaged farmers and ranchers, limited-resource farmers and ranchers, and beginning farmers and ranchers.

III. Award Information

Eight to ten cooperative agreements are expected to be awarded; however, no agreements will be awarded if no submitted proposal meets the needs of the agency or the requirements of this notice. FSA anticipates approximately $3 million will be available to fund proposals in FY 2006. Awards are expected to average approximately $300,000. If lesser or no funds are made available to the agency for this purpose, fewer or no agreements may be awarded. Cooperative agreement funds may be used to cover allowable costs incurred by the recipient and approved by the Agency. Allowable costs will be governed by 7 CFR parts 3015, 3016, and 3019 and applicable Office of Management and Budget Circulars.

IV. Eligibility Information

1. Eligible Applicants

Applicants must be non-profit organizations, federally-recognized Indian Tribal Governments, or land grant institutions as defined in the ''Definitions'' section of this NOFA. Applications without sufficient information to determine their eligibility will not be considered.

2. Cost-Sharing or Matching

There are no provisions for cost-sharing or matching.

V. Application and Submission Information

1. Address to Request Application Package

The forms required for an application as described below and for subsequent reporting by the successful applicant may be obtained from Darlene Smith, Program Analyst, Outreach Staff, telephone (202) 260–6069, facsimile (202) 690–4727, Email: *Darlene.Smith@wdc.usda.gov.* Application materials can also be downloaded from the FSA Outreach Web site at *http://www.fsa.usda.gov/outreach* or from the Government grants Web site at *www.grants.gov.* Click on ''Find Grant Opportunities,'' then ''Search Grant Synopsis.'' From the search results, select ''Outreach and Assistance Partnership Program'' to access forms for this program. All other information described below is to be provided by the applicant.

2. Content and Form of Application

(a) *Form SF–424, ''Application for Federal Assistance.''*

(b) *Form SF–424A, ''Information—Non-Construction Programs.''*

(c) *Form SF–424B, ''Assurances—Non-Construction Programs.''*

(d) *Table of Contents*—For ease of locating information, each application must contain a detailed Table of Contents immediately following the required Federal forms. The Table of Contents should include page numbers for each component of the application. Pagination should begin immediately following the Table of Contents.

(e) *Proposal Summary*—A summary of the Project Proposal, not to exceed one page, that includes the title of the project, a description of the project (including goals and tasks to be accomplished), the names of the individuals responsible for conducting and completing the tasks, and the expected time frame for completing all tasks (which should not exceed twelve months).

(f) *Eligibility*—A detailed discussion, not to exceed two pages, describing how the applicant meets the definition of land grant institution, non-profit organization, or federally recognized Indian tribal government, as outlined in the ''Recipient Eligibility Requirements'' section of this NOFA. In addition, the applicant must describe all other collaborative organizations that may be involved in the project.

(g) *Proposal Narrative*—The narrative portion of the project proposal must be in a font such as Times New Roman, 12 pt. or comparable font, and must include the following:

(h) *Project Title*—The title of the proposed project must be brief, not to exceed 100 characters, yet represent the major thrust of the project.

(i) *Information Sheet*—A separate one page information sheet that lists each of the evaluation criteria listed in this NOFA under the ''Evaluation Criteria and Weights'' subsection followed by the page numbers of all relevant material and documentation contained in the proposal which address or support that criteria.

(j) *Goals and Objectives of the Project*—A clear statement of the ultimate goals and objectives of the project must be presented.

(k) All relevant material and documentation addressing the criteria in section VI(1) of this NOFA.

3. Submission Date

The deadline for receipt of all applications is 5 p.m. Eastern Time, December 19, 2005. The Agency will not consider any applications received after the deadline. Late applications will not be accepted and will be returned to the applicant. Applicants must ensure that the service they use to deliver their applications can do so by the deadline. Due to recent security concerns, packages sent to the Agency by mail have been delayed several days or even weeks.

4. Submission of Applications

An original and two paper copies of the completed and signed application, and one electronic copy (Microsoft Word format preferred) on diskette or compact disc must be submitted in one package at the time of initial submission.

Submit applications and other required materials to Darlene Smith, Program Analyst, Outreach Staff, Farm Service Agency, USDA, STOP 0511, Room 3724–S, 1400 Independence Avenue, SW., Washington, DC 20250–0511.

Receipt of applications will be acknowledged by e-mail whenever possible. Therefore, applicants are encouraged to provide an e-mail address in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. Incomplete or non-responsive applications will be returned to the applicant and evaluated further. When received by FSA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact Darlene Smith at (202)260–6069, or electronically at *Darlene.Smith@wdc.usda.gov.*

5. Intergovernmental Review

Not applicable.

6. Funding Restrictions

The awarding of cooperative agreements is subject to adequate funding and will only be awarded to the extent funds are made available to the agency for this purpose. Cooperative agreement funds cannot be used to:

(a) Support the organization's general operations;

(b) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(c) Purchase, rent, or install fixed equipment, including mobile and other processing equipment;

(d) Pay for the preparation of the grant application;

(e) Pay expenses not directly related to the funded venture;

(f) Fund political or lobbying activities;

(g) Pay costs incurred prior to receiving a Cooperative Agreement;

(h) Fund any activity prohibited by 7 CFR parts 3015, 3016, 3018 and 3019; or

(i) Fund architectural or engineering design work for a specific physical facility.

VI. Application Review Information

1. Criteria

The proposal will be evaluated using the following criteria and weights. Each criterion must be addressed specifically and individually by category. These criteria should be in narrative form with any specific supporting documentation attached as addenda and directly following the proposal narrative. If other materials, including financial statements, will be used to support any evaluation criteria, they should also be placed directly following the proposal narrative. The applicant must also propose and delineate significant agency participation in the project. Failure to address any one of the criteria will disqualify the application. All proposals must be in compliance with this NOFA and applicable statutes.

(a) *Proposer's Commitment and Resources (20 points)*—The standard evaluates the degree to which the organization is committed to the project, and the experience, qualifications, competency, and availability of personnel and resources to direct and carry out the project.

(b) *Feasibility and Policy Consistency (20 points)*—The standard evaluates the degree to which the proposal clearly describes its objectives and evidences a high level of feasibility. This criterion relates to the adequacy and soundness of the proposed approach to the solution of the problem and evaluates the plans of operation, evaluation and dissemination, and timetable.

(c) *Detailed description of the anticipated number of underserved and limited resource farmers and ranchers, and beginning farmers and ranchers to be served by this initiative and collaborative partnerships, if any (20 points)*—This standard evaluates the degree to which the proposal reflects partnerships and collaborative initiatives with other agencies or organizations to enhance the quality and effectiveness of the program. Additionally, the number of limited resources and underserved farmers and ranchers who would benefit from the services offered, and the socio-economic characteristics of the areas in which they are located will be evaluated.

(d) *Socially Disadvantaged Applicants—Outreach (20 points)*—This

standard evaluates the degree to which the proposal contains efforts to reach persons identified as socially disadvantaged farmers and ranchers. The proposal will be evaluated for its potential for encouraging and assisting socially disadvantaged farmers and ranchers to own and operate farms and ranches and participate in agricultural programs. Elements considered include impact, continuation plans, and expected products and results.

(e) *Preparatory Features—Statement of Work (15 points)*—This standard evaluates the degree to which the proposal reflects innovative strategies for reaching the population targeted in the proposal and achieving the project objectives. Elements evaluated include originality, practicality, and creativity in developing and testing innovative solutions to existing or anticipated issues or problems of underserved and limited-resource farmers and ranchers. The proposal will be reviewed for its responsiveness to the need to provide underserved and limited-resource farmers and ranchers with information and assistance on various USDA programs, farm management, and other essential information to enhance participation in agricultural programs and conduct successful farming operations.

(f) *Overall Quality of the Proposal (5 points)*—This standard evaluates the degree to which the proposal complies with this NOFA and is of high quality. Elements considered include adherence to instructions, accuracy, and completeness of forms, clarity and organization of ideas, thoroughness and sufficiency of detail in the budget narrative.

(g) *Accuracy of Proposed Budget and Justification (5 points)*—This standard evaluates the accuracy of the proposed budget and the accompanying budget justification and should sufficiently provide the reviewer with a detailed description of each budget category that includes categorical subtotals as well as an attached budget justification that clearly defines and explains every proposed budget line item.

2. Review and Selection Process

Prior to technical examination, a preliminary review will be made by FSA Outreach Staff for responsiveness to this solicitation. Proposals that do not fall within the solicitation guidelines or are otherwise ineligible will be eliminated from competition.

All responsive proposals will be reviewed by a panel of career National Office FSA and/or USDA Agency employees chosen to provide maximum expertise and objective judgment in the evaluation of proposals. The panel will review applications using the evaluation criteria stated above for eligibility, completeness, and responsiveness to this NOFA. Incomplete or non-responsive applications will be returned to the applicant and not evaluated further.

Successfully evaluated proposals will be ranked by the FSA Outreach Staff based on merit. Final approval of those proposals will be made by the Administrator of FSA (the Administrator).

When the reviewers have completed their individual evaluations, the panel reviewers, based on the individual reviews, will make recommendations to the Administrator. Prior to award, the Administrator reserves the right to negotiate with an applicant or applicants whose projects are recommended for funding regarding project revisions (e.g., change in scope of work or the Agency's significant involvement), funding level, or period of support. A proposal may be withdrawn at any time before a final funding decision is made.

VII. Award Administration

1. Award Notices

The successful applicant will be notified by FSA when selected by the Administrator. Within the limit of funds available for such purpose, the Administrator shall enter into a cooperative agreement with the successful applicant. The successful applicant will be required to sign an Agency-approved cooperative agreement.

Unsuccessful applicants will be notified within 90 days after the receipt of applications.

2. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

3. Administrative and National Policy Requirements

In addition to the requirements provided in this notice, other Federal statutes and regulations apply to proposals considered for review and to the cooperative agreements awarded. These include, but are not limited to:

(a) 7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964;

(b) 7 CFR part 3015—Uniform Federal Assistance Regulations;

(c) 7 CFR part 3016—Uniform Administrative Regulations for Grants and Cooperative Agreements and State and Local Governments;

(d) 7 CFR part 3017—Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants);

(e) 7 CFR part 3018—New Restrictions on Lobbying;

(f) 7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations; and

(g) 7 CFR part 3052-Audits of States, Local Governments, and Non-Profit Organizations.

4. Reporting

Cooperators will be required to:

(a) Sign required Federal assistance forms including:

(i) Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions;

(ii) Form AD–1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions;

(iii) Form AD–1049, Certification Regarding a Drug-Free Workplace Requirements (Grants); and

(iv) Form RD 400–4, Assurance Agreement (Civil Rights).

(b) Use Standard Form 270, Request for Advance or Reimbursement to request payments.

(c) Submit Form SF–269, Financial Status Report, and list expenditures according to agreed upon budget categories on a semi-annual basis. A semi-annual financial report is due within 45 days after the first 6-month project period and an annual financial report is due within 60 days after the second 6-month project period.

(d) Submit quarterly performance reports that compare accomplishments to the objectives; if established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

(e) Maintain a financial management and document retention system that is acceptable to the Agency.

(f) Sign an agency-approved cooperative agreement.

(g) Submit a final project performance report.

VIII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Darlene Smith, Program Analyst,

Outreach Staff, Farm Service Agency, USDA, STOP 0511, Room 3724–S, 1400 Independence Avenue, SW., Washington, DC 20250–0511, phone: (202) 260–6069, fax: (202) 690–4727, e-mail: *Darlene.Smith@wdc.usda.gov.*

IX. Other Information

1. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov.* Please note that the registration may take up to 14 business days to complete.

2. Required Registration for Electronic Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov.* Allow a minimum of 5 days to complete the CCR registration.

Signed in Washington, DC, on November 9, 2005.

Thomas B. Hofeller,

Acting Administrator, Farm Service Agency.

This Cooperative Agreement (Agreement) dated____, between____(Cooperator), and the United States of America, acting through the Farm Service Agency (FSA) of the Department of Agriculture (Grantor), for $____ in cooperative agreement funds under the program, delineates the agreement of the parties.

NOW, THEREFORE, in consideration for the mutual agreements and promises in this cooperative agreement, the parties hereto agree as follows:

The parties agree that:

1. All the terms and provisions of the NOFA published____, 2005 (insert date) and application submitted by the Cooperator in connection therewith, including any attachments or amendments, are incorporated and included as part of this Cooperative Agreement. Any changes to these documents or this Cooperative Agreement must be approved in writing by FSA.

2. As a condition of the Agreement, the Cooperator certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR 3015.205(b), which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein. The Cooperator will comply with 7 CFR part 15, subpart A, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Executive Order 12250.

3. The provisions of 7 CFR part 3015, ''Uniform Federal Assistance Regulations'', 7 CFR part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations,'' 7 CFR part 3017 ''Governmentwide Requirements for a Drug-Free Workplace (Grants),'' 7 CFR part 3018 ''New Restrictions on Lobbying,'' and 7 CFR part 3052 ''Audits of States, Local Governments, and Non-Profit Organizations'', as applicable, are incorporated herein and made a part hereof by reference.

4. The following certifications and forms are required and will become a part of the Agreement. These certifications, which are included as part of the Attachment 1, must be signed. The SF 424 and SF 424A may be revised and re-submitted to the Agency upon execution of this agreement if necessary.

SF 424, ''Application for Federal Assistance''
SF 424A, ''Budget Information—Non-Construction Program''
SF 424B ''Assurance—Non-Construction Program''
SF LLL, ''Disclosure of Lobbying Activities'' ''Certification Regarding Lobbying''
Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative 1—For Grantees Other Than Individuals''
Form AD–1047 ''Certification Regarding Debarment, Suspension, and Other Responsibility Matter-Primary Covered Transactions''

5. Disbursements by FSA to the Cooperator will be made as soon as possible upon receipt and approval of a SF 270. Disbursement requests will be sent to:

_____
(Name)

_____
(Address of FSA)

6. The FSA Project Coordinator is____, (name). All notices to FSA will be sent to the FSA Project Coordinator at the following address____, (address). Notices to Cooperator will be sent to the following: (insert name and address)

FURTHER, the Cooperator agrees that it will:

1. Not use cooperative agreement funds to plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility); or to purchase, rent, or install fixed equipment.

2. Use funds only for the purpose and activities specified in the proposal approved by FSA including the approved budget and Work Plan. Any uses not provided for in the approved budget and Work Plan must be approved in writing by FSA in advance of obligation by FSA.

3. Keep an account of the expenditures of the funds provided by FSA and submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the Cooperative Agreement is awarded.

4. Immediately refund to FSA, at the end of the Cooperative Agreement, any balance of unobligated funds received from the FSA.

5. Provide periodic reports as required by FSA. A financial status report and a project performance report will be required on a semi-annual basis. The financial status report must show how FSA provided funds have been used to date and project the funds needed and their purposes for the next six months. A final report may serve as the last semi-annual report. Cooperators shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

(a) A comparison of actual accomplishments to the objectives for that period.

(b) Reasons why established objectives were not met, if applicable.

(c) Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation.

(d) Objectives and timetables established for the next reporting period.

(e) The final report will also address the following:

(i) What have been the most challenging or unexpected aspects of this program?

(ii) What advice you would give to other organizations planning a similar program? This advice should include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

(iii) If an innovative approach was used successfully, the cooperator should describe their program in detail so that other organizations might consider replication in their programs.

Provide Financial Management Systems that will include:

(a) Records that identify adequately the source and application of funds for activities supported under this cooperative agreement. Those records shall contain information

pertaining to grant and cooperative agreement awards and authorizations, obligations, un-obligated balances, assets, liabilities, outlays, and income.

(b) Effective control over and accountability for all funds, property, and other assets. Cooperator shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

(c) Accounting records supported by source documentation.

7. To retain financial records, supporting documents, statistical records, and all other records pertinent to the Cooperative Agreement for a period of at least 3 years after the closeout, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved or if requested by FSA. Microfilm, photocopies or similar methods may be substituted in lieu of original records. FSA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Cooperator that are pertinent to this Cooperative Agreement for the purpose of making audits, examinations, excerpts, and transcripts.

8. Not encumber, transfer, or dispose of the equipment or any part thereof, acquired wholly or in part with FSA funds provided under this Cooperative Agreement without the written consent of FSA.

9. Not duplicate other program purposes for which monies have been received, are committed, or are applied to from other sources, public or private.

FSA agrees to make available to Cooperator for the purpose of this Agreement funds in an amount not to exceed the cooperative agreement funds. The funds will be reimbursed or advanced based on submission of Standard Form 270.

IN WITNESS WHEREOF, Cooperator has this day authorized and caused this Agreement to be executed by

Attest

By _____

(Title) _____

(Cooperator)

United States of America, Farm Service Agency

By _____

(Title) _____

(Grantor)

[FR Doc. 05–22821 Filed 11–17–05; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comment; Valuation of Private Forest Ecosystem Services in North Carolina

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new research study to evaluate the value of the ecosystem benefits provided by private forests in North Carolina to residents of that State.

DATES: Comments must be received in writing on or before January 17, 2006 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Thomas P. Holmes, Forestry Sciences Lab, Southern Research Station, USDA Forest Service, P.O. Box 12254, Research Triangle Park, North Carolina 27709.

Comments also may be submitted via facsimile to (919) 549–4047 or by e-mail to: *tholmes@fs.fed.us*.

The public may inspect comments received at Forestry Sciences Lab, 3041 Cornwallis Road, Research Triangle Park, North Carolina, 27709 main building reception area during normal business hours. Visitors are encouraged to call ahead to (919) 549–4000 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Thomas P. Holmes, Southern Research Station, (919) 549–4031. Individuals who use telecommunication devices for the deaf may call the Federal Relay Service at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Valuation of Private Forest Ecosystem Services in North Carolina.

OMB Number: 0596–New.

Expiration Date of Approval: N/A.

Type of Request: New.

Abstract: Private forests provide many benefits to the owners of forest land. Trees can be sold to mills that produce lumber or paper products; fuelwood can be sold or used by landowners; and the forest landscape may provide opportunities for landowners to hunt, fish, go walking, observe wildlife, or simply enjoy their privacy. In addition to private benefits, private forests provide ecosystem services to the general public. The public ecosystem services provided by private forests include supplying clean water, protecting wildlife habitat, maintaining populations of a variety of plants, and providing scenic views. Although private forest owners supply ecosystem services that benefit the public, members of the public usually do not have to pay for these services. Because ecosystem services provided by private forests are usually not bought or sold, forest landowners do not have an incentive to produce the amount of ecosystem services that the public demands.

Forest Service and university researchers will collect information from residents of North Carolina about the value of the ecosystem services provided by private forest landowners in the State. The data and analyses will provide information to natural resource managers on the value of ecosystem services provided by private forests and the level of public support for alternative forestry programs that would enhance the supply of forest ecosystem services in the State.

To gather the information, a random sample of people living in North Carolina will be contacted by mail and invited to participate in the study. The mailing will include a cover letter describing the purpose of the study, an information booklet describing current forest conditions and forest management practices in North Carolina, and a questionnaire to determine what the recipient thinks about forestry issues and alternative forestry programs in the State.

The information will be collected by a university survey research center using scientific data collection methods. The information will be analyzed both by university and Forest Service researchers. The data and analyses will be provided to State and federal forest land managers and decision-makers to assist their development and implementation of programs that benefit forest landowners and the general public.

Estimate of Annual Burden: The average annual burden estimated per respondent is 30 minutes.

Type of Respondents: Respondents will be a random sample of heads of households in North Carolina.

Estimated Annual Number of Respondents: The total number of respondents per year is 1,500.

Estimated Annual Number of Responses per Respondent: Only one response per respondent will be requested.

Estimated Total Annual Burden on Respondents: The total annual burden for this information collection, computed as the number of minutes per respondent times the number of respondents, is 750 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and

assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: November 3, 2005.

Ann M. Bartuska,

Deputy Chief for Research & Development.

[FR Doc. 05–22900 Filed 11–17–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Land Management Plan for the Uwharrie National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of initiation to revise the Uwharrie National Forest Land Management Plan.

SUMMARY: The Forest Service is revising the Land and Resource Management Plan (hereafter referred to as Forest Plan) for the Uwharrie National Forest (UNF). This notice provides:

1. A summary of the need to change the Forest Plan;
2. Information on how the public can comment on the need to change, when those comments are due, and how comments can be submitted;
3. A list of documents available for review and how to get them;
4. How the public can participate in the planning process;
5. Who to contact for more information.

DATES: Revision formally begins with publication of this notice in the **Federal Register**. Many public comments regarding Forest Plan revision have already been received at public meetings and through e-mail. Additional comments on the need to change the Forest Plan should be submitted within 30 days of the date this notice is published in the **Federal Register**.

ADDRESSES: Submit written comments to: Uwharrie Plan Revision, National Forests in North Carolina, P.O. Box 2750, Asheville, NC 28802. Electronic mail should include ''Uwharrie Plan Revision'' in the subject line and be sent to: *comments-southern-north-carolina@fs.fed.us.* More information on the UNF and Forest Plan revision process is available at: *http://www.cs.unca.edu/nfsnc/uwharrie_plan/.*

FOR FURTHER INFORMATION CONTACT: Ruth Berner, National Forests in North Carolina, Planning Team Leader, (828) 257–4862.

SUPPLEMENTARY INFORMATION: The Uwharrie National Forest is managed as part of the National Forests in North Carolina. The original Forest Plan for the UNF was completed in 1986.

Documents Available for Review

Several reports and draft documents written over the past few years help identify how the existing Forest Plan might need to change to be more useful in the future. These documents include:

1. Uwharrie National Forest Recreation Realignment Report (August 2001), hardcopy available by sending a request to *comments-southern-north-carolina@fs.fed.us.*
2. Roads Analysis Process Report Uwharrie National Forest (December 2003), available online at *http://www.cs.unca.edu/nfsnc/roads/uwharrie_rap.pdf.*
3. Uwharrie National Forest Watershed Analysis Draft Report (September 2004), hardcopy available by sending a request to *comments-southern-north-carolina@fs.fed.us.*
4. Uwharrie National Forest—A Strategic View (July 2005, Initial Draft Comprehensive Evaluation Report), available online at *http://www.cs.unca.edu/nfsnc/uwharrie_plan/*, or by requesting a copy.

Need for Change

Growing as a Tourist Destination: As population in the area grows, local public lands are increasingly being seen as a place of relaxation; a quiet, peaceful retreat. The UNF is the top tourist destination in Montgomery County, and one of several popular tourist destinations in Randolph County. There may be tourism-related opportunities to provide more economic benefits to local communities.

Nature Hikes Becoming More Popular: Most visitors to the UNF seek a place to walk, view nature, and perhaps picnic, swim, or fish. The UNF, with its lake and river frontage, rolling topography, and existing road and trail system, is currently providing a variety of these opportunities. There may be ways to make visits more enjoyable, especially along the Uwharrie Trail and the Uwharrie River.

Game Lands Heavily Hunted: Hunting definitely has a place on the UNF; the Forest has the highest hunting use per acre of any North Carolina Wildlife Resources Commission (NCWRC) game land. There may be opportunities to better provide the types of wildlife habitat that are in short supply on nearby private land.

Providing Wood Products: Timber harvested from the UNF helps to meet increasing American consumer demand for wood products while at the same time providing a cost-effective way to create and maintain wildlife habitat. Wood products also provide economic benefits to local communities. There may be opportunities to change the amount or type of timber products offered to the local forest products industry.

Opportunities To Improve the Transportation System: There may be opportunities to improve the existing UNF road and trail system, to enhance public access while minimizing visitor conflicts and resource damage.

Opportunity for Off-Highway Vehicles: Off-highway vehicles (OHV) currently have access to a sixteen-mile trail system. There are few other known opportunities in the Piedmont for this type of experience, and demand is increasing. OHV use on NFS lands is controversial due to potential resource impacts and incidents when OHV users have strayed from the trail system. There may be opportunities to better manage the OHV trail system to provide the desired experience while lessening impacts to the forest resources.

Interpreting History: Archeological and historical resources on the UNF provide a unique opportunity for current forest visitors to learn about those who lived here in the past, and at the same time provide an outdoor recreation experience. Careful, innovative planning may ensure that historically important sites are protected yet still accessible.

Restoring Native Ecosystems: Existing UNF ecosystems include native pine and hardwood communities, but also include loblolly pine communities on sites that once supported longleaf pine. Vegetation management could restore longleaf pine and other historic plant communities on appropriate sites.

Using Fire as a Tool: Restoring the natural role of fire is important in sustaining some ecosystems such as longleaf pine and the open woodland conditions used by a number of rare plants. Increasing use of prescribed fire may better maintain these native plant communities.

Controlling Non-native Invasive Plants: Controlling non-native invasive

plant species would allow us to better sustain native plant communities.

Consistent Acorn Production: There is a relatively limited supply of oaks in the age range when acorns are most abundantly produced. Periodic vegetation management can ensure an adequate age range of oaks for acorn production over time. Acorns are an important food source for many wildlife species on the UNF.

Selective Stream Restoration: Most aquatic habitats on the UNF are in good to excellent condition and support a high diversity of fish and mussel species. However, some stream channel conditions are less than optimal. There is an opportunity and a need to restore these impaired stream channels.

Managing Roads and Trails Effectively to Reduce Erosion: The roads and trails on the UNF are potential sediment sources that can degrade water quality and aquatic habitats. There is a need and an opportunity to reduce the sediment from these sources through partnerships, and better management and maintenance.

Comment Requested

The Forest Service is seeking information and comments from individuals, organizations, and Federal, state, and local governments and agencies on the need to change the current UNF Forest Plan direction. The current conditions and trends of forest resources and opportunities for change are described in more detail in the Uwharrie National Forest—A Strategic View (Initial Draft of the Comprehensive Evaluation Report). The Forest Service is asking for comment on the topics identified in the Need for Change summarized above and for any other topics that individuals, organizations, and government and agencies feel should be addressed during the revision process. As described above, any comments on the Need for Change should be submitted within 30-days from the publication of this Notice of Initiation.

Public Participation

The plan revision is an open process with numerous opportunities for the public to obtain information, provide comments, or participate in collaborative stakeholder activities. Options for the public include the following methods: (1) Participating in collaborative dialogue at public meetings, (2) reviewing and commenting on the documents, preliminary plan components, analysis results, and supporting maps (posted on our Web site *http://www.cs.unca.edu/nfsnc/uwharrie_plan* or sent to you hardcopy at your request), or (3) providing input during formal comment periods.

The focal points of the collaborative work are: (1) Developing and refining plan desired conditions, (2) designing management objectives to work toward attaining or maintaining desired conditions, (3) identifying suitable uses for various parts of the UNF, (4) identifying special areas, (5) writing guidelines to serve as operational controls or environmental safeguards, (6) outlining the monitoring framework to be used for evaluating forest conditions. We expect this phase of collaboration to run through the spring of 2006. Our remaining forest plan revision schedule will be approximately as follows: (1) Release of draft forest plan and start of 90-day public comment period, fall 2006, (2) release of final plan and start of 30-day objection period, summer 2007, (3) final decision and start of plan implementation, fall 2007.

Responsible Official

The Forest Supervisor, National Forests in North Carolina, is the Responsible Official (36 CFR 219.2(b)(1)).

(Authority: 36 CFR 219.9(b)(2)(i), 70 FR 1023, January 5, 2005)

Marisue Hilliard,

Forest Supervisor, National Forests in North Carolina.

[FR Doc. 05–22910 Filed 11–17–05; 8:45 am]

BILLING CODE 3410–ES–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Annual Certification

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Notice; request for comments.

SUMMARY: The Committee for Purchase from People Who Are Blind or Severely Disabled (The Committee) will submit the collections of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. This notice solicits comments on these collections of information.

DATES: Submit your written comments on the information collection on or before January 17, 2006.

ADDRESSES: Mail your comments on the requirement to Janet Yandik, Information Management Specialist, Committee for Purchase from People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA, 22202–3259; fax (703) 603–0655; or e-mail *rulecomments@jwod.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the applicable forms or explanatory material, contact Janet Yandik at information in above paragraph.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). The Committee plans to submit a request to OMB to renew its approval of the collections of information concerning annual certification of nonprofit agencies serving people who are blind or who have other severe disabilities to participate in the Javits-Wagner-O'Day (JWOD) Program. The Committee is requesting a 3-year term of approval for these information collection activities.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these collections of information are 3037–0002 and 3037–0001.

The JWOD Act of 1971 (41 U.S.C. 46–48c) is the authorizing legislation for the JWOD Program. The JWOD Program creates jobs and training opportunities for people who are blind or who have other severe disabilities. Its primary means of doing so is by requiring Government agencies to purchase selected products and services from nonprofit agencies employing such individuals. The JWOD Program is administered by the Committee. Two national, independent organizations, National Industries for the Blind (NIB) and NISH, help State and private nonprofit agencies participate in the JWOD Program.

This information collection renewal request seeks approval for the Committee to continue to collect the information required under 41 CFR 51–4.3 of the regulations so that the Committee can continue to verify the appropriateness of nonprofit agencies that participate in the JWOD Program. There are no changes to these current collections in this renewal request.

Title: Annual Certification—Qualified Nonprofit Agency Serving People Who Are Blind, 41 CFR 51–4.2.

OMB Control Number: 3037–0001.

Form Number: Committee Form 403.

Description of Respondents: Nonprofit agencies serving people who are blind that participate in the JWOD Program.

Annual Number of Respondents: About 77 nonprofit agencies serving people who are blind that participation in the JWOD Program.

Total Annual Burden Hours: Burden is estimated to average 3 hours per respondent. Total annual burden is 231 hours.

Title: Annual Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled, 41 CFR 51–4.2.

OMB Control Number: 3037–0002.

Form Number: Committee Form 404.

Description of Respondents: Nonprofit agencies serving people who are severely disabled that participate in the JWOD Program.

Annual Number of Respondents: About 565 nonprofit agencies serving people who are severely disabled that will participation in the JWOD Program.

Total Annual Burden Hours: Burden is estimated to average 3 hour per respondent. Total annual burden is 1,695 hours.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our agency's functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the 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.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–6384 Filed 11–17–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 18, 2005.

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

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: On July 1, September 16, and September 23, 2005 the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 38099, 54709, and 55816) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Base Supply Center, Fort George G. Meade, Building #2250, Fort Meade, Maryland.
NPA: Blind Industries & Services of Maryland, Baltimore, Maryland.
Contracting Activity: Army Contracting Agency, Fort Meade, Maryland.
Service Type/Location: Custodial Services, Law Enforcement Center, FR 19, MP2 South of San Miguel, Sells, Arizona.
NPA: J.P. Industries, Inc., Tucson, Arizona.
Contracting Activity: Department of Homeland Security, Washington, DC.
Service Type/Location: Custodial Services, Postwide, Fort Benning, Georgia.
NPA: Power Works Industries, Inc., Columbus, Georgia.
Contracting Activity: Army Contracting Agency, Fort McPherson, Georgia.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–6383 Filed 11–17–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

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

ACTION: Proposed additions to and a deletion from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a product previously furnished by such agencies.

Comments Must be Received on or Before: December 18, 2005.

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

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Cup, Disposable (For Defense Supply Center Philadelphia Only).
NSN: 7350–01–411–5265—9 oz Tall-style.
NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Kit, Helicopter Landing Zone.
NSN: 6230–01–513–2533—Kit, Helicopter Landing Zone.
NPA: The Arc of Bergen and Passaic Counties, Inc., Hackensack, New Jersey.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Services

Service Type/Location: Base Supply Center, Department of the Army, Building 2961 Vanture Road, Fort Sill, Oklahoma.
NPA: Beacon Lighthouse, Inc., Wichita Falls, Texas.
Contracting Activity: U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma.

Service Type/Location: Custodial & Grounds Maintenance, Bureau of Customs and Border Protection, Rio Grande Valley Sector Headquarters, 4400 South Expressway 281, Edinburg, Texas.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, Texas.
Contracting Activity: Department of Homeland Security, Washington, DC.

Deletion

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for deletion from the Procurement List.

End of Certification

The following product is proposed for deletion from the Procurement List:

Product

Plug, Ear, Hearing Protection.
NSN: 6515–01–492–3625—Plug, Ear, Hearing Protection (one-color).
NPA: New Dynamics Corporation, Middletown, New York.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–6385 Filed 11–17–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Technology Administration.

Title: Government-Owned Inventions License Application and Utilization Report.

Form Number(s): None.

OMB Approval Number: 0692–0006.

Type of Request: Regular submission.

Burden Hours: 5,200 hours.

Number of Respondents: 4,600.

Average Hours Per Response: 2 hours for a license application and 1 hour for an utilization report.

Needs and Uses: An application for a license is required from any person or organization seeking a license on a Government-owned invention. This information will assist the agency to determine if a license should be granted, whether it should be exclusive and on what financial terms (execution fee, annual minimum payments, and royalty rates). An annual utilization report is required of each licensee to determine if the license should be modified or terminated and how much royalties are owed to the Government.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Kristy LaLonde, (202) 395–3087.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Kristy LaLonda, OMB Desk Officer, FAX number (202) 395–5806 or via the Internet at *Kristy_L._LaLonda@omb.eop.gov.*

Dated: November 14, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–22852 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Submission of Conservation Efforts to Make Listings Unnecessary Under the Endangered Species Act.

Form Number(s): None.

OMB Approval Number: 0648–0466.

Type of Request: Regular submission.

Burden Hours: 3,300.

Number of Respondents: 3.

Average Hours per Response: Reports, 80 hours; monitoring, 320 hours, agreement development, 2,500 hours.

Needs and Uses: This information collection is based on National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service policy on the criteria the Services use to evaluate conservation efforts by states and other non-Federal entities. The NMFS take

these efforts into account when making decisions on whether to list a species as threatened or endangered under the Endangered Species Act. The efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

Affected Public: State, local or tribal government; business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: November 14, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–22854 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Applications and Reports for Registration as a Tanner or Agent.

Form Number(s): None.

OMB Approval Number: 0648–0179.

Type of Request: Regular submission.

Burden Hours: 108.

Number of Respondents: 54.

Average Hours per Response: 2 hours.

Needs and Uses: The Marine Mammal Protection Act (MMPA) mandates the protection and conservation of marine mammals and makes the taking, killing or serious injury of marine mammals, except under permit or exemption, a violation of the Act. An exemption is provided for Alaskan natives to take marine mammals if the taking is for subsistence or for creating and selling authentic native articles of handicraft and clothing. Possession of marine mammals and marine mammal parts by other than Alaskan native is therefore prohibited. As native handicrafts are allowed by the MMPA to enter interstate commerce, an exemption is also needed to allow non-natives to handle the skins or other marine mammal product, whether to tan the pinniped hide or to act as an agent for the native to sell his handicraft products. Persons register for an exemption, and registered parties must file annual reports. The information is needed by NOAA to manage the program and provide for effective law enforcement.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: November 14, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–22855 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Local Government Finances (School Systems), Forms F–33, F–33–1, F–33–L1, F–33–L2, and F–33–L3

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 17, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to James R. Berry, U.S. Census Bureau, Governments Division, Washington, DC 20233–6800; (301) 763–7317 or via the Internet at *James.R.Berry.Jr@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request an extension and revision to the current Office of Management and Budget clearance for the Survey of Local Government Finances (School Systems).

The Census Bureau collects education finance data as part of its Annual Survey of State and Local Governments. This survey is the only comprehensive source of public fiscal data collected on a nationwide scale using uniform definitions, concepts and procedures. The collection covers the revenues, expenditures, debt, and assets of all public school systems. This data collection has been coordinated with the National Center for Education Statistics (NCES). The NCES uses this collection to satisfy its need for school system level finance data.

Information on the finance of our public schools is vital to assessing their effectiveness. The products of this data collection make it possible for users to search a single data base to obtain information on such things as per pupil expenditures and the percent of state, local, and Federal funding for each school system. Since the passing of the No Child Left Behind Act there has been an increased demand for data on the Nation's public schools. This survey provides the needed information on the financial aspects of local school districts.

The five forms used in the school finance portion of the survey are:

Form F–33. This form contains item descriptions and definitions of the elementary-secondary education finance items collected jointly by the Census Bureau and the NCES. It is used primarily as a worksheet and instruction guide by the state education agencies

that provide school finance data centrally for all of the school systems in their respective states. All states supply their data by electronic means.

Form F–33–1. This form is used at the beginning of each survey period to solicit the assistance of the state education agencies. It establishes the conditions by which the state education agencies provide their school finance data to the Census Bureau.

Form F–33–L1. This is a supplemental letter sent to the school systems in states where the state education agencies cannot provide information on the assets of individual school systems.

Form F–33–L2. This is a supplemental letter sent to the school systems in states where the state education agency cannot provide information on the indebtedness of individual school systems.

Form F–33–L3. This is a supplemental letter sent to the school systems in states where the state education agency cannot provide information on either indebtedness or assets. This letter combines the items requested on the forms F–33–L1 and F–33–L2.

The data collection is identical to the previous collections except as follows:

Additional items will be added to Part I.A Local Revenue section. Respondents were instructed to report these items as ''All other taxes'' and ''Miscellaneous other local revenue'' in previous surveys. They will be included as separate items beginning with this survey cycle to coincide with other government surveys conducted by the Census Bureau.

II. Method of Collection

The Census Bureau collects almost all of the finance data for local school systems from state education agency data bases through central collection arrangements with the state education agencies. The states transfer most of this information in electronic format via e-mail and over the Internet via file transfer protocol. The Census Bureau has facilitated central collection of school finance data by accepting data in whatever formats the states elect to transmit.

III. Data

OMB Number: 0607–0700.

Form Number: F–33, F–33–1, F–33–L1, F–33–L2, F–33–L3.

Type of Review: Regular.

Affected Public: State and local governments.

Estimated Number of Respondents: 3,058.

Estimated Time Per Response: 1.19 hours.

Estimated Total Annual Burden Hours: 3,633.

Estimated Total Annual Cost: $68,773.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., sections 161 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 14, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–22851 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 56–2005)

Proposed Foreign–Trade Zone - Carroll and Jo–Daviess Counties, Illinois, Application and Public Hearing

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by the Jo–Carroll Foreign Trade Zone Board, a joint–county entity of the Counties of Carroll and Jo–Daviess, Illinois, to establish a general–purpose foreign–trade zone at a site in both counties, adjacent to the Davenport, Iowa/Moline and Rock Island, Illinois Customs port of entry. The FTZ application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 9, 2005. The applicant is authorized to make the proposal under Illinois Statutes 50 ILCS Act 40.

The proposed zone would be the second general–purpose zone in the Davenport, Iowa/Moline and Rock Island, Illinois Customs port of entry. The existing zone is as follows: FTZ 133, Davenport, Iowa/Milan, Illinois (Grantee: Quad–City Foreign–Trade Zone, Inc., Board Order 338, 10/29/86).

The proposed zone consists of one site (2,930 acres), located within the Counties of Carroll and Jo–Daviess. The site is located at the Eagles Landing Development (formerly the Savanna Army Depot), 18935 B Street, Savanna, Illinois 61074. The property is in the process of being conveyed by the U.S. Army to the Jo–Carroll Depot Local Redevelopment Authority, which has converted the former military base to commercial use.

The application indicates a need for zone services in the Counties of Carroll and Jo–Daviess. Several firms have indicated an interest in using zone procedures for warehousing/distribution activities for such products as safety gloves and alcoholic beverages. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on December 6, 2005, at 9:00 a.m., at the Jo–Carroll Depot Local Redevelopment Authority Conference Room, 18935 B Street, Savanna, Illinois 61074.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses below:

1. *Submissions via Express/Package Delivery Services*: Foreign–Trade Zones Board, U.S. Department of Commerce, Franklin Court Building–Suite 4100W, 1099 14th Street, NW, Washington, DC 20005; or

2. *Submissions via U.S. Postal Service*: Foreign–Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Avenue, NW, Washington, DC 20230.

The closing period for their receipt is January 17, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 1, 2006.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at address No. 1 listed above and at the Jo–Carroll Depot Local Redevelopment Authority, 18935 B Street, Savanna, Illinois 61074.

Dated: November 10, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–22927 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1417]

Expansion/Reorganization of FTZ 147, Reading, Pennsylvania, Area

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board adopts the following Order:

Whereas, the Foreign–Trade Zone Corporation of Southeastern Pennsylvania, grantee of Foreign–Trade Zone 147, submitted an application to the Board for authority to reorganize and expand FTZ 147 to modify existing Sites 4 and 5 and to include nine additional sites in south eastern and south central Pennsylvania, adjacent to the Harrisburg Customs port of entry (FTZ Docket 12–2005; filed 3/1/05);

Whereas, notice inviting public comment was given in the **Federal Register** (70 FR 11611, 3/9/05), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand/reorganize FTZ 147 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the 2,000–acre activation limit.

Signed at Washington, DC, this 3rd day of November 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–22925 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 55–2005)

Foreign–Trade Zone 127 West Columbia, South Carolina, Application for Subzone, JBE, Inc. (Automotive Parts), Hartsville, South Carolina

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Columbia Metropolitan Airport, grantee of FTZ 127, requesting special–purpose subzone status for the warehousing and distribution facility of JBE, Inc. (JBE), located in Hartsville, South Carolina. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 2, 2005.

The JBE facility (80 employees, 13.5 acres) is located at 512 Hartland Drive, Hartsville, Darlington County, South Carolina. The facilities are used for the storage, distribution and inspection of automotive parts and components, and may also be used for manufacturing activity in the future.

Zone procedures would exempt JBE from Customs duty payments on products that are re–exported. Some 10 percent of the products are re–exported. On its domestic sales, the company would be able to defer duty payments until merchandise is shipped from the plant and entered for consumption. FTZ designation may further allow JBE to utilize certain Customs procedures resulting in increased efficiencies for its logistics and distribution operations. In addition, JBE is requesting authority for a secondary scope to provide for future contract manufacturing. Finished products and components included in the secondary scope include automotive parts and accessories (HTS 8414, 8708 and 8709, duty rate ranges from duty–free to 2.5%). The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions Via Express/Package Delivery Services*: Foreign–Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building - Suite 4100W, 1099 14th St. NW, Washington, D.C. 20005; or

2. *Submissions Via the U.S. Postal Service*: Foreign–Trade-Zones Board, U.S. Department of Commerce, FCB - Suite 4100W, 1401 Constitution Ave. NW, Washington, D.C. 20230.

The closing period for their receipt is January 17, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 1, 2006.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 1201 Main Street, Suite 1720, Columbia, SC 29201.

Dated: November 2, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–22926 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–846)

Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review

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

SUMMARY: On May 9, 2005, the Department of Commerce (''the Department'') published the preliminary results of this administrative review of the antidumping duty order on brake rotors from the People's Republic of China (PRC). *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Seventh Administrative Review and Preliminary Results of the Eleventh New Shipper Review*, 70 FR 24382 (''*Preliminary Results*''). At that time, we invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made certain changes to our calculations. The final dumping margins for this review are listed in the ''Final Results of Review'' section below.

EFFECTIVE DATE: November 18, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Christopher Riker, AD/CVD Operations, Office 9, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5222 and (202) 482–3441, respectively.

SUPPLEMENTARY INFORMATION:

Background

The period of review (''POR'') is April 1, 2003, through March 31, 2004. We published the preliminary results in the 2003/2004 administrative review in the **Federal Register** on May 9, 2005. *See Preliminary Results*. On June 6, 2005, we invited the interested parties to comment on our preliminary determination that a Chinese Village Committee was an arm of the PRC Government, and affected export–related decisions at respondent, Shandong Huanri Group General Company, together with Laizhou Huanri Automobile Parts Co.,Co., Ltd. (collectively, ''Huanri''). On June 14, 2005, we received comments from petitioners and Huanri in response to our June 6, 2005, letter. Additionally, on June 21, 2005, we received comments from petitioners in rebuttal to Huanri's June 14, 2005, letter.

On June 30, 2005, we received case briefs from the petitioners, the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers, and from the following respondents: China National Industrial Machinery Import & Export Corporation (''CNIM''), Qingdao Gren (Group) Co. (''GREN''), Shanxi Fengkun Foundry Ltd., Co. and Shanxi Fengkun Metallurgical Limited Company (collectively, ''Fengkun''), Zibo Luzhou Automobile Parts Co., Ltd. (''ZLAP''), Laizhou Automobile Brake Equipment Co., Ltd. (''LABEC''), Yantai Winhere Auto–Part Manufacturing Co., Ltd (''Winhere''), Longkou Haimeng Machinery Co., Ltd. (''Haimeng''), Laizhou Hongda Auto Replacement Parts Co., Ltd. (''Hongda''), Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''), Qingdao Meita Automotive Industry Co., Ltd (''Meita''), and Huanri.[1] On July 11, 2005, we received rebuttal briefs from the petitioners and from LABEC, Winhere, Haimeng, Hongda, Hongfa, Meita, and Huanri.

On August 24, 2005, we invited the interested parties to comment on revisions to the Department's calculations for the surrogate value of labor. On August 29, 2005, we received comments from petitioners and from respondents LABEC, Winhere, Haimeng, Hongda, Hongfa, Meita, and Huanri on this issue.

Based on the comments summarized below, we have made revisions to the data used for the final results. For further details, please see the *Issues and Decision Memorandum for the Final Results in the 2003/2004 Administrative Review of Brake Rotors from the People's Republic of China*, to Stephen J. Claeys, Acting Assistant Secretary for Import Administration, from Edward Yang, Senior Enforcement Coordinator / NME Unit, Import Administration (November 7, 2005) (''*Decision Memorandum*'') and the company–specific analysis memoranda, which are on file in Import Administration's Central Records Unit, room B–099 of the Department of Commerce building. The *Decision Memorandum* is also available at http://ia.ita.doc.gov.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Partial Rescission of Administrative Review

We are rescinding the review of the following four exporter companies because they certified for this review that they did not export subject merchandise to the United States other than from the manufacturer/exporter combination specifically excluded from the order following the investigation, and the shipment data that we examined did not show U.S. entries of subject merchandise, during the POR, from the exempted producer/exporter combinations: China National Automotive Industry Import & Export Corporation, Laizhou CAPCO Machinery Co., Ltd., Laizhou Luyuan Automobile Fittings Co., and Shenyang Honbase Machinery Co., Ltd. *See* Preliminary Results 70 FR at 24382, 24383; *see also Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740, 18741 (April 17, 1997) (''*Investigation*'').

We are also rescinding the review of the following three exporter/producers because they also certified that they made no shipments of subject merchandise to the United States during the POR, and the shipment data that we examined did not show U.S. entries of subject merchandise during the POR from these companies: Laizhou City Luqi Machinery Co., Ltd., Shenyang Yinghao Machinery Co., Ltd., Xianghe Xumingyuan Auto Parts Co., Ltd.

Finally, in the *Preliminary Results*, and in accordance with section 351.213(d)(3) of the Department's regulations, we stated that we were rescinding the review of exports made by Xianjiang, which were manufactured by any company other than Zibo Botai Manufacturing Co., Ltd. (Zibo Botai). However, upon due consideration of the arguments of interested parties, and the facts of the case as summarized in the *Decision Memorandum* (comment 8), for the final results we have assigned to exports of Xianjiang, manufactured by any company other than Zibo Botai, the China–wide rate, because it failed to respond to our questionnaire. *See id.*

[1] The Department did not receive briefs from the following respondents: Zibo Golden Harvest Machinery Limited Co. (''ZGOLD''), Xianfeng Hengtai Brake System Co., Ltd. (''Hengtai''), Longkou Jinzheng Machinery Co., Ltd. (''Jinzheng''), Longkou TLC Machinery Co. Ltd. (''Longkou TLC''), Qingdao Rotec Auto Parts Co., Ltd. (''Rotec''), and China National Machinery and Equipment Import & Export (Xianjiang) Corporation (''Xianjiang'').

Separate Rates

In our *Preliminary Results*, we found that all respondents except Huanri and Rotec qualified for separate rates. We found in the course of the review that export–related decisions at Huanri were controlled by the Panjacun Village Committee, and we determined that this entity was subject to central government control. We continue to find that Huanri is not entitled to a separate rate in these final results. *See Decision Memorandum* at Comment 7; *see also Preliminary Results* at 24387–24389. Because the Department has determined that Huanri does not qualify for a separate rate, we determine that Huanri is part of the PRC–wide entity and will be subject to the PRC–wide rate. We received no comments with respect to Rotec. For these final results we continue to find that Rotec is not eligible to receive a separate rate and will be subject to the PRC–wide rate.

Analysis of Comments Received

A list of the issues which parties raised and to which we responded in the *Decision Memorandum* which accompanies this notice is attached as Appendix 1. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, the Department has made company–specific changes to the margin calculations for CNIM, Winhere, GREN, and ZLAP. Additionally, based on information submitted since the *Preliminary Results*, some surrogate values have changed. Specifically, we have revised the surrogate values for labor, cartons, and lug nuts. *See Decision Memorandum* at comments 1, 2, 5 and 13.

For the final results, we have also revised the calculation of surrogate financial ratios for factory overhead and selling, general and administrative expenses (''SG&A'') and profit, excluding the scrap revenue offset which we had deducted from the cost of manufacture at two surrogate companies for the *Preliminary Results*. *See Decision Memorandum* at Comment 4.

The PRC–Wide Rate and Application of Facts Otherwise Available

The PRC–wide rate will apply to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate. *See* ''Separate Rates'' section above.

Adverse Facts Available

Section 776(a) of the Tariff Act of 1930, as amended, (''the Act'') provides that, when (1) necessary information is not available on the record, the Department may use the facts otherwise available to reach a determination. Section 776(a)(2) of the Act provides that, if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable results under this title.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(d) further states that, if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to make a determination but does not meet all the applicable requirements established by the administering authority if (1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable results, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information, and (5) the information can be used without undue difficulties.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of the respondent if it determines that a party has failed to cooperate to the best of its ability. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action* (''SAA'') accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994).

In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. *See Tung Mung Dev. Co. v. United States*, 223 F. Supp. 2d 1336, 1342 (August 6, 2002). The focus of 776(b) of the Act is respondent's failure to cooperate to the best of its ability, rather than its failure to provide requested information. *See Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382 (Fed. Cir. 2003). An adverse inference may include reliance on information derived from the petition, the final results in the investigation, any previous review, or any other information placed on the record. *See* Section 776(b) of the Act.

Rotec and Xianjiang

As noted above, section 776(a) of the Act provides that the Department may make a facts available (''FA'') determination if a party withholds information requested by the Department, significantly impedes a proceeding, and/or provides unverifiable information in a proceeding. By not responding to Department inquiries, Rotec and Xianjiang withheld requested information from the Department, impeded this proceeding, and precluded the Department from verifying information placed on the record in this case.

Consistent with Section 776(a) of the Act, the Department has determined to apply total facts available to Rotec and Xianjiang for the final results. The application of total facts available is warranted in this case because the unresponsiveness of Rotec and Xianjiang made it impossible for the Department to review or verify information on their U.S. sales, if any.

The Department further finds that by not responding to our inquiries, Rotec and Xianjiang failed to cooperate to the best of their abilities in this proceeding. Therefore, pursuant to section 776(b) of the Act, we find it appropriate to use an inference that is adverse to the interests of Rotec and Xianjiang in selecting from among the facts otherwise available with respect to its request for a separate rate. By doing so, we ensure that the companies that fail to cooperate will not

obtain a more favorable result than those companies that complied fully with the Department's requests in this review. *See* below for a discussion of the probative value of the 42.32 percent rate. Pursuant to section 776(b) of the Act, we have applied total adverse facts available with respect to the PRC–wide entity, including Rotec and Xianjiang.

Corroboration

In accordance with the Department's practice, we have assigned the rate for the PRC–wide entity to Rotec and Xianjiang as adverse facts available. *See, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China*, 64 FR 61581, 61584 (November 12, 1999).

In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Final Results of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). Consistent with section 776(c) of the Act, this rate is the highest dumping margin from any segment of this proceeding and was established in the less–than-fair–value investigation based on information contained in the petition, and corroborated in the final results of the first administrative review. *See Brake Rotors From the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 65 FR 61581 (November 12, 1999).

For the reasons stated in the *Preliminary Results*, the Department continues to find this rate to be both reliable and relevant, and, therefore, to have probative value in accordance with the SAA. *See* SAA at 870; *see also Preliminary Results* at 70 FR 10965. We received no comments on our preliminary analysis of this rate for purposes of these final results. Therefore, we determine that the rate of 43.32 percent is still reliable, relevant, and, has probative value within the meaning of section 776(c) of the Act.

Final Results of Review

We determine that the following percentage margins exist on exports of brake rotors from the PRC for the period April 1, 2003, through March 31, 2004:

BRAKE ROTORS FROM THE PRC

Producer/Manufacturer/ Exporter	Weighted–Average Margin (Percent)
CNIM	0.28% (de minimis)
Fengkun	1.43%
GREN	0.32% (de minimis)
Haimeng	0.20% (de minimis)
Hengtai	0.00%
Hongda	0.04% (de minimis)
Hongfa	0.00% (de minimis)
Jinzheng	0.00%
LABEC	0.09% (de minimis)
Longkou TLC	0.10% (de minimis)
Meita	0.00%
Winhere	0.31% (de minimis)
ZGOLD	0.00%
ZLAP	0.17% (de minimis)
PRC–Wide Entity	43.32%

For details on the calculation of the antidumping duty weighted–average margin for each company, *see* the respective company's *Analysis Memorandum for the Final Results of the Seventh Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China*, dated November 7, 2005.

Assessment Rates

The Department shall determine, and US Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we calculated importer- or customer–specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. Where the respondent did not report actual entered value, we calculated individual importer- or customer–specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing that amount by the total quantity of the sales examined.

In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer–specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). To determine whether the per–unit duty assessment rates are *de minimis* (*i.e.*, less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer- or customer - specific ad valorem ratios based on export prices.

The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review. We will instruct CBP to liquidate entries of the subject merchandise during the POR from companies not subject to this review at the cash deposit rate in effect at the time of entry. Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC that are manufactured and exported by Jinzheng, and entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review.

The following deposit rates shall be required for merchandise subject to the order, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and (a)(2)(B) of the Act: (1) the cash deposit rate for CNIM,, GREN, Haimeng, Hengtai, Hongda, Hongfa, Jinzheng (*i.e.*, for subject merchandise manufactured and exported by Jinzheng), LABEC, Meita, Winhere, ZGOLD, ZLAP, and Longkou TLC will be zero; (2) the cash deposit rate for Fengkun will be the rate indicated above; (3) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (4) the cash deposit rate for the PRC NME entity and for subject merchandise exported by Jinzheng but not manufactured by it will continue to be the PRC–wide rate (*i.e.*, 43.32 percent); and (5) the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied the exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in

accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 7, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix I

List of Issues in Decisions Memorandum

General Issues

General Issues

Comment 1: Labor Rate
Comment 2: Surrogate Value Calculations for Cartons
Comment 4: Scrap Offset in Surrogate Financial Ratios
Comment 5: Financial Ratios Applied to Inputs Supplied by Customers
Comment 6: Surrogate Value for Lug Nuts

Company–Specific Issues

Comment 7: Huanri–Separate Rate
Comment 8: Xianjiang–Non-Responsive
Comment 9: CNIM–Margin Calculation
Comment 10: Winhere–Plywood Valuation
Comment 11: GREN–Returned Sales
Comment 12: Fengkun–Customs Instructions
Comment 13: ZLAP–Surrogate Value for Lug Nuts

[FR Doc. 05–22893 Filed 11–17–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–570–846

Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review

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

SUMMARY: On September 20, 2005, the Department of Commerce (''the Department'') published the notice of preliminary results of its changed circumstances review examining whether Shandong Huanri Group Co., Ltd. (''Huanri Group'') is the successor–in-interest to Shandong Huanri Group General Company (''Huanri Group General'') for purposes of determining antidumping liability. *See Brake Rotors From the People's Republic of China: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 70 FR 55107 (September 20, 2005) (''*Preliminary Results*''). In those *Preliminary Results*, the Department found that Huanri Group was the successor–in-interest to Huanri Group General.

However, after consideration of factual information evaluated in the Department's seventh administrative review of brake rotors from the People's Republic of China (PRC), the Department finds that although Huanri Group remains the successor–in-interest to Huanri Group General, information in the above–referenced administrative review has led the Department to deny Huanri Group General a separate rate. *See* Comment 7 of the *Issues and Decision Memorandum for the Final Results in the 2003/2004 Administrative Review of Brake Rotors from the People's Republic of China*, to Stephen J. Claeys, Acting Assistant Secretary for Import Administration, from Edward Yang, Senior Enforcement Coordinator / NME Unit, Import Administration (November 7, 2005) (''*2003/2004 Issues and Decision Memorandum*''), which is on file in the Central Records Unit, Room B–099 of the main Department building. We have now completed this changed circumstances review in accordance with 19 CFR 351.216 and 351.221(c)(3).

EFFECTIVE DATE: November 18, 2005.

FOR FURTHER INFORMATION CONTACT: Erin Begnal or Christopher Riker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1442 or (202) 482–3441, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 2004, the Department initiated a changed circumstances review of Huanri Group's claim that it is the successor–in-interest to Huanri Group General. *See Brake Rotors from the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 69 FR 75508 (December 17, 2004).

On September 20, 2005, the Department published the preliminary results of its changed circumstances review. *See Preliminary Results*. In making such a successor–in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992). While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor–in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994); *Canadian Brass, and Fresh and Chilled Atlantic Salmon from Norway: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 50880 (September 23, 1998). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

In this case, data placed on the record and verified by the Department indicates that Huanri Group has the same management, production facilities, customer base, and supplier relationships as Huanri Group General.

Although the Department found Huanri Group was the successor–in-interest to Huanri Group General, the Department indicated in the *Preliminary Results* that it was currently conducting an administrative review regarding Huanri Group General. The Department preliminarily determined that Huanri Group General did not demonstrate that it was entitled to a separate rate under the Department's test. *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Seventh Administrative Review and Preliminary Results of the Eleventh New Shipper Review*, 70 FR 24382 (May 9, 2005). The Department informed the public that it would issue the final results of this changed circumstances review at the same time as the concurrent administrative review as both segments involve the company at issue, and that the separate rate issue will be decided in the context of the administrative review.

Scope of the Order

The products covered by the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters)

and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans, recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those rotors which have undergone some drilling and on which the surface is not entirely smooth. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, and Volvo). Brake rotors covered in this review are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron which contain a steel plate but otherwise meet the above criteria. Excluded from the scope of the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Successorship and Final Results

The Department received no case or rebuttal briefs by parties to this changed circumstances review. On the basis of the record developed in this proceeding, we continue to determine that Huanri Group is the successor–in-interest to Huanri Group General for purposes of determining antidumping duty liability. We note that in the seventh administrative review of brake rotors from the PRC, we concluded that Huanri Group General is not entitled to a separate rate for purposes of the final results of that proceeding. *See 2003/2004 Issues and Decision Memorandum*.

Therefore, effective as of the date of these final results, we will instruct CBP to assign Huanri Group the same antidumping duty cash–deposit rate applicable to Huanri Group General. The cash–deposit requirement will be effective upon publication of this notice of final results of changed circumstances review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date.

This notice also serves as a final reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to timely notify the Department in writing of the return/destruction of APO material is a sanctionable violation.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: November 7, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–22894 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Preliminary Results of New Shipper Reviews

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (''PRC''). The period of review (''POR'') for this administrative review is November 1, 2003, through October 31, 2004. The Department is also conducting new shipper reviews for two exporters/producers. The POR for the new shipper reviews is also November 1, 2003, through October 31, 2004.

One company named in the initiation of this review made no exports or sales of the subject merchandise during the POR and, consequently, we are preliminarily rescinding the review for this company. In addition, we are preliminarily rescinding the review for four companies because the requesting party withdrew its request for reviews of those companies. Therefore, this review covers nineteen producers/exporters of the subject merchandise.

We preliminarily determine that thirteen of these companies have made sales in the United States at prices below normal value. Further, we preliminarily determine that the remaining six companies are not entitled to separate rates and have assigned them the rate for the PRC–wide entity. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer–specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: November 18, 2005.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv or Steve Williams, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4207 and (202) 482–4619, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department published in the **Federal Register** the antidumping duty order on fresh garlic from the PRC. *See Antidumping Duty Order: Fresh Garlic From the People's Republic of China*, 59 FR 59209 (November 16, 1994). On November 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on fresh garlic from the PRC for the period November 1, 2003, through October 31, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 63359 (November 1, 2004). In November 2004, the petitioners [1] requested an

[1] The petitioners are the members of the Fresh Garlic Producers Association: Christopher Ranch L.L.C.; The Garlic Company; Valley Garlic; and Vessey and Company, Inc.

administrative review of 21 companies pursuant to section 751(a) of the Tariff Act of 1930, as amended (''the Act'').[2] In November 2004, Weifang Shennong Foodstuff Co., Ltd. (''WSFC''), Shanghai LJ International Trading Co., Ltd. (''Shanghai LJ''), Hongda, Dong Yun, Harmoni, Linshu Dading, Sunny, Shanyang, and Ziyang, requested administrative reviews of their sale(s) to the United States during the POR.

On November 22, 2004, we received a request for a new shipper review from Zhangqui Quingyuan Vegetable Co., Ltd. (''Qingyuan''). On November 30, 2004, we received requests for new shipper reviews from Shanghai LJ and Huaiyang Huamei Foodstuff Co., Ltd. (''Huamei'').[3] Pursuant to section 751(a)(2)(B) of the Act, and 19 CFR 351.214(d)(1), we initiated the following three new shipper reviews for shipments of fresh garlic from the PRC:

(1) grown and exported by Qingyuan
(2) grown and exported by Huamei, and
(3) grown by San Li and exported by Shanghai LJ.

On December 27, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of fresh garlic from the PRC in which it initiated an administrative review of this order for the period November 1, 2003, through October 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 77181 (December 27, 2005).

On January 5, 2005, the Department published a notice of the initiation of the new shipper reviews of Qingyuan, Shanghai LJ, and Huamei. *See Notice of Initiation of New Shipper Antidumping Duty Reviews: Fresh Garlic from the People's Republic of China*, 70 FR 779 (January 5, 2005).

In January 2005, we issued antidumping duty questionnaires to all companies noted above. On February 9, 2005, we received a timely filed submission from the petitioners withdrawing their request for review of Linyi, Shandong Jining, Tancheng, and Yisheng. On February 11, 2005, Ever Rich submitted a statement to the Department that it made no sales of subject merchandise during the POR.

In February and March 2005, we received questionnaire responses from WSFC, Dong Yun, Hongda, Harmoni, Jinan Yipin, Linshu Dading, Shanyang, Sunny, Trans–High, FHTK, Ziyang, Qingyuan, and Shanghai LJ. The Department issued supplemental questionnaires to and received responses from the above–mentioned companies from April through September 2005. Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best did not respond to the Department's questionnaire. For the reasons discussed in the section below entitled ''The PRC–Wide Rate and Use of Facts Otherwise Available,'' we have determined that Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best do not qualify for a separate rate and are instead part of the PRC entity.

On May 25, 2005, due to lack of participation, the Department rescinded the new shipper review with respect to Huamei. *See Fresh Garlic From the People's Republic of China; Notice of Rescission of Antidumping Duty New Shipper Review*, 70 FR 30081 (May 25, 2005).

In May and June 2005, the Department conducted harvest verifications for the following six companies: FHTK, Hongda, Shanghai LJ, Sunny, Trans–High, and Ziyang. On July 5, 2005, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of the new shipper reviews until October 25, 2005. *See Fresh Garlic From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of New Shipper Reviews*, 70 FR 38656 (July 5, 2005). On August 3, 2005, we extended the deadline for the issuance of the preliminary results of the administrative review by 100 days, until November 10, 2005. *See Fresh Garlic From the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 44563 (August 3, 2005).

In September 2005, pursuant to 19 CFR 351.214(j)(3), the two new shipper respondents (*i.e.*, Shanghai LJ and Qingyuan) and the petitioners agreed to waive the time limits applicable to the new shipper reviews and to permit the Department to conduct the new shipper reviews concurrently with the administrative review. *See* Memorandum to the file, ''Fresh Garlic from the People's Republic of China - Request for Alignment of the 11/01/03–10/31/04 Annual Administrative and New Shipper Reviews'' dated September 16, 2005. We are conducting these reviews in accordance with section 751(a)(1) of the Act.

Period of Review

The POR is November 1, 2003, through October 31, 2004.

Scope of the Order

The products subject to the antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non–fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non–fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must

[2] The names of these companies are as follows: (1) Clipper Manufacturing Ltd. (''Clipper''); (2) Fook Huat Tong Kee Pte., Ltd. (''FHTK''); (3) H&T Trading Company (''H&T''); (4) Heze Ever-Best International Trade Co., Ltd. (''Ever-Best''); (5) Huaiyang Hongda Dehydrated Vegetable Company (''Hongda''); (6) Jinan Yipin Corporation, Ltd. (''Jinan Yipin''); (7) Jining Trans-High Trading Co., Ltd. (''Trans-High''); (8) Jining Yun Feng Agriculture Products Co., Ltd. (''Yun Feng''); (9) Jinxiang Dong Yun Freezing Storage Co., Ltd. (''Dong Yun''); (10) Jinxiang Hongyu Freezing and Storing Co., Ltd. (''Hongyu''); (11) Jinxiang Shanyang Freezing and Storage Co., Ltd. (''Shanyang''); (12) Linshu Dading Private Agricultural Products Co., Ltd. (''Linshu Dading''); (13) Linyi Sanshan Import & Export Trading Co., Ltd. (''Linyi''); (14) Pizhou Guangda Import and Export Co., Ltd. (''Guangda''); (15) Shandong Jining Jishan Textile Co., Ltd. (''Shandong Jining''); (16) Shanghai Ever Rich Trade Company (''Ever Rich''); (17) Sunny Import & Export Limited (''Sunny''); (18) Taian Ziyang Food Co., Ltd. (''Ziyang''); (19) Tancheng Country Dexing Foods Co., Ltd. (''Tancheng''); (20) Xiangcheng Yisheng Foodstuffs Co., Ltd. (''Yisheng''); and (21) Zhengzhou Harmoni Spice Co., Ltd. (''Harmoni'').

[3] Shanghai LJ requested an administrative and a new shipper review for its sales made during the POR. Because its request satisfied the requirements pursuant to section 751(a)(2)(B) of the Act, and 19 CFR 351.214(d)(1), we initiated a new shipper review for Shanghai LJ rather than an administrative review.

be accompanied by declarations to CBP to that effect.

Preliminary Partial Rescissions of Administrative Reviews

Ever Rich claimed that it did not make shipments of subject merchandise to the United States during the POR. We conducted a data query of CBP entry information on subject merchandise and found no information indicating that there were U.S. entries during the POR of subject merchandise exported by Ever Rich. Therefore, for the reasons mentioned above and based on the results of our CBP query, we are preliminarily rescinding the administrative review with respect to Ever Rich because we found no evidence that it made shipments of the subject merchandise during the POR in accordance with 19 CFR 351.213(d)(3).

As noted above, the petitioners were the only parties to request an administrative review of Linyi, Shandong Jining, Tancheng, and Yisheng. Thus, because no other parties requested a review of these companies and the petitioners have withdrawn their request, we are also preliminarily rescinding the administrative review with respect to these companies in accordance with 19 CFR 351.213(d)(1).

Non–market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (''FOPs''), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the ''Factors Valuations for the Preliminary Results of the Administrative Review and New Shipper Reviews'' memorandum, dated November 10, 2005 (''*Factor Valuation Memo*''), which is on file in the Central Records Unit (''CRU''), Room B–099 of the main Department building.

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See* the ''Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China (PRC): Request for a List of Surrogate Countries'' memorandum, dated January 24, 2005, which is on file in the CRU.

In addition to being among the countries comparable to the PRC in economic development, India is a significant producer of the subject merchandise. Therefore, we have used India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the PRC producers' FOPs, when available and appropriate. *See* the ''Administrative Review of the Antidumping Duty Order of Fresh Garlic from the People's Republic of China: Selection of a Surrogate Country'' memorandum, dated October 20, 2005 (''*Surrogate Country Memo*''), which is on file in the CRU. We also invited parties to submit comments on the surrogate country selection for water valuation. For a detailed discussion of these comments, *see Factor Valuation Memo*. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review and a new shipper review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.

Separate Rates

The Department has treated the PRC as an NME country in all past antidumping investigations. *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non–Frozen Apple Juice Concentrate from the People's Republic of China,* 65 FR 19873 (April 13, 2000). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company–specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*'').

For the reasons discussed in the section below entitled ''The PRC–Wide Rate and Use of Facts Otherwise Available,'' we have determined that Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best do not qualify for a separate rate and are instead part of the PRC entity.

Dong Yun, FHTK, Hongda, Harmoni, Linshu Dading, Sunny, Ziyang, Jinan Yipin, Trans–High, WSFC, Shanyang, Shanghai LJ, and Qingyuan all provided the requested separate–rate information in their responses to our original and supplemental questionnaires. Accordingly, consistent with *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996), we performed separate–rates analyses to determine whether each producer/exporter is independent from government control.

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

With the exception of Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best, each respondent has placed on the record a number of documents to demonstrate absence of *de jure* control including the ''Foreign Trade Law of the People's Republic of China'' and the ''Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations.'' The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. *See*, *e.g.*, *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695 (June 7, 2001). We have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) an absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondent.

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has the authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

FHTK and Harmoni reported that they are wholly owned by foreign entities. Sunny, Ziyang, WSFC, Qingyuan, and Shanyang reported that they are limited–liability companies owned by private investors. Hongda, Dong Yun, Jinan Yipin, Linshu Dading, Trans–High, and Shanghai LJ reported that they are limited–liability companies. Each has asserted the following: (1) There is no government participation in setting export prices; (2) sales managers and authorized employees have the authority to bind sales contracts; (3) they do not have to notify any government authorities of management selections; (4) there are no restrictions on the use of export revenue; (5) each is responsible for financing its own losses. The questionnaire responses of FHTK, Hongda, Jinan Yipin, Trans–High, Dong Yun, Linshu Dading, Sunny, Ziyang, Harmoni, WSFC, Shanghai LJ, Shanyang, and Qingyuan do not suggest that pricing is coordinated among exporters. During our analysis of the information on the record, we found no information indicating the existence of government control. Consequently, we preliminarily determine that FHTK, Hongda, Jinan Yipin, Trans–High, Dong Yun, Linshu Dading, Sunny, Ziyang, Harmoni, WSFC, Shanghai LJ, Shanyang, and Qingyuan have met the criteria for the application of a separate rate.

The PRC–Wide Rate and Use of Facts Otherwise Available

All respondents were given the opportunity to respond to the Department's questionnaire. As explained above, we received questionnaire responses from FHTK, Hongda, Jinan Yipin, Trans–High, Dong Yun, Linshu Dading, Sunny, Ziyang, Harmoni, WSFC, Shanghai LJ, Shanyang, and Qingyuan. We have calculated a separate rate for each of these respondents. The PRC–wide rate applies to all other entries of subject merchandise except for entries from companies that have received their own rate based on the final results of a prior segment of this proceeding (*e.g.*, Sunny).

Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best, on the other hand, did not respond to the Department's questionnaire. On January 4, 2005, the Department issued its antidumping duty questionnaire to Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best. We have confirmed that the questionnaires we sent to these companies were each delivered and accepted. See Memorandum to the file, ''2003/2004 Administrative Review and New Shipper Reviews of the Antidumping Duty Order on Fresh Garlic From the People's Republic of China: Responses to Questionnaire,'' dated November 7, 2005 (''*Questionnaire Response Memo*''). Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority, or (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, the Department shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title. Furthermore, under section 782(c) of the Act, a respondent has the responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' However, these respondents did neither. Because Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best did not respond to the questionnaire, we preliminarily find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, the use of total facts available is appropriate. *See*, *e.g.*, *Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H. Doc. No. 103–316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the less–than-fair–value (''LTFV'') investigation, a previous administrative review, or any other information placed on the record.

As noted above, Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best did not respond to the Department's questionnaire. Because they did not provide responses to the Department's questionnaire, the Department is unable to determine whether Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best are eligible for separate rates. Thus, Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best have not rebutted the presumption

of government control and are presumed to be part of the PRC entity.

The PRC entity (including Guangda, H&T, Hongyu, Yun Feng, Clipper, and Ever–Best) failed to cooperate to the best of its ability in this administrative review, thus making the use of an adverse inference appropriate. Therefore, in accordance with the Department's practice, as adverse facts available, we have preliminarily assigned to the PRC entity the rate of 376.67 percent from the LTFV investigation, the highest rate determined in the current or any previous segment of this proceeding.

Corroboration of Secondary Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available that is based on secondary information. To corroborate information, the Department examines whether it is both reliable and relevant. Throughout the history of this proceeding, the highest rate ever determined has been 376.67 percent; it is currently the PRC–wide rate and was calculated based on information contained in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Fresh Garlic from the People's Republic of China*, 59 FR 49058, 49059 (September 26, 1994). The information contained in the petition was corroborated, to the extent practicable, for the preliminary results of the first administrative review. *See Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 61 FR 68229, 68230 (December 27, 1996). Further, it was corroborated in subsequent reviews to the extent that the Department referred to the history of corroboration and found that the Department received no information that warranted revisiting the issue. *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002). Similarly, no information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (''*TRBs*''), that it will ''consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin.'' *See TRBs*, 61 FR at 57392. *See* also *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin).

To assess the relevancy of the rate used, the Department compared the margin calculations of all respondents in these reviews with the current PRC–wide rate (*i.e.*, 376.67 percent). The Department found that the margin of 376.67 percent was within the range of the highest margins calculated on the record of these reviews. *See* memorandum to the file, ''2003–2004 Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China: Corroboration of the PRC–Wide Adverse Facts–Available Rate,'' dated November 10, 2005. Because the record of this administrative review contains margins within the range of 376.67 percent, we determine that the rate from the investigation continues to be relevant for use in these reviews.

The rate we are using for this review is the rate currently applicable to all exporters subject to the PRC–wide rate. Further, there is no information on the administrative record of the current review that indicates the application of this rate would be inappropriate or that the margin is not relevant. Therefore, for all sales of subject merchandise exported by Guangda, H&T, Hongyu, Yun Feng, Clipper, Ever–Best and all other non–reviewed PRC exporters, we have applied as adverse facts available, the 376.67 percent margin from the LTFV investigation and have satisfied the corroboration requirements under section 776(c) of the Act. *See Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as adverse facts available in the current review).

Export Price

For FHTK, Trans–High, Dong Yun, Linshu Dading, Sunny, Shanghai LJ, Qingyuan, WSFC, Shanyang, Hongda, and Ziyang, we based the U.S. price on export price (''EP''), in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation and CEP was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States.

For Sunny, we deducted foreign inland freight, foreign brokerage and handling, international ocean freight, U.S. brokerage and handling, import duties, U.S. warehousing expenses, demurrage charges, and U.S. inland freight expenses from the gross unit price, in accordance with section 772(c) of the Act.

For Dongyun, we deducted foreign inland freight, foreign brokerage and handling, international ocean freight, and marine insurance from the gross unit price, in accordance with section 772(c) of the Act.

For Trans–High, FHTK, WSFC, Hongda, and Ziyang, we deducted foreign inland freight and foreign brokerage and handling from the gross unit price, in accordance with section 772(c) of the Act.

For Linshu Dading, we deducted foreign inland freight, international ocean freight, foreign brokerage and handling, marine insurance, U.S. brokerage and handling, and U.S. import duties from the gross unit price, in accordance with section 772(c) of the Act.

For Shanghai LJ, we deducted foreign inland freight, and foreign brokerage and handling from the gross unit price, in accordance with section 772(c) of the Act.

For Shanyang, we only deducted foreign inland freight expenses from the gross unit price, in accordance with section 772(c) of the Act, because Shanyang reported that all shipments were FOB Qingdao and all other shipping and handling expenses were paid by the U.S. customer.

For Qingyuan, we deducted foreign inland freight, U.S. brokerage and handling, and international freight expenses from the gross unit price, in accordance with section 772(c) of the Act.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP methodology when the first sale to an unaffiliated purchaser occurred after importation of

the merchandise into the United States. We calculated the CEP for Jinan Yipin and Harmoni based on the sales made by their U.S. affiliates to unaffiliated U.S. customers. We based CEP on delivered prices to the first unaffiliated purchaser in the United States.

For Jinan Yipin, we made adjustments to the gross unit price for foreign inland freight from processing facility to port of exit, international ocean freight, U.S. inland freight from port to customer, demurrage charges, U.S. brokerage and handling expenses, U.S. inspection charges, and U.S. import duties. In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including credit expenses, billing adjustments and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

For Harmoni, we made adjustments to the gross unit price for foreign inland freight, international ocean freight, U.S. FDA inspection charges, U.S. brokerage and handling expenses, and U.S. import duties. In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including credit expenses and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

As all foreign inland freight, foreign warehouse expenses, foreign brokerage and handling, and marine insurance expenses (where applicable) were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factor Valuations'' section below for further discussion). Where applicable, we used the reported expense for international freight because the respondents used market economy freight carriers and paid in a market economy currency. *See Factor Valuation Memo*. For a more detailed explanation of the company–specific adjustments that we made in the calculation of the dumping margins for these preliminary results, *see* the company–specific preliminary results analysis memoranda, dated November 10, 2005, on file in the CRU.[4]

Normal Value

1. *Methodology*

The Department's general policy, consistent with section 773(c)(1)(B) of the Act, is to calculate NV using each of the FOPs that a respondent consumes in the production of a unit of the subject merchandise. There are circumstances, however, in which the Department will modify its standard FOP methodology, choosing to apply a surrogate value to an intermediate input instead of the individual FOPs used to produce that intermediate input. In some cases, a respondent may report factors used to produce an intermediate input that accounts for an insignificant share of total output. When the potential increase in accuracy to the overall calculation that results from valuing each of the FOPs is outweighed by the resources, time, and burden such an analysis would place on all parties to the proceeding, the Department has valued the intermediate input directly using a surrogate value. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 4753 (August 11, 2003), and accompanying Issues and Decision Memorandum at Comment 1 (''*PVA*'') (which cites to *Certain Preserved Mushrooms from the People's Republic of China: Final Results of First New Shipper Review and First Antidumping Duty Administrative Review*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 2 (''*Mushrooms*'')).

Also, there are circumstances in which valuing the FOPs used to yield an intermediate product would lead to an inaccurate result because the Department would not be able to account for a significant element of cost adequately in the overall factors buildup. In this situation, the Department would also value the intermediate input directly. For example, in a recent case, the Department determined that, if it were to value the respondent's factors used in extracting iron ore, an input to wire rod, it would not account sufficiently for the associated capital costs, given that the surrogate company it used for valuing overhead did not have a mining operation. *See Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 55785 (August 30, 2002), and *Final Determination of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products from the People's Republic of China*, 66 FR 49632 (September 28, 2001). *See also Mushrooms* at Comment 2.

In other cases, after careful consideration of the record, the Department has determined that valuing the intermediate input for the production of subject merchandise leads to a more accurate result than valuing the individual FOPs. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 498, 449 (January 31, 2003), and *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic*

[4] *See* Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Sunny Import & Export Co. Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Fook Huat Tong Kee Pte., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Huaiyang Hongda Dehydrated Vegetable Company,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Jinan Yipin Corporation, Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Jining Trans-High Trading Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Jinxiang Dong Yun Freezing Storage Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Jinxiang Shanyang Freezing and Storage Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Linshu Dading Private Agricultural Products Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Taian Ziyang Food Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Zhengzhou Harmoni Spice Co., Limited,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the New Shipper Review of Fresh Garlic from the People's Republic of China: Zhangqui Quingyuan Vegetable Co., Ltd.,'' dated November 10, 2005, Memorandum to the file entitled, ''Analysis for the Preliminary Results of the New Shipper Review of Fresh Garlic from the People's Republic of China: Shanghai LJ International Trading Co., Ltd.,'' dated November 10, 2005, and Memorandum to the file entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Weifang Shennong Foodstuff Co., Ltd,'' dated November 10, 2005.

of Vietnam, 68 FR 37116 (June 23, 2003).

For the final results of the previous administrative review,[5] the Department expressed its concern that based on the information on the record, we might not be accurately capturing the complete costs of producing fresh garlic. We concluded that many questions remained unanswered pertaining to the adequacy of the methodology applied therein, and its ability to accurately record and substantiate the complete costs of growing garlic. We further identified concerns regarding the potential limitations in confirming reported FOP usage rates through verification in cases in which the respondents' books and records do not track this data. Thus, in light of these concerns and the numerous unresolved issues pertaining to the production of fresh garlic, the Department stated that it would fully examine all of these issues, and consider the appropriateness of alternative calculation methodologies in subsequent administrative reviews of this antidumping duty order.

In the course of this review proceeding, the Department has requested and obtained a vast amount of detailed information from the respondents with respect to each company's garlic production practices. Based on our analysis of the information on the record and for the reasons outlined in the memorandum to the file titled, ''2003–2004 Administrative and New Shipper Reviews of the Antidumping Duty Order on Fresh Garlic From the People's Republic of China: Intermediate Input Methodology,'' dated November 10, 2005 (''*Intermediate Product Memo*''), we believe that the respondents are unable to accurately record and substantiate the complete costs of growing garlic.

Specifically, evidence on the record indicates that the respondents' records are deficient in recording reported labor usage. The processes required for growing, harvesting, and processing fresh garlic in the PRC are very labor–intensive. From planting, tending (*e.g.*, taking care of plants), maintenance, harvesting, transporting from one area to another, to processing into subject merchandise, PRC garlic producers rely on a sizeable workforce, which incurs many man-hours to carry out these activities. In May and June 2005, the Department conducted a harvest verification of six companies (*i.e.*, Sunny, FHTK, Hongda, Shanghai LJ, Trans High, and Ziyang).[6] Our verification findings included major discrepancies between the harvesting labor reported and that observed during verification for all six verified companies.[7] The Department's harvest verification demonstrated that five of the six companies significantly under–reported harvesting labor while the remaining company over–reported harvesting labor. The Department issued a series of supplemental questionnaires to all respondents in the instant segments of this proceeding, both to those companies that were verified and those that were not, in order to address several concerns which were raised during the course of the previous administrative review with respect to the companies' reported growing- and harvesting–related labor FOPs. Based on the responses to these questionnaires, and on the information gathered during verification, we conclude that, in general, the respondents in this industry do not track actual labor hours incurred for these activities and, thus, do not maintain appropriate records which would allow them to quantify, report and substantiate this information. For further discussion, *see Intermediate Product Memo* and *Harvest Verification Reports*.

Further, we found significant problems with respondents' ability to report yield loss that results from the shrinkage that occurs during the production of garlic due to the loss of water weight and the discarding of roots, stems, and skins during processing. In the Department's margin calculations, a yield loss adjustment factor (*i.e.*, yield loss ratio) must be applied to the respondents' reported direct materials, labor, energy, and by–product FOPs to reflect the yield loss that occurs from the time the garlic is harvested through the production and sale of the final product because, as discussed above, significant yield loss or shrinkage occurs during the production of the subject merchandise. In order to derive a complete and accurate yield loss ratio, the respondents' books and records must record the products' weight at a series of specific points in the production cycle.

Based on our analysis of the information provided by the respondents, and gathered at verification, we found that each of the garlic producers in the PRC record garlic production quantities at different points during the harvesting and processing of garlic. We found that the respondents calculated these ratios on partial values, or at inconsistent and incomplete points in the production cycle. Thus, we found that the reported yield loss figures varied significantly among respondents, are not an accurate reflection of the losses incurred by the PRC garlic producers, and that the NVs calculated using these yield loss figures are understated. For further discussion, *see Intermediate Product Memo*.

We also noted that there are many unknown variables that may affect or influence reported FOPs which are not accounted for in the respondents' books and records. The respondents' ability to measure and report accurate FOPs to the Department is greatly diminished by the fact that they lease the land on which the garlic is grown. Respondents in these reviews typically lease the land used for growing garlic for a period of nine months (*i.e.*, the garlic growing season). The remaining three months are referred to as the ''off–season.'' Most respondents report no specific or detailed knowledge of either the off–season crops produced on such leased land, crops produced on this leased land concurrently with the garlic, or the impact that residual inputs (*e.g.*, nutrients, pesticide, herbicide, water) may have on their garlic crops. For further discussion, *see Intermediate Product Memo*.

We found that the respondents also differed significantly in how each reported its garlic seed usage. For example, some respondents purchased all of the seed required for planting, others used seed exclusively reserved from the previous harvest, while the remaining companies used both purchased and reserved seed. Among the respondents that used reserved seed, some reported the amount of seed actually planted (*i.e.*, the ''net'' amount

[5] *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005) and accompanying Issues and Decisions Memorandum at Comment 1.

[6] *See* ''Harvest Verification of Taiyan Ziyang Food Company, Ltd. in the 2003/2004 Administrative Review of Fresh Garlic from the People's Republic of China,'' dated November 9, 2005, ''Harvest Verification of Taian Fook Huat Tong Kee Foodstuffs Co., Ltd. in the 2003/2004 Administrative Review of Fresh Garlic from the People's Republic of China,'' dated November 9, 2005, ''Harvest Verification of Jining Trans-High Trading Company, Ltd. in the 2003/2004 Administrative Review of Fresh Garlic from the People's Republic of China,'' dated November 9, 2005, ''Harvest Verification of Huaiyang Hongda Dehydrated Vegetable Co., Ltd. in the 2003/2004 Administrative Review of Fresh Garlic from the People's Republic of China,'' dated November 10, 2005, ''Harvest Verification of Sunny Import and Export Co., Ltd. in the 2003/2004 Administrative Review of Fresh Garlic from the People's Republic of China,'' dated November 10, 2005, and ''Harvest Verification of Henan Xiang Cheng Sunny (San Li) Foodstuff Factory, the Supplier of Shanghai LJ Internaitonal Trading Co., Ltd Co., Ltd. in the 2003/2004 New Shipper Review of Fresh Garlic from the People's Republic of China,'' dated November 10, 2005 (collectively, ''Harvest Verification Reports''), on file in the CRU.

[7] *See Harvest Verification Reports*.

exclusive of skins, bulb plates, etc.) while others reported the total amount of seed reserved from the previous harvest (*i.e.*, the ''gross'' amount with the skins, bulb plates, etc. still intact). In addition, we note that there appear to be varying levels of ''gross'' and ''net'' quantities that have a specific and different meaning for each respondent. ''Net'' for some respondents means the quantity of cloves planted in the ground while for others, ''net'' means the quantity of garlic, saved from the previous harvest, that is pulled from inventory for planting. In those instances where a respondent reported the net amount of seed used, we have determined that NV is understated because the respondent incurred a cost for the gross amount of seed either reserved or purchased for planting that is not accounted for in the FOP reported for seed consumption. For further discussion, *see Intermediate Product Memo*.

Finally, the Department conducts verification in administrative and new shipper reviews to confirm the accuracy of the data reported by the respondents to the Department in a proceeding. As part of verification in cases involving NMEs, the Department must be able to reconcile the data submitted in the questionnaire responses to the respondent's books and records, and, observe on–site production activities during verification. When the respondent's books and records do not contain a level of detail sufficient to substantiate the information required to report accurate FOP data, there is, in essence, no document trail through which the Department can conduct such a verification. We find that the PRC garlic industry has adopted and accepted a practice of maintaining either very basic records of its farms' growing and harvesting activities or, as detailed in the *Intermediate Product Memo*, no records at all. This record–keeping is sufficient for farmers in the PRC garlic industry to successfully grow and harvest garlic. However, the combination of lack of detailed records, unclear schedules, and the multi–staged production process occurring over several months as it relates to planting, tending, and harvesting activities significantly inhibits the Department's ability to conduct a meaningful verification of reported information.

In the previous administrative review, several concerns were raised with respect to the companies' reported growing and harvesting–related FOPs. To address these concerns, the Department issued a series of supplemental questionnaires to all respondents in the instant segments of this proceeding, both to those companies that were verified and those that were not. In response to those questionnaires, and based on information gathered at verification, the Department has determined that the books and records maintained by the respondents do not report or account for all of the relevant information and do not allow the respondents to identify all of the FOPs necessary to grow and harvest garlic. *See Intermediate Product Memo*. Further, the respondents' books and records (*e.g.*, inventory ledgers) do not allow us or the respondents themselves to derive accurate factor usage rates, which are necessary to the NME calculation methodology for NV. In addition, actual farms operated by each respondent are difficult to identify and locate as the respondents cannot provide detailed maps clearly marking the territories of their farms. Thus, the only way to derive complete and precise FOP data, without sufficiently detailed records, is for the Department to physically measure and observe each of these various production activities as they occur, as part of verification. As this would require the Department to be present throughout every day of planting, tending, and harvesting for each respondent, the calculation (and verification) of accurate and complete FOPs is a virtual impossibility. Given that garlic is grown and harvested in one production cycle over a nine-month period, the Department can only verify the one growing/harvesting activity that is occurring at a particular point in the growing season.

Thus, in these reviews, in order to eliminate the distortions in our calculation of NV for all of the reasons identified above and described in the *Intermediate Product Memo*, we applied an ''intermediate–product valuation methodology'' to all companies for these preliminary results of review. Using this methodology, we calculated NV by starting with a surrogate value for the garlic bulb (*i.e.*, the ''intermediate product''), adjusted for yield losses during the processing stages, and adding the respondents' processing costs, which were calculated using their reported usage rates for processing fresh garlic. For a complete explanation of the Department's analysis, and for a more detailed analysis of these issues with respect to each respondent, *see Intermediate Product Memo*.

In future reviews, should a respondent be able provide sufficient factual evidence that it maintains the necessary information in its internal books and records that would allow us to establish the completeness and accuracy of the reported FOPs, we will revisit this issue and consider whether to use its reported FOPs in the calculation of NV. For further details, *see Intermediate Product Memo*.

2. *Factor Valuations*

In accordance with section 773(c) of the Act, we calculated NV based on the intermediate product value and processing FOPs reported by the respondents for the POR. To calculate NV, we multiplied the reported per–unit factor quantities by publicly available surrogate values in India with the exception of the surrogate value for ocean freight, which we obtained from an international freight company. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We calculated these freight costs based on the shorter of the reported distance from the domestic supplier to the factory or the distance from the port in accordance with the decision in *Sigma Corporation v. United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sale(s) as certified by the U.S. Federal Reserve Bank. For a detailed description of all the surrogate values we used, *see* the *Factor Valuation Memo*.

For those Indian rupee values not contemporaneous with the POR, we adjusted for inflation using wholesale price indices for India published in the International Monetary Fund's *International Financial Statistics*. Surrogate–value data or sources to obtain such data were obtained from the petitioners, the respondents, and the Department's research.

Except as specified below, we valued the intermediate and processing inputs using the weighted–average unit import values derived from the *World Trade Atlas*, provided by the Global Trade Information Services, Inc. The source of these values, contemporaneous with the POR, was the Directorate General of Commercial Intelligence and Statistics of the Indian Ministry of Commerce and Industry.

Garlic Bulb: We reviewed several data sources submitted to the record of these reviews by respondents and the petitioners. Although the data sources were submitted by interested parties for consideration as the surrogate value for garlic seed, we reviewed the sources to evaluate their use to value the intermediate bulb (*i.e.*, the intermediate product) as well as for seed. Our review of information on the administrative

record for this proceeding indicates that garlic values sourced from the National Horticultural Research and Development Foundation 2003 (''NHRDF'') in India are specific to seed and are not appropriate for valuation of the intermediate bulb. Research conducted by the Department revealed that the garlic sold by NHRDF is intended only for use as seed for planting rather than for processing. *See* ''Memorandum to the File from Steve Williams,'' dated October 21, 2005, available in the CRU. We continue to believe that the pricing information of the NHRDF represents the most appropriate surrogate seed values for the type of high–quality garlic produced by the respondents in these reviews. However, because we are not using the respondents' reported growing FOPs (*e.g.*, seed, herbicide, pesticide, fertilizer, etc.) used to produce the intermediate bulb, we find that the NHRDF values are not the most appropriate data for use as a value for the intermediate bulb.

While we believe that the import values for garlic derived from the *World Trade Atlas* do not allow us to ascertain the quality or nature of the garlic products (*i.e.*, bulbs, loose cloves, etc.) entered under the applicable Indian Harmonized Tariff Schedule (''HTS'') category, we find that they are the best publicly available data on the record of this proceeding to value the intermediate bulb. Thus, we used the POR weighted–average unit import values for garlic derived from the *World Trade Atlas* to value the intermediate bulb for these preliminary results. We invite interested parties to submit publicly available information to value the garlic bulb for consideration for the final results of this proceeding. This information and other surrogate value submissions are due within 20 days after the date of publication of these preliminary results.

In addition, if a respondent reported that it purchased its garlic from an unaffiliated supplier prior to processing, we included a freight cost from the garlic bulb supplier to the company's processing facility. We did not include a freight cost for the garlic bulb if the respondent grew and processed its own garlic. For further details, *see Factor Valuation Memo*.

Energy and Water: To value electricity and diesel, we used values from the International Energy Agency to calculate a surrogate value for each in India for 2000, and adjusted for inflation. To value water, we used the rates from the website maintained by the Maharastra Industrial Development Corporation (*http://www.midcindia.org/*), which shows industrial water rates from various areas within the Maharastra Province, India (''Maharastra Data''). The Maharastra data is publicly available and contemporaneous with the POR.

Packing: The respondents reported packing inputs consisting of plastic nets/mesh bags, paper cartons, plastic packing bands, tape, wood used for producing pallets, nails used for producing pallets, plastic jars, plastic jar lids, plastic jar inserts, plastic tubes, nitrogen gas, antiseptic, metal clips, labels, glue, and cardboard. All of these inputs were valued using import data from the *World Trade Atlas* that covered the POR.

Labor: We valued labor, consistent with 19 CFR 351.408(c)(3), using the PRC regression–based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, and posted to Import Administration's website at *http://ia.ita.doc.gov/wages*. The source of this wage rate data on Import Administration's web site is the Yearbook of Labour Statistics 2003, International Labor Office, (Geneva: 2003), Chapter 5B: Wages in Manufacturing (*http://laborsta.ilo.org*). The years of the reported wage rates range from 1998 to 2003. Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. *See id*.

Land Value and Cold Storage: We find that, based on the use of intermediate product, the market value of the intermediate product (*i.e.*, the garlic bulb) already accounts for the cost of leasing the land used to grow garlic as well as any cold storage costs incurred prior to processing. Therefore, we did not value land or cold storage for these preliminary results of review because doing so might result in double counting of these costs.

By–product: The respondents claimed an adjustment for revenue earned on the sale of garlic sprouts. We find that because the market value of the intermediate product (*i.e.*, the garlic bulb) already accounts for the experience of the grower's sale of any by–product produced while growing garlic, we have not made a by–product offset amount from NV.

Movement Expenses: We valued the truck rate based on an average of truck rates that were published in the Indian publication *Chemical Weekly* during the POR. We valued foreign brokerage and handling charges based on an average value calculated in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products From India*, 66 FR 50406 (October 3, 2001), and *Notice of Final Determination of Sales at Less than Fair Value: Carbazole Violet Pigment 23 from India*, 69 FR 67306 (November 17, 2004). We adjusted data not contemporaneous with the POR when appropriate. For ocean freight, we used the rate quotes from the website maintained by Maersk Sealand (*www.maersksealand.com*) for the movement of refrigerator containers from the PRC to the east and west coasts of the United States because it is publicly available and contemporaneous with the POR. We used these quotes to calculate a surrogate freight rate for each coast. For marine insurance, we relied on rate quotes from RJG Consultants (*www.rjgconsultants.com*) dating from the POR for the movement of refrigerated containers from the PRC to the east and west coasts of the United States. We used this data because it is publicly available and contemporaneous with the POR.

Financial Expenses: As discussed in the *Factor Valuation Memo*, the respondents submitted the publicly available financial information of four companies. The petitioners did not submit any financial statements for these preliminary results. Because we are using an intermediate methodology for all respondents in these reviews, it is important to use financial ratios derived from a surrogate company whose financial expenses do not include upstream costs (*i.e.*, growing costs) to avoid double–counting factory overhead, selling, general and administrative expenses, and profit. We preliminarily conclude that the financial information of Preethi Tea Industry Private Limited (''Preethi'') and Limtex India Limited (''Limtex''), tea producers in India, are most representative of the financial experiences of the respondent companies because they process an intermediate product prior to its sale. We are not using the financial information of The Moran Tea Co. (India) Ltd. because this company appears to grow the majority of its raw materials, and thus, the information reflects the financial experience of a fully–integrated company. We also are not using the financial information of Dakash Foods because its does not contain enough information from which to ascertain whether the company is comparable to the PRC respondents.

Thus, to value factory overhead, and selling, general and administrative expenses, we used rates based on data

taken from the 2002/2003 and 2003/2004 financial statements of Preethi and Limtex for these preliminary results. Preethi's 2002/2003 financial statement did not report a profit. Therefore, for purposes of these preliminary results we excluded the profit ratio that was reported on its 2002/2003 financial statement. *See Factor Valuation Memo* for a more complete discussion of the Department's analysis.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value FOPs, but when a producer sources an input from a market economy and pays for it in market economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1). *See also Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–46 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market economy purchase prices and use surrogate values to determine the NV. *See Notice of Amended Final Determination of Sales at Less than Fair Value: Automotive Replacement Glass Windshields from the People's Republic of China (''PRC'')*, 67 FR 11670 (March 15, 2002).

Preliminary Results of the Administrative and New Shipper Reviews

We preliminarily find that the following weighted–average dumping margins exist for the period November 1, 2003, through October 31, 2004:

Producer/Manufacturer/Exporter	Weighted–Average Percent Margin
Jinan Yipin Corporation, Ltd.	13.86
Jinxiang Dong Yun Freezing Storage Co., Ltd.	0.04 (*de minimis*)
Fook Huat Tong Kee Pte., Ltd.	0.64
Huaiyang Hongda Dehydrated Vegetable Company	0.00
Linshu Dading Private Agricultural Products Co., Ltd.	23.17
Sunny Import & Export Limited	3.96
Taian Ziyang Food Co., Ltd	0.45 (*de minimis*)
Jining Trans–High Trading Co., Ltd.	0.00
Zhengzhou Harmoni Spice Co., Ltd.	0.00
Weifang Shennong Foodstuff Co., Ltd.	0.00
Jinxiang Shanyang Freezing and Storage Co., Ltd.	27.82
Shanghai LJ International Trading Co., Ltd.	0.00
Zhangqiu Qingyuan Vegetable Co., Ltd.	11.48
PRC–Wide Entity[8]	376.67

[8] The PRC-wide entity includes: Guangda, H&T, Hongyu, and Yun Feng.

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department will issue the final results of this administrative review and new shipper reviews, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this administrative review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate or value for merchandise subject to this review. For these preliminary results we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each applicable importer. In these reviews, we will direct CBP to assess importer (or customer)-specific assessment rates based on the resulting per–unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR.

Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments of fresh garlic from the PRC produced by San Li and exported by Shanghai LJ, and produced and exported by Qingyuan that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these new shipper reviews. The following cash deposit requirements will be effective upon publication of the final results of these new shipper reviews for all shipments of subject merchandise from Shanghai LJ and Qingyuan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced by San Li and exported by Shanghai LJ, and produced and exported by Qingyuan, the cash deposit rate will be that stipulated in the final results of review, except, no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; (2) for subject merchandise exported by Shanghai LJ but not manufactured by San Li, the cash deposit rate will continue to be the PRC–wide rate (*i.e.*, 376.67 percent); and (3) for subject merchandise exported by Qingyuan, but manufactured by any other party, the cash deposit rate will be the PRC–wide rate.

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, also as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Dong Yun, FHTK, Hongda, Jinan Yipin, Linshu Dading, Sunny, Ziyang, Trans–High, Harmoni, WSFC, and Shanyang, the cash–deposit rate will be that established in these final results of review (except where the rate is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required); (2) for anyone that is not reviewed here but has a separate rate from a prior segment, the

rate will be from that segment; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 376.67 percent; (4) for all non–PRC exporters of subject merchandise, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative and these new shipper reviews and this notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.213(g), 351.214(h) and 352.221(b)(4).

Dated: November 10, 2005.

Stephen J. Claeys,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E5–6391 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Notice of Extension of Time Limit for Final Results of Administrative Review: Oil Country Tubular Goods, Other Than Drill Pipe, from Korea

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

EFFECTIVE DATE: November 18, 2005.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay or Nicholas Czajkowski, Office of AD/CVD Operations 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0780 and (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 2004, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of initiation of the administrative review of the antidumping duty order on oil country tubular goods, other than drill pipe, from Korea, covering the period August 1, 2003, through July 31, 2004 (69 FR 56745). On September 8, 2005, the Department published the preliminary results of this administrative review. *See Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Preliminary Results of Antidumping Duty Administrative Review* (70 FR 53340).

Extension of Time Limits for Final Results

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

Due to the complexity of issues related to the cost of production and because the Department intends to verify respondents' SeAH Steel Corporation's and Husteel Company, Ltd's. questionnaire responses, the Department finds that it is not practicable to complete the final results in this administrative review of oil country tubular goods, other than drill pipe, from Korea by January 6, 2006. Therefore, the Department is extending the time limit for completion of the final results until no later than March 7, 2006, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1), 751(a)(3)(A), and 777(i)(1) of the Act.

Dated: November 10, 2005.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E5–6390 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Information Security and Privacy Advisory Board: Request for Nominations

AGENCY: National Institute of Standards and Technology (NIST), DOC.

ACTION: Request for nominations of members to serve on the Information Security and Privacy Advisory Board.

SUMMARY: NIST invites and requests nominations of individuals for appointment to the Information Security and Privacy Advisory Board (ISPAB). NIST will consider nominations received in response to this notice for appointment to the Board, in addition to nominations already received.

DATES: The nomination period is open-ended.

ADDRESSES: Please submit nominations to Pauline Bowen, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–975–4007, Attn: ISPAB Nominations.

Additional information regarding the Board, including its charter and current membership list, may be found on its electronic home page at: *http://csrc.nist.gov/ispab/*.

FOR FURTHER INFORMATION CONTACT: Pauline Bowen, ISPAB Designated Federal Official, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930; telephone 301–975–2938; fax: 301–965–2938; or via e-mail at *pauline.bowen@nist.gov*.

SUPPLEMENTARY INFORMATION:

I. ISPAB Information

The ISPAB was originally chartered as the Computer System Security and Privacy Advisory Board (CSSPAB) by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). As a result of the E-Government Act of 2002 (Pub. L. 107–347), Title III, the Federal Information Security Management Act of 2002, Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4) the Board's charter was amended. This amendment included the name change of the Board.

Objectives and Duties

The objectives and duties of the ISPAB are:

1. To identify emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.

2. To advise the NIST, the Secretary of Commerce and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including thorough review of proposed standards and guidelines developed by NIST.

3. To annually report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

4. To function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

Membership

The ISPAB is comprised of twelve members, in addition to the Chairperson. The membership of the Board includes:

1. Four members from outside the Federal Government eminent in the information technology industry, at least one of whom is representative of small or medium sized companies in such industries;

2. Four members from outside the Federal Government who are eminent in the fields of information technology, or related disciplines, but who are not employed by or representative of a producer of information technology equipment; and,

3. Four members from the Federal Government who have information system management experience, including experience in information security and privacy, at least one of these members shall be from the National Security Agency.

Miscellaneous

Members of the ISPAB are not paid for their service, but will, upon request, be allowed travel expenses in accordance with Subchapter I of Chapter 57 of Title 5, United States Code, while otherwise performing duties at the request of the Board Chairperson, while away from their homes or a regular place of business.

Meetings of the Board are two to three days in duration and are held quarterly. The meetings primarily take place in the Washington, DC metropolitan area but may be held at such locations and at such time and place as determined by the majority of the Board.

Board meetings are open to the public and members of the press usually attend. Members do not have access to classified or proprietary information in connection with their Board duties.

II. Nomination Information

Nominations are being accepted in all three categories described above.

Nominees should have specific experience related to information security or electronic privacy issues, particularly as they pertain to Federal information technology. Letters of nominations should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Also include (where applicable) current or former service on Federal advisory boards and any Federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the ISPAB, and that they will actively participate in good faith in the tasks of the ISPAB.

Besides participation at meetings, it is desired that members be able to devote a minimum of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their Board duties.

Selection of ISPAB members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as Board vacancies occur.

Nominees must be U.S. citizens.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse ISPAB membership.

Dated: November 13, 2005.

William A. Jeffrey,

Director.

[FR Doc. 05–22878 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Tuesday, December 6, 2005, from 8:30 a.m. until 5 p.m. and Wednesday, December 7, 2005, from 8:30 a.m. until 5 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107–347) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. Details regarding the Board's activities are available at *http://csrc.nist.gov/ispab/*.

DATES: The meeting will be held on December 6, 2005, from 8:30 a.m. until 5 p.m. and December 7, 2005, from 8:30 a.m. until 5 p.m.

ADDRESSES: The meeting will take place at the Doubletree Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, Maryland.

Agenda

—Welcome and Overview.
—Privacy Act Framework Effort.
—Status Reports on ISPAB Work Plan Items.
—Briefing on NIST Next Generation Internet Protocol (IPv6).
—Briefing on NIST National Vulnerability Database Project.
—National Telecommunications and Information Administration Information Security Outreach Briefing.
—Discussion of NIST's Cryptographic Hash Function Workshop.
—Agenda Development for March 2006 ISPAB Meeting.
—Wrap-Up.

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than December 5, 2005. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Ms. Pauline Bowen, Board Secretariat, Information Technology Laboratory, National Institute of Standards and

Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–2938.

Dated: November 13, 2005.

William A. Jeffrey,

Director.

[FR Doc. 05–22877 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Board of Overseers

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on December 2, 2005. The Board of Overseers is composed of eleven members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology with the members of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Report from the Judges' Panel, Baldrige Program Update, Potential Program Changes, Discussion with NIST Director, Baldrige Marketing Collaborative Progress, Overseers Role in Raising Awareness of the Baldrige Program, and Recommendations for NIST Director.

DATES: The meeting will convene December 2, 2005, at 8:30 a.m. and adjourn at 3 p.m. on December 2, 2005.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Room A1038, Gaithersburg, Maryland 20899. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Virginia Davis no later than Tuesday, November 29, 2005, and she will provide you with instructions for admittance. Ms. Davis' email address is *virginia.davis@nist.gov* and her phone number is (301) 975–2361.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

Dated: November 14, 2005.

William Jeffrey,

Director.

[FR Doc. 05–22875 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Study of Economic Performance in Small-Scale Commercial Fisheries in the U.S. Caribbean

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 17, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Juan J. Agar, (305) 361–4218 or *Juan.Agar@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) proposes to collect socio-economic data on small-scale fishing fleets operating in the U.S. Caribbean (*e.g.*, hook and line and net fisheries). The survey intends to collect economic information about revenues, variable and fixed costs, capital investment and other auxiliary and demographic information. The data gathered will be used to describe economic performance in small-scale fisheries and to evaluate the socio-economic impacts of future federal regulatory actions. In addition, the information will be used to strengthen and improve fishery management decision-making, and to satisfy legal mandates under Executive Order 12866, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statues.

II. Method of Collection

The socio-economic information sought will be collected via in-person, telephone and mail surveys.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 1,000.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 14, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–22853 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Olympic Coast 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 Olympic Coast National Marine Sanctuary (OCNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Conservation/Environmental, Marine Business/Ports/Industry, and Research. 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 or alternates should expect to serve 3-year terms, pursuant to the Council's Charter.

DATES: Applications are due by December 9, 2005.

ADDRESSES: Application kits may be obtained from Andrew Palmer, Advisory Council Coordinator, 115 East Railroad Ave., Suite 301, Port Angeles, WA 98362. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Andrew Palmer, Advisory Council Coordinator, 115 East Railroad Ave., Suite 301, Port Angeles, WA 98362, (360) 457–6622 extension 15, e-mail *andrew.palmer@noaa.gov.*

SUPPLEMENTARY INFORMATION: Sanctuary Advisory Council members and alternatives serve three-year terms. The Advisory Council meets bi-monthly in public sessions in communities in and around the Olympic Coast National Marine Sanctuary.

The Olympic Coast National Marine Sanctuary Advisory Council was established in December 1998 to assure continued public participation in the management of the sanctuary. Serving in a volunteer capacity, the advisory council's 15 voting members represent a variety of local user groups, as well as the general public. In addition, five Federal government agencies and one federally funded program serve as non-voting, *ex officio* members. Since its establishment, the advisory council has played a vital role in advising the sanctuary and NOAA on critical issues. In addition to providing advice on management issues facing the Sanctuary, the Council members serve as a communication bridge between constituents and the Sanctuary staff.

Authority: 16 U.S.C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: November 10, 2005.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–22860 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052405C]

Small Takes of Marine Mammals Incidental to Specified Activities; Maintenance Dredging Around Pier 39, San Francisco, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Bay Marina Management Incorporated (BMMI) to take marine mammals by Level B harassment incidental to dredging on the west side of the Pier 39 Marina on the San Francisco waterfront, CA.

DATES: Effective from October 17, 2005, through October 16, 2006.

ADDRESSES: A copy of the IHA and the application are available by writing to Steve Leathery, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or online at: *http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext 166.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [''Level A harassment'']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [''Level B harassment''].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorization for the incidental harassment of small numbers of marine mammals. Within 45 days of

the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On August 9, 2004, NMFS received an application from BMMI requesting an IHA for the take, by harassment, of small numbers of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to the maintenance dredging the I, J, and K Docks on the west side of Pier 39 Marina on the San Francisco waterfront, California.

Description of the Activity

BMMI will perform maintenance dredging using a small, self-contained clamshell-style crane barge between docks I, J, and K at the Pier 39 west marina. These maintenance measures are necessary to maintain safe navigation depths at the marina, which currently has reduced water depths attributed to the accretion of bay sediment. The dredging at Pier 39 will remove sediment to create water depths in the project area of 9 ft (2.7 m) Mean Lower Low Water (MLLW), plus an additional two-foot overdredge allowance. Dredging design area limits (footprints) include the faces, approaches, and entrance channels to each berthing area up to the limit of the adjacent pier. Dredging will occur between June 1 and November 30 to avoid impacts to steelhead trout and chinook salmon.

Dredging operations at the Pier 39 west marina will occur in late fall of 2005 or the summer of 2006 and are expected to take approximately one to two weeks to complete. Dredge machinery will operate from 8 a.m. to 3:30 p.m. daily. Approximately 13,000 yd^3 (9,939 m^3) of material will be removed. Dredged material will be tested for pollutants and toxins by the Dredge Material Management Office prior to approval to begin dredging, and dredged materials will be deposited in accordance with local, state and Federal regulations. Once removed, the dredged material will be transferred to Piers 96/98, which are owned and operated by the Port of San Francisco, and from there it will be disposed of at an approved upland disposal site.

The proposed dredging of the Pier 39 west berthing area will focus on the channels and slips of I and J docks and half of the channel between J and K docks. The original K dock was destroyed by the combined weight of hundreds of California sea lions that frequently use the area as a haul-out. Pier 39 replaced the damaged dock with a number of ten by twelve-foot floats for the sea lions to use. Since there are no actual berthing sites at K dock, no dredging will be necessary in the area immediately surrounding or under K dock. The crane barge will be situated at the furthest distance possible from K dock during each dredging episode. The closest that the barge will be to the K dock haul-out is when dredging the channel between J and K docks. When the barge is dredging this channel it will be moored to the bayside of J dock and extend the clamshell dredge arm out into the channel, towards K dock. Since the distance between J and K docks is 100 ft (30 m) and the barge is 30 ft (9 m) wide, it will never be positioned closer than 50 ft (15 m) to K dock at any time during the dredging project.

Comments and Responses

A notice of receipt of the BMMI application and proposed IHA was published in the **Federal Register** on September 6, 2005 (70 FR 52990). The **Federal Register** notice also invited comments on NMFS's associated draft Environmental Assessment (EA), which was posted on the NMFS website. During the comment period, NMFS received one comment from the Marine Mammal Commission (MMC).

Comment: The MMC recommended that the requested authorization be issued, provided that the mitigation and monitoring activities proposed in the application and NMFS's **Federal Register** notice are carried out as described.

Response: The mitigation and monitoring activities described in the application and the **Federal Register** notice have been incorporated into the requirements of the IHA.

Description of Habitat and Marine Mammals Affected by the Activity

The marine mammal species known to be present at the Pier 39 Marina area are the California sea lion (*Zalophus californianus*) and the Pacific harbor seal (*Phoca vitulina*). Since 1993, a single adult male Steller sea lion (*Eumetopias jubatus*) has been observed hauled out on K dock intermittently during the months of July and August, and occasionally in September (30 sightings in the last 10 years). However, this project will not affect the Steller sea lion because dredging activities will be halted if a Steller sea lion is observed.

Additional information on these species can be found in Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html*.

California Sea Lions

California sea lions range from southern Mexico to southwestern Canada. In the United States, they breed during July after pupping in late May to June, primarily in the Channel Islands of California. Most individuals breed on the Channel Islands off southern California and off Baja and mainland Mexico, although a few pups have been born on Ano Nuevo Island and this year a pup was born on the docks at Monterey and subsequently transferred to Ano Nuevo Island with its mother. Following the breeding season on the Channel Islands, most adult and sub-adult males migrate northward to central and northern California and to the Pacific Northwest, while most females and young animals either remain on or near the breeding grounds throughout the year or move southward or northward, as far as Monterey Bay.

Since nearing extinction in the early 1900's, the California sea lion population has increased and is now growing at a rate of 5.4 to 6.1 percent per year (based on pup counts) with an estimated minimum population of 138,881 animals. Actual population numbers may be as high as 237,000 to 244,000 animals. The population is not listed as ''endangered'' or ''threatened'' under the Endangered Species Act (ESA), nor is this species listed as ''depleted'' or as a ''strategic stock'' under the MMPA.

California sea lions first appeared at Pier 39 in September, 1989. Numbers of hauled-out sea lions were relatively low the first year and K Dock was only used as a haul out from late summer through the winter. Within a few years, larger numbers of sea lions were observed at K Dock and they began using the haul-out throughout the year. The Marine Mammal Center (MMC) began monitoring California sea lions at Pier 39 in the late 1990's and counts indicate peak usage of K dock at Pier 39 in May and early June, just prior to the breeding season. Although numbers decrease during mid-summer (when most adults relocate to the rookeries for pupping and breeding) some sea lions of all age classes remain in the area and continue to haul out at Pier 39. Within the dredging work window (June 1 to November 30) the largest numbers of California sea lions are found at K Dock in the late summer and fall. The highest number of individuals ever observed at once between June 1 and November 30 at Pier 39 to date was 1244, in August of 2003. If the number of individuals observed at one count is averaged by month, from June to November, since 2000, the averages range from 169 for

July to 709 in September. Since monitoring began in 1991, only 10 California sea lion pups have been observed at Pier 39, in 1997 and 1998. These pups, which were all weaned, most likely hauled out at K Dock due to El Nino, and pups are not expected at the project site in ''normal'' years.

Pacific Harbor Seals

Although not commonly observed at Pier 39, Pacific harbor seals have been documented as visitors to K dock numerous times in the past decade. Harbor seals range from Baja California in Mexico northward to the Aleutian Islands of Alaska. The population estimate for the California stock is 27,863 individuals (Caretta *et al.*, 2004) and is relatively stable.

Harbor seals inhabit coastal waters within their range and prefer sheltered bays and inlets to the exposed coastline. Daily haul-out behavior of harbor seals is typically dependent on the tides, weather and time of day. Harbor seals exhibit seasonal variation in reproductive timing depending on geography. The pupping season for California populations is in the spring, with populations in the San Francisco Bay typically bearing young from March 15 through May 31 (Green *et al.*, 2001). There are two active pupping sites in the San Francisco Bay, Mowry Slough in the South Bay and Castro Rocks in the North Bay. Pups have been observed at Yerba Buena Island and Corte Madera Marsh in the San Francisco Bay. No births have been witnessed at these locations, but Yerba Buena is thought to be a potential pupping site. No harbor seal pups have ever been seen at Pier 39.

Annual counts of harbor seals at Pier 39 range from 0 seals observed in 1999 and 2004, to a high of nine observations in 2000 for a total of 28 observations between 1997–2004. No more than two harbor seals have been observed hauled out simultaneously at any given time at K Dock. No harbor seals have been observed hauling out at Pier 39 July through September. No pups have been observed at Pier 39. Observations by MMC volunteers indicate that observed harbor seals at Pier 39 tend to distance themselves from the California sea lions hauling out in the vicinity.

Potential Effects of Activities on Marine Mammals

The applicant is authorized to take California sea lions and Pacific harbor seals, by Level B harassment, incidental to the dredging activities described previously. Level B harassment may occur if hauled animals flush the haulout and/or move to increase their distance from dredging-related activities, such as noise associated with dredging, presence of a crane barge, the presence of workers, or unfamiliar activity in proximity to the haulout site. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Sudden brief noises have been shown to elicit startle reactions in some pinnipeds. Novel looming visual stimuli may induce similar startle reactions in pinnipeds. Daily engine starts and movements of the dredge bucket and vessel may induce startled and/or flight behavior in marine mammals using K dock as a haul out. However, this area has become a tourist spot for viewing sea lions, and the current population of animals utilizing K dock is accustomed to human activities and regular noise levels from people, traffic, use of nearby boat slips, and other marine operations. If animals do flush into the water, they may return to the haul-out site immediately, stay in the water for a length of time and then return to the haul-out, or temporarily haul-out at another site. Many factors contribute to the degree of behavioral modification, if any, including seasonality, group composition of the pinnipeds, type of activity they are engaged in and what noises they may be accustomed to experiencing. Short-term reactions such as startle or alert reactions are unlikely to disrupt behavior patterns such as migrating, breeding, feeding and sheltering, nor would they be likely to result in serious injury to marine mammals.

The small, self-contained, clamshell dredge used for this activity may produce noise of a sufficient level to behaviorally harass marine mammals at K dock. Measured sound exposure levels (SELs) of similar equipment ranged between 75–88 dBA (re 20 microPa) measured at 15 m (50 feet) (the closest distance that the dredge unit will be to K dock) (Boeing, 2005). Results of an ongoing study at Vandenberg Air Force Base of the effects of rocket launches on pinnipeds indicate that the percentage of Pacific harbor seals leaving the haul-out increases with noise level up to an SEL of approximately 100 dBA, after which almost all seals leave, although recent data have shown that an increasing percentage of seals have remained on shore during the noise, and those that remain are adults. Though harbor seals are more sensitive to audio stimuli than sea lions, these results indicate that animals are flushed at an SEL less than 100 dBA, and it is possible that marine mammals at K Dock may modify their behavior as a result of the lesser dredge noise.

If startle reactions were accompanied by large-scale movements of marine mammals, such as stampedes into the water, the disruption could escalate into Level A harassment and could result in injury of individuals, especially if pups were present. However, due to the uniqueness of this particular haul-out area, the unlikely presence of pups, and the proposed shut-down procedures should pups be sighted, NMFS believes there is a very low likelihood of such injury occurring at the Pier 39 site. Specifically, the haul-out consists of many separate floating platforms that can hold up to about 25 marine mammals each. If disrupted to the point of flushing off the platforms, pinnipeds can quickly leap or roll into the water in any direction off the relatively small platforms, avoiding a dangerous stampede-like situation that may occur at normal haul-out locations such as exposed rocks. Additionally, marine mammal pups use this haul-out very infrequently (approximately 10 pups have been sighted at K Dock, in 1997 and 1998, during El Nino), further reducing potential harm to the species.

Over the last 13 years, BMMI has observed the sea lions either ignore various unfamiliar intrusions and remain hauled out, or adapt to them and eventually become habituated and return to their normal behavior. Disturbance from these proposed dredging activities is expected to have a only a short-term negligible impact to a small number of California sea lions relative to their population size and a few Pacific harbor seals. At a maximum, short-term impacts are expected to result in a temporary reduction in utilization of K dock as a haulout site while work is in progress or until seals habituate to the disturbance. The project is not expected to result in any permanent reduction in the number of animals at Pier 39. NMFS agrees with BMMI that effects will be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment.

Mitigation

To minimize disturbance of marine mammals from visual and acoustic stimuli associated with the dredging activities, BMMI will use a small (relative to the range of sizes of equipment that could accomplish the task) clamshell dredge that can easily target the specific areas to be dredged. The smaller equipment will also minimize the amount of turbidity resulting from the dredging activities. The dredge material will be

immediately loaded onto a barge and transported to a nearby terrestrial disposal site at Piers 96 and 98, which will allow for a shorter project duration.

When not in use, the clamshell dredge and dredge barge will be parked as far as feasible from the K Dock. After starting engines in morning, the clamshell dredge will be moved as slowly as possible to the area to be dredged and the dredge head lowered slowly and carefully into the water.

As mentioned previously, if a Steller sea lion of any age or a marine mammal pup of any species is spotted at any time during dredging operations, operations will cease until the animal has left the area.

Monitoring

The K dock haulout will be monitored periodically during dredging activities by two NMFS-approved observers according to the following schedule:

(1) During the week prior to the commencement of dredging activities, morning counts will be taken every morning at the same time. One afternoon count will be taken at approximately the same time the dredging is scheduled to stop in the following days.

(2) During the dredging operations:

(a) One count will be taken every morning before dredging work begins and every afternoon once operations cease.

(b) On the first day of dredging and on one other day near the end of dredging operations, monitors will be present all day (starting one hour before operations begin and remaining until 2 hours after operations cease) and they will document specific behaviors as they relate to specific aspects of the dredging operations and other activities. An additional count will be conducted 2 hours after dredging operations cease. Rates of departure and arrival of animals from/to the haulout will be noted.

(3) Following completion of the dredging:

(a) Morning counts (taken at approximately same time as those taken previously (See 1)) will be made every day for a week.

(b) An afternoon count will be conducted the day after dredging ceases and on the last day of the post-dredging monitoring.

(4) During all monitoring periods the following data will be recorded: date, time, observer, tidal height, species present, maximum number of animals hauled out, number of adults and sub-adults, number of males and females (if possible), any observed behavioral disturbances to the animals, and the number of animals disturbed (for example, if animals flushed, reports should include the number of animals that returned to the water, and those that remained hauled out). During periods of dredging a description of dredging activities will also occur (including location of dredge, i.e., between J and K Docks, or between I and J Docks).

Reporting

A draft report will be submitted to the NMFS Southwest Assistant Regional Administrator for Protected Resources and to the NMFS Division of Permits, Conservation, and Education, Office of Protected Resources, within 90 days after project completion. A final report will be submitted within 30 days of receiving NMFS' comments, if any, on the draft report. The Report will contain, analyze, and summarize the information required under Monitoring, above. BMMI will share data collected as a result of these monitoring activities with other interested parties, such as the Marine Mammal Center and other boat marinas.

Numbers of Marine Mammals Expected to be Harassed

The highest number of California sea lions ever counted at one time on the K Dock between June 1 and November 30 was 1244 individuals in August 2003. The average number of individuals counted at one time within the work window since 2000 is lowest in July (169) and highest in September (709). The effects of the proposed dredging activities are expected to be limited to short-term startle responses and localized behavioral changes. Based on an average of 169 to 709 animals over the maximum of 14 days, NMFS estimates that California sea lions could be exposed to audio or visual stimulus likely to cause harassment between 2360 and 9930 times. However, based on review of the Pier 39 observer logs maintained over the last 14 years, which indicate that sea lions may remain in the area and haul out for several days in a row at the K dock, NMFS estimates that between 1180 to 4965 individual animals will be harassed. The highest total number of harbor seals ever seen in one month between June 1 and November 30 was 3 in November of 1997. NMFS anticipates that no more than 3 Pacific harbor seals will be harassed by this activity. These are small numbers relative to the size of the affected species or stocks.

Possible Effects of Activities on Marine Mammal Habitat

NMFS anticipates that the action will result in minor and short-term effects on marine mammal habitat, including a temporary increase in the turbidity in the area of the dredging and a temporary decrease in the quality of K dock as a haul-out site as a result of increased visual and audio stimuli.

Possible Effects of Activities on Subsistence Needs

There are no subsistence uses for California sea lions or Pacific harbor seals in California waters, and thus, there are no anticipated effects on their availability for subsistence uses.

Endangered Species Act

Though a single Steller sea lion has infrequently been sighted at the K Dock, BMMI plans to cease dredging operations immediately if one is seen, and not begin dredging again until the animal has left the area of its own volition. NMFS does not anticipate any impacts to Steller sea lions to result from the issuance of the IHA.

In the 1998 programmatic Biological Opinion addressing dredging in San Francisco Bay, NMFS established a June 1 to November 30 work window for dredging activities in the San Francisco Bay to avoid impacts to steelhead trout and Chinook salmon. BMMI proposes to dredge between June 1 and November 30, and therefore NMFS does not anticipate any impacts to ESA-listed fish.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) on the Issuance of an IHA for the Dredging at Pier 39, posted the EA on the NMFS website concurrently with the **Federal Register** receipt of application notice, and received public comment on both the proposed IHA and the EA. NMFS issued a Finding of No Significant Impact on October 13, 2005. A copy of the EA and FONSI are available upon request (see **ADDRESSES**).

Conclusions

NMFS has determined that the dredging activities described in this document and in the application for an IHA may result in short-term and localized changes in behavior by small numbers of California sea lions and Pacific harbor seals. While behavioral modifications may be made by the seals, including temporarily vacating the K Dock haulout, this action is expected to have a negligible impact on the animals. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation

measures mentioned previously in this document.

NMFS has determined that the proposed activity would result in the harassment of small numbers of California sea lions and Pacific harbor seals, and that the takings will have no more than a negligible impact on these marine mammal stocks. Accordingly, NMFS has issued an IHA to BMMI for the harassment of small numbers of California sea lions and Pacific harbor seals incidental to dredging around Pier 39, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Authorization

NMFS has issued a 1–year IHA to BMMI for the take, by harassment, of small numbers of California sea lions and Pacific harbor seals incidental to maintenance dredging around I, J, and K Docks at Pier 39 in San Francisco, California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has determined that the proposed activity would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of species or stocks for subsistence uses.

Dated: November 14, 2005.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–22861 Filed 11–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Program Comment for Capehart and Wherry Era Housing and Associated Structures and Landscape Features (1949–1962)

AGENCY: Department of the Navy, Department of the Air Force, and Department of the Army.

ACTION: Notice of Approval of Program Comment on Air Force and Navy Capehart and Wherry Era Housing.

SUMMARY: On November 18th, 2004 the Advisory Council on Historic Preservation (Council) approved a program comment that facilitates the Navy's and Air Force's compliance with the National Historic Preservation Act, with regard to management of their inventories of Capehart and Wherry Era housing units, associated structures, and landscape features.

Authority: 36 CFR 800.14.

DATES: The program comment went into effect on November 18th, 2004.

ADDRESSES: Address comments to: HQ AF/ILE, Environmental Programs, ATTN: Lt Col Douglas Burkett, 1260 Air Force Pentagon, Washington DC, 20030–1260 (AIR FORCE) Commander, Naval Facilities Engineering Command (BDD), ATTN: Dr. Jay Thomas, 1322 Patterson Ave SE Ste 1000, Washington Navy Yard DC 20374–5065.

FOR FURTHER INFORMATION CONTACT: Lt Col Douglas Burkett at (703) 604–0632 or Dr. Jay Thomas at (202) 685–9196.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, requires Federal agencies to consider the effects of these undertakings on historic properties and provide the Council a reasonable opportunity to comment with regard to such undertakings. The Council issued the regulations that set forth the process through which Federal agencies may comply with these requirements. Those regulations are codified under 36 CFR part 800 (''Section 106 regulations''). The Section 106 regulations, under 36 CFR 800.14(e), provide that an agency may request the Council for a ''Program Comment'' allowing it to comply with Section 106 for a category of undertakings in lieu of conducting a separate review for each individual undertaking under the regular consultation process.

I. Background

According to the requirements for obtaining a Program Comment, the Navy and Air Force formally requested the Council comment on Capehart and Wherry Era family housing and associated structures and landscape features in lieu of requiring separate reviews under §§ 800.4 through 800.6 of the Section 106 regulations for each individual undertaking. The Navy and Air Force identified the category of undertakings as maintenance, repair, layaway, mothballing, privatization and transfer out of federal agency ownership, substantial alteration through renovation, demolition, and demolition and replacement, affecting Navy and Air Force family housing built between 1949 and 1962 termed 'Capehart and Wherry'. The Air Force and Navy also specified the likely effects that these management actions would have on historic properties and the steps the Air Force and Navy would take to ensure that the effects are taken into account. The Air Force and Navy included in their request to the Council the public comments that it received from a 60-day public comment opportunity provided through an earlier notice (69 FR 48462, August 10, 2004). The Council subsequently published a notice of intent to issue the Program Comment (69 FR 54763, September 10, 2004) and notified the State Historic Preservation Officers (SHPOs), the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation (NTHP), Tribal Historic Preservation Officers (THPOs), and the National Association of Tribal Historic Preservation Officers, and requested their views on the Air Force and Navy's proposed Program Comment. During its November 18, 2004 business meeting, the Council membership (with the Department of Defense recusing itself) voted unanimously to approve and issue the Program Comment found at the end of this notice. The vote was 16 in favor of approving and issuing the Program Comment, 0 votes against, and 1 abstention (the Department of Defense), with 3 voting members absent.

Neither the Council nor the Air Force and Navy have engaged in consultation with Indian Tribes and Native Hawaiian organizations, pursuant to 36 CFR 800.14(e)(4), since such consultation is not warranted. All Air Force and Navy actions considered under this Program Comment will be undertaken on Air Force and Navy property. The Program Comment will not affect historic properties of religious and cultural significance, regardless of location, to any Indian tribe or Native Hawaiian organization since any Capehart and Wherry actions that would affect these types of properties are specifically excluded under the Program Comment.

II. Response to Public Comments

Clarify a separate step for identifying properties of particular importance. The proposed comment does not include a specific process for identifying properties of particular importance. This Program Comment now includes a specific process of identifying properties of particular importance. The Air Force and Navy will notify the Council, NCSHPO, and NTHP whether any of these properties are of particular importance and permits an opportunity to review the findings.

Report for the General Public: The requirement to prepare a report for the general public should be separated out from the requirement to revise the historic context study, and should be more clearly delineated as a separate deliverable item. The Program Comment

reflects two distinct deliverables; the resulting publicly accessible context study will be placed on a public web site and copies of the report will be provided to all SHPOs, the NCSHPOs, the Council, and the NTHP.

The Air Force and Navy should issue a specific directive to installations requiring consideration of the design guidelines in order to implement the program comment. The intent of the Program Comment is that the Navy and Air Force apply the design guidelines consistently at any installation where Capehart and Wherry units will be retained. In accordance with 36 CFR 800.14(e)(6), the Council may withdraw the Program Comment if it determines that the consideration of historic properties is not being carried out in a manner consistent with the Program Comment.

Properties of ''Particular Importance''—Require a commitment to some degree of preservation. The Program Comment reflects both a process for determining properties of particular importance as well as a commitment to consider the preservation of these properties through continued use as military housing, within funding and mission constraints.

Affirmatively encourage the use of historic preservation tax credits. The Program Comment obliges the Navy and Air Force to advise developers involved in housing privatization initiatives that Wherry and Capehart properties may be eligible for historic preservation tax credits.

III. Text of the Program Comment

1. Introduction

This Program Comment, adopted pursuant to 36 CFR 800.14(e), demonstrates Department of the Air Force (Air Force) and Department of the Navy (Navy) compliance with their responsibilities under Section 106 of the National Historic Preservation Act with regard to the following actions in the management of the Wherry and Capehart Era family housing: Maintenance, repair, layaway, mothballing, privatization and transfer out of federal agency ownership, substantial alteration through renovation, demolition, and demolition and replacement of Wherry and Capehart Era housing, associated structures and landscape features that may be eligible for listing on the National Register of Historic Places.

2. Treatment of Wherry and Capehart Properties

A. Eligibility

The Department of the Army (Army) conducted a historic context of its Wherry and Capehart properties and documented these in a report entitled ''For Want of a Home: A Historic Context for Wherry and Capehart Military Family Housing''. On May 22, 2001, the Army sponsored a symposium on Wherry and Capehart era housing management as it related to historic preservation. The symposium was attended by preservation experts, including the National Trust for Historic Preservation (Trust), the National Conference of State Historic Preservation Officers (NCSHPO), the Advisory Council on Historic Preservation (ACHP), and nationally recognized experts in the field of historic preservation from academia and industry. Symposium participants recommended a programmatic approach to complying with Section 106, and these approaches were part of the Army's Program Comment, which was approved by the ACHP in 2002 (67 FR 39332; June 7, 2002).

The Air Force and the Navy have gathered data on their inventory of Wherry and Capehart properties which will be appended to the Army's context study, as outlined below, to provide a comprehensive understanding of the Department of Defense (DoD) inventory for this property type. As with the Army, the Air Force and the Navy consider their inventory of Wherry and Capehart properties, including any associated structures and landscape features, to be eligible for the National Register of Historic Places for the purposes of Section 106 compliance.

B. Treatment

The Air Force and the Navy have requested a Program Comment as a service-wide Section 106 compliance action related to management of Wherry and Capehart Era housing, associated structures and landscape features. This programmatic approach will facilitate management actions for maintenance, repair, layaway, mothballing, privatization and transfer out of Federal agency ownership, substantial alteration through renovation, demolition, and demolition and replacement of Wherry and Capehart Era housing, associated structures and landscape features. Such actions present a potential for adverse effects to historic properties.

Based on the Program Comment previously approved for the Army for this property type, and following meetings with the ACHP, the Trust and NCSHPO, the Air Force and the Navy agree to the following six-step approach to the treatment of its Wherry and Capehart properties:

(i) The Air Force and the Navy will:

(a) Revise the Army's historic context, ''The Wherry and Capehart Era Solutions to the Postwar Family Housing Shortage (1949–1962): A Historic Context'', to include information pertinent to Air Force and Navy bases where this information differs from that provided in the Army's context study, including information on Navy and Air Force Capehart and Wherry Era Housing architects, sponsors and bidders, and projects. The expanded context study will provide a more complete picture of Wherry and Capehart Era family housing across DoD, and

(b) upon completion of the revised context study, the Air Force and the Navy will use it and any resulting oral histories recorded in accordance with section II(B)(vi), below, to prepare a report suitable for release to the general public. The report to the public will extract that information which may be deemed sensitive or inappropriate for release to the public; the resulting context study will be placed on a publicly accessible Web site and copies of the report will be provided to all the SHPOs, NCSHPO, the Trust and the ACHP.

(ii) The Navy and Air Force will review the results of the expanded and revised context study and determine whether any of those properties identified under Section II(B)(i)(a) are of particular importance. The Navy and Air Force will notify the Council of the results of this review, and the Council will forward the results to the NCSHPO, and the Trust.

(iii) The Air Force and Navy will use, or modify for their own use, the Army's design guidelines: ''Neighborhood Design Guidelines for Army Wherry and Capehart Housing''. Modified design guidelines will be provided to ACHP for review. Copies of the Air Force and Navy guidelines will be provided to the NCSHPO, the Trust and the ACHP. These Neighborhood Design Guidelines will be distributed by Headquarters, Air Force and Navy to those offices that manage and maintain this housing type and they will be encouraged to consider the design guidelines in planning actions that affect their Wherry and Capehart Era housing, associated structures and landscape features.

(iv) For Wherry and Capehart properties that have been determined to be of particular importance, as defined in the revised context study, the Air Force and the Navy will:

(a) Consider the need to conduct additional historical documentation, and

(b) Within funding and mission constraints, consider the preservation of these properties through continued use as military housing.

(v) The Air Force and the Navy will advise developers involved in housing privatization initiatives that Wherry and Capehart properties may be eligible for historic preservation tax credits.

(vi) The Air Force and the Navy will attempt to locate and conduct oral interviews with military families who lived in Wherry and Capehart housing (which may include Army families), and other people who were involved with design and construction of Capehart and Wherry Era housing. Prior to conducting any interviews, the Air Force and the Navy will seek advice from appropriate government offices such as the Library of Congress' Veterans History Project and the military service historical centers to develop a set of appropriate interview questions and proper formats in which interviews would be recorded. Upon completion of the oral histories, the Air Force and the Navy will provide a copy of all written and recorded documentation to the Library of Congress.

3. Applicability

This Program Comment does not apply to the following properties that are listed, or eligible for listing, on the National Register of Historic Places:

(i) Archeological sites,

(ii) Properties of traditional religious and cultural significance to federally recognized Indian tribes or Native Hawaiian organizations, or

(iii) Historic properties other than Air Force and Navy Wherry and Capehart Era housing, associated structures and landscape features.

4. Schedule for Completion

(i) Within 12 months from Council approval of the Program Comment, the Air Force and Navy shall complete:

(a) The expanded and revised context study for Capehart and Wherry Era housing as described in Section II(B)(i)(a), above;

(b) Review of the context study for properties of particular importance as described in II(B)(ii), above; and

(c) Adoption of the design guidelines as described in Section II(B)(iii), above.

(ii) Within 24 months from Council approval of the Program Comment, the Navy and Air Force shall complete:

(a) Its consideration of properties of particular importance as described in Section II(B)(iv), above;

(b) Completion of the oral history segment of the mitigation, as described in Section II(B)(vi), above, and

(c) Completion of the context study suitable for release to the general public, as described in Section II(B)(i)(b), above.

5. Effect of Program Comment

The ACHP believes that this six-step approach will ensure that the Air Force and the Navy take into account the effects of management of their Wherry and Capehart era housing. By following this comment and outlined six-step approach, the Air Force and the Navy will have met their responsibilities for compliance under Section 106 regarding management of their Wherry and Capehart era housing. Accordingly, Air Force and Navy bases will not have to follow the case-by-case Section 106 review process for each individual management action.

The Air Force and the Navy may carry out management actions prior to the completion of all of the six treatment steps outlined above, so long as such management actions do not preclude the eventual successful completion of those six steps.

This Program Comment will remain in effect until such time as the Air Force or the Navy determines that such comments are no longer needed and notifies ACHP, in writing, or the ACHP determines that the consideration of Wherry and Capehart properties is not being carried out in a manner consistent with this Program Comment. The ACHP may withdraw this Program Comment in accordance with 36 CFR 800.14(e)(6). Following such withdrawal, the Air Force and the Navy would comply with the requirements of 36 CFR 800.3 through 800.7 for each individual management action.

The ACHP Membership approved this Program Comment on November 18, 2004.

Lawrence Shade,

Acting, Air Force Federal Register Liaison Officer.

[FR Doc. 05–22871 Filed 11–17–05; 8:45 am]

BILLING CODE 5000–05–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Ruter-Hess Reservoir Expansion Project, Parker, CO

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Omaha District is preparing a Supplemental Environmental Impact Statement (EIS) to analyze the direct, indirect and cumulative effects of enlarging the Rueter-Hess Reservoir, currently under construction in Parker, CO. The current project was authorized in February 2004 with Corps Permit #199980472. The basic purpose of the proposed action is the same as defined in the original EIS, which is to provide a safe, adequate and sustainable municipal water supply to Parker Water and Sanitation District (PWSD), Parker, CO that is capable of meeting the peak demands for the District's service area for the next 50 years. In addition, the purpose for enlarging the reservoir is to provide peaking storage of Denver Basin groundwater for selected South Metro Denver area water providers and to assist in sustaining the Denver Basin Aquifer. The construction of the proposed project would result in additional temporary and permanent impacts to wetlands and other Waters of the United States, requiring a new section 404 permit. To familiarize the public and interested organizations with the project and potential environmental issues that may be involved; the Corps has prepared a Scoping Document for the project. This document includes a project description, preliminary list of alternatives and various environmental/resource issues that will be addressed in the Supplemental EIS. Copies of the Scoping Document will be available at the public scoping meetings or can be requested by mail. The Supplemental EIS will be prepared according to the Corps' procedures for implementing the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4332(2)(C), and consistent with the Corps' policy to facilitate public understanding and review of agency proposals.

DATES: Submit comments by December 19, 2005.

ADDRESSES: Send written comments regarding the proposed action and Supplemental EIS to Rodney Schwartz, EIS Project Manager, U.S. Army Corps of Engineers, 12565 West Center Road, Omaha, NE., 68144–3869 or via e-mail: *Rodney J.Schwartz@usace.army.mil.* Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Rodney Schwartz, EIS Project Manager, Corps, Omaha District at (402) 221–4143.

INFORMATION: Parker Water and Sanitation District proposes to enlarge

the Rueter-Hess Reservoir, currently under construction in Parker, CO to provide peaking storage of Denver Basin groundwater for selected South Metro Denver area water providers and to assist in sustaining the Denver Basin Aquifer. The reservoir is located in Douglas County, CO approximately 12 miles southeast of Denver and 3 miles southwest of the town of Parker. The proposal is to enlarge the reservoir from the 16,670 acre-feet by 54,330 acre-feet for a total storage capacity of 71,000 acre-feet. The surface area of the reservoir would increase by approximately 658 acres, from 468 acres at the normal pool elevation of 6,145 feet to 1,126 acres (elev. 6,212 feet). The proposed dam design would change from 135 feet high to 196 feet high (61-foot increase) and from 4,822.5 feet long to 7,479.8 feet long (2,657.3-foot increase).

The basic need for the project, as identified by the Applicant, is to provide a terminal storage facility capable of storing Denver Basin groundwater on a year-round basis for the projected build-out demands for PWSD, Castle Rock, Stonegate and Castle Pines North. New pipelines would be installed to deliver the water to and from these new project participants.

Scoping meetings will be held at two locations:

1. Tuesday, December 6, 2005 at 6:30 p.m. at the North Water Reclamation Plant, 18100 E. Woodman Drive, Parker, CO.

2. Wednesday, December 7, 2005 at 6:30 p.m. at the County Office Building, Hearing Room, 100 Third Street, Castle Rock, CO.

These Scoping Meetings will be held to describe the proposed project, preliminary alternatives, the NEPA compliance process, and to solicit input on the issues and alternatives to be evaluated and other related matters. Written comments will also be requested.

Russell W. Rocheford,

Chief, Regulatory Branch, Operations Division.

[FR Doc. 05–22808 Filed 11–17–05; 8:45 am]

BILLING CODE 3710–62–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 11/099,781 entitled ''One-Dimensional Iris Signature for Iris Identification'', Navy Case No. 96,365, and any continuations, divisionals or re-issues thereof.

ADDRESSES: Requests for copies of the inventions cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Reza Malek-Madani, Director of Research and Scholarship Research Office, U.S. Naval Academy, 589 McNair Road, MS 10m, Nimitz Room 17, telephone 410–293–2504 or Jane F. Kuhl, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to temporary U.S. Postal Service delays, please fax 202–404–7920, e-mail: *kuhl@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: November 14, 2005.

Eric McDonald,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 05–22869 Filed 11–17–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–305]

Notice of Intent To Prepare an Environmental Assessment and To Conduct Public Scoping Meetings and Notice of Floodplain and Wetlands Involvement; Montana Alberta Tie, Ltd.

AGENCY: Department of Energy (DOE).

ACTION: Notice of intent to prepare an environmental assessment and to conduct public scoping meetings.

SUMMARY: The Department of Energy (DOE) announces its intention to prepare an environmental assessment (EA) and to conduct public scoping meetings on an application for a Presidential permit to construct a new international transmission line that crosses the U.S.-Canada international border in northwest Montana. The EA will be prepared in compliance with the National Environmental Policy Act (NEPA) and applicable regulations, including DOE NEPA implementing regulations at 10 CFR part 1021.

Montana Alberta Tie, Ltd., (MATL) has applied to DOE's Office of Electricity Delivery and Energy Reliability (OE) for a Presidential permit to construct a 230,000-volt (230–kV) electric transmission line across the U.S. border with Canada, and to the State of Montana Department of Environmental Quality (DEQ) for a Linear Facilities construction permit. The proposed transmission line would originate at a new substation to be constructed northeast of Lethbridge, Alberta, Canada, cross the U.S.-Canada international border, and terminate north of Great Falls, Montana, at an existing 230–kV substation owned by NorthWestern Energy (NWE). The total length of the proposed transmission line would be 203 miles, with approximately 126 miles constructed inside the U.S. DOE and the State of Montana have decided to cooperate on the preparation of an EA that would be used for their respective planning and decisionmaking processes.

With this Notice of Intent, DOE and the Montana DEQ invite public participation in the EA scoping process and solicit pubic comments for consideration in establishing the scope and content of the EA. Because the proposed project may involve an action in a floodplain or wetland, the EA will include a floodplain and wetlands assessment and floodplain statement of findings in accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022). The Montana DEQ must issue a certification pursuant to section 401 of the Federal Clean Water Act that any project-related activities will comply with water quality standards and issue permits for any discharges of pollutants to State waters.

DATES: DOE and the Montana DEQ invite interested agencies, organizations, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues and in determining the appropriate scope of the EA. The public scoping period starts with the publication of this Notice in the **Federal Register** and will continue until January 3, 2006. In addition, DEQ will publish a notice on its Web site, in a press release, and also in Montana newspapers. Written and oral comments will be given equal weight, and DOE and DEQ will consider all comments received or postmarked by January 3, 2006 in defining the scope of this EA.

Comments received or postmarked after that date will be considered to the extent practicable.

Dates, times and locations for the public scoping meetings are:

1. December 5, 2005, 3 p.m. to 5 p.m. and from 6 p.m. to 9 p.m., Norley Hall, 208 N. Virginia Street, Conrad, Montana.

2. December 6, 3 p.m. to 5 p.m. and from 6 p.m. to 9 p.m., Missouri Room, Great Falls Civic Center, 2 Park Drive South, Great Falls, Montana.

3. December 7, 3 p.m. to 5 p.m. and from 6 p.m. to 9 p.m., 917 East Railroad Street, Cut Bank, Montana.

ADDRESSES: Written comments or suggestions on the scope of the EA should be addressed to: Mrs. Ellen Russell, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350; phone 202–586–9624, facsimile: 202–586–5860, or by electronic mail at *Ellen.Russell@hq.doe.gov.* Comments should also be sent to Mr. Tom Ring, Facility Siting Program, Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620–0901, phone 406–444–6785, facsimile 406–444–1499, or by electronic mail at *tring@mt.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the proposed project or to receive a copy of the Pre-Approval EA when it is issued, contact Mrs. Russell or Tom Ring at the addresses listed in the **ADDRESSES** section of this notice. The MATL Presidential permit application, including associated maps and drawings, can be downloaded in its entirety from the DOE program Web site (*http://www.FE.DOE.GOV;* choose ''Electricity Regulation,'' then ''Pending Procedures''). The application before the Montana DEQ is available from DEQ's Web site at *http://www.deq.state.mt.us/MFS/MATL/MFSAintroduction.pdf.*

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action

DOE Presidential Permit

Executive Order 10485, as amended by Executive Order 12038, requires that a Presidential permit be issued by DOE before electric transmission facilities may be constructed, operated, maintained, or connected at the U.S. international border. The Executive Order provides that a Presidential permit may be issued after a finding that the proposed project is consistent with the public interest and after favorable recommendations from the U.S. Departments of State and Defense. In determining consistency with the public interest, DOE considers the environmental impacts of the proposed project under NEPA, determines the project's impact on electric reliability (including whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions), and any other factors that DOE may also consider relevant to the public interest. The regulations implementing the Executive Order have been codified at 10 CFR 205.320—205.329. Issuance of a Presidential permits indicates that there is no Federal objection to the project, but does not mandate that the project be completed.

Montana Department of Environmental Quality

The Montana Major Facility Siting Act requires that a Certificate of Compliance (Certificate) be issued by DEQ prior to construction of a covered 230–kV transmission line more than 10 miles in length. A Certificate may be issued after DEQ finds and determines the basis of the need for the facility, the nature of the potential environmental impact, that the facility minimizes adverse environmental impact, and considers the state of available technology and the nature and economics of the various alternatives. Additional findings, for cases involving an electric, gas, or liquid transmission line or aqueduct are: (i) What part, if any, of the line or aqueduct will be located underground; (ii) is the facility consistent with regional plans for expansion of the appropriate grid of the utility systems serving the State and interconnected utility systems; (iii) will the facility serve the interests of utility system economy and reliability; (iv) does the location of the facility as proposed conform to applicable State and local laws and regulations (except that DEQ may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, factors of cost or economics, the needs of consumers, whether located inside or outside the directly affected government subdivisions); (v) that the facility will serve the public interest, convenience, and necessity; (vi) that the Department or board has issued any necessary air or water quality decision, opinion, order, certificate, or permit; and (vii) that the use of public lands for location of the facility was evaluated and public lands were selected whenever their use is as economically practicable as the use of private lands. If a Certificate is issued, the transmission line would have to be constructed within 10 years.

Proposed Actions and Alternatives

The proposed DOE action is to issue a Presidential permit to MATL and the proposed DEQ action is to issue MATL a Certificate of Compliance and any other required water and air quality permits. The DOE and MATL actions are for construction of a single 230–transmission line that would cross the U.S. international border directly north of Cut Bank, Montana, (west of Sweetgrass) and extend approximately 125 miles into the U.S., terminating north of Great Falls, Montana, at an existing 230–kV substation owned by NWE. Between the U.S.-Canada border and Great Falls, the transmission line would also connect to an existing substation owned by Glacier Electric Cooperative in Cut Bank, Montana. A phase-shifting transformer would be installed at the substation in Lethbridge, Alberta, to control power flows between the two regions.

The MATL transmission line project would connect the Alberta Interconnected Electrical System and NWE's transmission system. MATL has indicated that it intends to operate the proposed facilities as a merchant transmission line and make it available for third-party use. In addition, MATL asserts that the proposed transmission facilities would enable the development of new wind electric generation projects because the proposed line route passes through an area that has the potential for wind generation development.

Three alternative corridors for constructing the proposed transmission line inside the U.S. have been identified: Route A, the MATL preferred corridor; Route B; and Route C. All three corridors cross the U.S.-Canada border approximately 26 miles north of Cut Bank, Montana, and extend south over the same route until approximately 2 miles north of Cut Bank where they converge to skirt the community to the east and south. At the Glacier Electric Cooperative substation located approximately 1 mile west of Cut Bank, the alternatives diverge traveling over roughly parallel routes east of the Blackfoot Indian Reservation in a southeastward direction. Routes A and B roughly parallel NWE's existing 115–kV line along its entire distance to its tie-in to NWE's 230–kV substation north of Great Falls. Route C traverses to the east away from Routes A and B at a location approximately 9 miles southeast of Brady, Montana, and approximately 5 miles north of the Teton River. Route C jogs directly east and south to take advantage of existing

north-south and east-west state highway and county road rights-of-way enroute to NWE's 230–kV substation. Major river crossings include those of the Marias approximately 10 miles south of Cut Bank, and the Teton, approximately 14 miles south of Brady, Montana.

In addition to transmission line routes within the above proposed corridors, the EA will consider the environmental impacts of the ''No Action'' alternative. Under the No Action alternative DOE would not issue a Presidential permit and DEQ would not issue a Certificate of Compliance. DOE and DEQ will also consider any additional reasonable alternatives that result from comments received during the scoping period.

However, not issuing the Presidential permit or Certificate would not necessarily imply maintenance of the status quo. MATL indicated its proposed action is to construct a merchant transmission line to improve the reliability of both the Alberta and Montana power transmission grids and to enable the development of new power generation projects in Alberta and Montana. MATL asserts that the proposed transmission facilities would enable the development of new wind electric generation projects because the proposed line route passes through an area that has tremendous wind generation potential. If the Presidential permit and Certificate are not issued and this proposed project is not built, other transmission facilities may be constructed in support of future wind development. The No Action Alternative will address the environmental impacts that are reasonably foreseeable to occur if the Presidential permit and Certificate are not issued.

Identification of Environmental Issues

In the EA, DOE and DEQ will examine public health and safety effects and environmental impacts in the U.S. from the proposed transmission facilities. The EA will be prepared in accordance with the requirements of the Council on Environmental Quality NEPA Implementing Regulation (40 CFR parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR part 1021). Because the project involves action in a floodplain, the EA will include a floodplain assessment and floodplain statement of findings in accordance with DOE regulations for compliance with floodplain and wetlands environmental review (10 CFR part 1022). Tribal governments and Federal, State and local agencies with special expertise or jurisdiction over the proposed project are being invited to become cooperating agencies on the EA.

This notice is to inform agencies and the public of the proposed project and to solicit comments and suggestions for consideration in the preparation of the EA. To help the public frame its comments, this notice contains a preliminary list of potential environmental issues in the U.S. that DOE and MATL have tentatively identified for analysis. These issues include:

1. Impact from development of wind generation resources;
2. Impacts on farming;
3. Impacts on protected, threatened, endangered, or sensitive species of animals or plants, or their critical habitats;
4. Impacts on floodplains and wetlands;
5. Impacts on cultural or historic resources;
6. Impacts on human health and safety;
7. Impacts on air, soil, and water;
8. Visual impacts; and
9. Socioeconomic impacts, and disproportionately high and adverse impacts on minority and low-income populations.

Scoping Process

Interested parties are invited to participate in the scoping process both to refine the environmental issues to be analyzed and to identify the reasonable range of alternatives. Both oral and written comments will be considered and given equal weight by DOE and DEQ.

Public scoping meetings will be held at the locations, dates, and times indicated above under the **DATES** and **ADDRESSES** sections. The scoping meetings will be structured as informal open houses. They will provide interested parties the opportunity to view proposed project exhibits, ask questions, and make comments. DOE, DEQ, and any cooperating agency representatives will be available to answer questions and provide additional information to attendees.

DOE and DEQ invite those entities with jurisdiction by law or special expertise with respect to environmental issues to be cooperating agencies on the EA, as defined at 40 CFR 1501.6. Cooperating agencies have certain responsibilities to support the NEPA process, as specified at 40 CFR 1501.6(b).

Persons submitting comments during the scoping process will receive copies of the Pre-Approval EA. Persons who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the document for review and comment when it is issued should notify Mrs. Ellen Russell and also Tom Ring at the addresses provided above.

Pre-Approval EA Schedule and Availability

The Pre-Approval EA is scheduled to be issued in the spring, 2006, at which time its availability will be announced in the **Federal Register** and public comments again will be solicited.

Issued in Washington, DC, on November 16, 2005.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 05–23002 Filed 11–17–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Biological and Environmental Research Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, December 5, 2005, 8:30 a.m. to 5 p.m., Tuesday, December 6, 2005, 8:30 a.m. to 12 p.m.

ADDRESSES: American Geophysical Union, 2000 Florida Avenue, NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen (301–903–9817; *david.thomassen@science.doe.gov*) Designated Federal Officer, Biological and Environmental Research Advisory Committee, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/ Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290. The most current information concerning this meeting can be found on the Web site: *http://www.science.doe.gov/ober/berac/announce.html.*

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda:

Monday, December 5, and Tuesday, December 6, 2005:

- Comments from Dr. Raymond Orbach, Director, Office of Science.
- Report of Subcommittee on Life Sciences COV.
- Status Reports on BER needed by BERAC to review BER's progress toward meeting its long-term performance goals.
- Discussion of BERAC's review of BER's progress toward meeting its long-term performance goals.
- Report by Dr. Ari Patrinos, Associate Director of Science for Biological and Environmental Research.
- Science talk.
- New business.
- Public comment (10 minute rule).

Public Participation: The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact David Thomassen at the address or telephone number listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on November 14, 2005.

Carol Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. 05–22886 Filed 11–17–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, December 1, 2005. 6 p.m. to 9 p.m.

ADDRESSES: College Hill Library, Room L–268, Front Range Community College, 3705 W. 112th Avenue, Westminster, Colorado.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Executive Director, Rocky Flats Citizens Advisory Board, 12101 Airport Way, Unit B, Broomfield, CO, 80021; telephone (303) 966–7855; fax (303) 966–7856.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Discussion of the Rocky Flats Remedial Investigation/Feasibility Study document.
2. Discussion of long-term surveillance and maintenance needs for Rocky Flats.
3. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues.

Minutes: The minutes of this meeting will be available for public review and copying at the office of the Rocky Flats Citizens Advisory Board, 12101 Airport Way, Unit B, Broomfield, CO, 80021; telephone (303) 966–7855. Hours of operations are 7:30 a.m. to 4 p.m., Monday through Friday. Minutes will also be made available by writing or calling Ken Korkia at the address or telephone number listed above. Board meeting minutes are posted on RFCAB's Web site within one month following each meeting at: *http://www.rfcab.org/Minutes.html.*

Issued at Washington, DC, on November 14, 2005.

Carol Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. 05–22885 Filed 11–17–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0257; FRL–7745–2]

Quality Technology Inc. (QuTech); Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Quality Technology Inc. (QuTech) in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). QuTech has been awarded multiple contracts to perform work for OPP, and access to this information will enable QuTech to fulfill the obligations of the contracts.

DATES: QuTech will be given access to this information on or before November 23, 2005.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Acting Information Security Officer, Information Technology and Resources Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–786; e-mail address:*croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) numberOPP–2005–0257. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

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

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

II. Contractor Requirements

Under this contract, No. EP05W003589, the contractor will perform the following:

1. Analyze OPP's hardware and software operations and develop a plan to support transition to seat management.

2. Establish and manage a help desk; lease hardware including PCs, printers, etc.

3. Provide all user support for provided hardware and software; establish and maintain a hardware and software inventory system.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in accordance with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with QuTech prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, QuTech is required to submit to EPA for approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to QuTech until the requirements in this document have been fully satisfied. Records of information provided to QuTech will be maintained by EPA project officers for this contract. All information supplied to QuTech by EPA for use in connection with this contract will be returned to EPA when QuTech has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: November 7, 2005.

Arnold E. Layne,

Director,Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 05–22889 Filed 11–17–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6669–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050249, ERP No. D–BLM–L65488–ID, Cotterel Wind Power Project and Draft Resource Management Plan Amendment, To Build a 190–240 megawatt, Wind-Powered Electrical Generation Facility, Right-of-Way Application, City of Burley, Towns of Albion and Malta, Cassia County, ID.

Summary: EPA does not object to the proposed project.

Rating LO.

EIS No. 20050353, ERP No. D–FHW–C50014–NY, Willis Avenue Bridge Reconstruction, Proposing Reconstruction of 100-year old Willis Avenue Bridge over the Harem River between Manhattan and the Bronx, New York and Bronx Counties, NY.

Summary: EPA expressed environmental concerns about water quality impacts, and requested additional information be included in the final EIS to address this issue.

Rating EC2.

EIS No. 20050355, ERP No. D–COE–G32059–LA, Port of Iberia Project, To Determine the Feasibility of Deepening the Existing Navigation Channels between the POI and the Gulf of Mexico, Portions of the Gulf Intracoastal Waterway (GIWW) and Freshwater Bayou (FWB), LA.

Summary: EPA does not object to the proposed action.

Rating LO.

EIS No. 20050377, ERP No. D–COE–C39017–NY, Montuak Point Storm Damage Reduction Project, Proposed Reinforcement of an Existing Stone Revetment Wall, Suffolk County, NY.

Summary: EPA does not object to the preferred alternative, which will arrest the erosion with little environmental impact to the project area.

Rating LO.

Final EISs

EIS No. 20050205, ERP No. F–FRC–B03012–RI, KeySpan Liquefied Natural Gas (LNG) Facility Upgrade Project, Construction and Operation, and Algonquin Gas Transmission Project, Proposal for Site, Construct and Operate a New Natural Gas Pipeline, Coast Guard Permit, U.S. Army COE Section 10 and 404

Permits, Providence County, RI and New England.

Summary: EPA expressed environmental concerns about the potential need for additional air emission control measures on marine vessels, additional mitigation measures to address impacts from entrainment of fish, eggs, and larvae by ship ballast water intakes, and requested an opportunity for additional discussions about potential environmental justice impacts.

EIS No. 20050320, ERP No. F–AFS–J65426–UT, Wasatch Plateau Grazing Project, Proposal to Continue to Authorize Sheep Grazing by Issuance of a Term Grazing Permits on 31 Sheep Allotments, Manti-La Sal National Forest, Sanpete, Ferron and Price Ranger Districts, Sanpete, Carbon, Utah and Emery County, UT.

Summary: The FEIS addressed EPA's concerns with impact to water quality.

EIS No. 20050408, ERP No. F–FHW–F40432–WI, U.S. 41 Highway Corridor Project, Transportation Improvement between the Cities of Oconto and Perhtigo, Funding, Marinette and Oconto Counties, WI.

Summary: While EPA has no objection to the proposed action, it asked to be involved in planning the wetland restoration of the more than 300 acres required for compensatory mitigation.

EIS No. 20050449, ERP No. F–USN–E11054–FL, Navy Air-To-Ground Training at Avon Park Air Force Range, To Conduct Air-To-Ground Ordnance Delivery and Training, Fleet Forces Command's Fleet Readiness Training Program (FRTP), Polk and Highland Counties, FL.

Summary: EPA's previous concerns have been resolved; therefore, EPA has no objection to the proposed action.

Dated: November 15, 2005.

Elaine Suriano,

Environmental Scientist, Office of Federal Activities.

[FR Doc. 05–22887 Filed 11–17–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6669–04]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed November 7, 2005 Through November 10, 2005.

Pursuant to 40 CFR 1506.9.

EIS No. 20050471, Draft EIS, AFS, WY, Moose-Gypsum Project, Proposes to Authorize Vegetation Treatments, Watershed Improvements, and Travel Plan and Recreation Updates, Pinedale Ranger District, Bridger-Teton National Forest, Sublette County, WY, Comment Period Ends: January 3, 2006, Contact: Craig Trulock 307–367–4326.

EIS No. 20050472, Second Draft Supplement, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Additional Information Regarding Wildlife Resources, Grand Mesa Uncompahgre and Gunnison National Forests, Grand Valley Ranger District, Mesa County, CO, Comment Period Ends: January 3, 2006, Contact: Carol McKenzie 208–634–0761.

EIS No. 20050473, Draft EIS, COE, MT, Upper Columbia Alternative Flood Control and Fish Operations, Implementation, Libby and Hungry Horse Dams, Columbia River Basin, MT, Comment Period Ends: January 3, 2006, Contact: Evan Lewis 206–764–6922.

EIS No. 20050474, Final EIS, COE, CA, Mare Island Reuse of Dredged Material Disposal Ponds as a Confirmed Updated Dredged Material Disposal Facility, Issuing Section 404 Permit Clean Water Act and Section 10 Permit Rivers and Harbor Act, San Francisco Bay Area, City of Vallejo, Solando County, CA , Wait Period Ends: December 19, 2005, Contact: Robert J. Lawrence 415–977–8020.

EIS No. 20050475, Final EIS, AFS, NM, Invasive Plant Control Project, Protection of the Abundance and Biological Diversity of Desired Native Plant, Carson National Forest and Santa Fe National Forest, Rio Arriba, Colfax, Los Alamos, Mora, San Miguel and Santa Fe Counties, NM, Wait Period Ends: December 19, 2005, Contact: Sanford Hurlocker 505–753–7331.

EIS No. 20050476, Final Supplement, AFS, AK, Emerald Bay Timber Sale, Implementation, Additional Information on the Potential Effects of the Project Alternatives, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, AK, Wait Period Ends: December 19, 2005, Contact: Rob Reeck 907–228–4114.

EIS No. 20050477, Final EIS, COE, AZ, Santa Cruz River, Paseo de las Iglesias Feasibility Study, To Identify, Define and Solve Environmental Degradation, Flooding and Water Resource Problems, City of Tucson, Pima County, AZ, Wait Period Ends: December 19, 2005, Contact: Michael J. Fink 602–640–2001 Ext. 252.

EIS No. 20050478, Second Final EIS (Tiering), FHW, MO, Interstate 70 Corridor Improvements, Section of Independent Utility #4, from Missouri Route BB Interchange to Eastern Columbia, Funding, Boone County, MO, Wait Period Ends: December 19, 2005, Contact: Peggy Casey 573–636–7104.

EIS No. 20050479, Final EIS, SFW, 00, Resident Canada Goose Management Plan, Evaluate Alternatives Strategies to Reduce, Manage, and Resident Canada Goose Population, Implementation, within the Conterminous U.S., Wait Period Ends: December 19, 2005, Contact: Ron Kokel 703–358–1714.

EIS No. 20050480, Final EIS, NOA, CA, PROGRAMMATIC—Montrose Settlements Restoration Plan, Restoration of Inquired Natural Resources, Channel Islands, Southern California Bight, Baja California Pacific Islands, Orange County, CA, Wait Period Ends: December 19, 2005, Contact: Greg Baker 301–713–1622. This document is available on the Internet at: *http://www.montrose.restoration.gov.*

EIS No. 20050481, Draft EIS, FTA, MO, St. Louis Metro South Metrolink Extension, Transportation Improvement, City of St. Louis, St. Louis County, MO, Comment Period Ends: January 6, 2006, Contact: Joan Roeseler 816–329–3936.

EIS No. 20050482, Final EIS, AFS, WY, Cottonwood II Vegetation Management Project, Vegetation Management in the North and South Cottonwood Creek Drainages, Implementation, Bridger-Teton National Forest, Big Piney Ranger District, Sublette County, WY, Wait Period Ends: December 19, 2005, Contact: Jeff Laub 307–276–3375.

EIS No. 20050483, Draft Supplement, UAF, 00, Realistic Bomber Training Initiative, Addressees Impacts of Wake Vortices on Surface Structures, Dyess Air Force Base, TX and Barksdale Air Force Base, LA, Comment Period Ends: January 3, 2006, Contact: Sheryl Parker 757–764–9334.

EIS No. 20050484, Draft EIS, COE, CA, American River Watershed, Lower American River Common Features Mayhew Levee Project, Reconstruction, Sacramento County, CA, Comment Period Ends: January 3, 2006, Contact: Robert Koenigs 916–557–6712.

EIS No. 20050485, Final EIS, FRC, CA, Upper North Fork Feather River

Project (FERC No. 2105), Issuance of a New License for existing 3517.3 megawatt (MW) Hydroelectric Facility located in North Fork Feather River and Butt Creek, Plumas County, CA, Wait Period Ends: December 19, 2005, Contact: Thomas Russo 1–866–208–3372.

This document is available on the Internet at: *http://www.ferc.gov.*

Dated: November 15, 2005.

Elaine Suriano,

Environmental Scientist, Office of Federal Activities.

[FR Doc. 05–22888 Filed 11–17–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 2, 2005.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Shirley A. Davidson; the Shirley A. Davidson Marital Trust, Shirley A. Davidson trustee; Tamara M. Davidson–Sogard; the Tamara M. Davidson–Sogard Family Generation Skipping Trust, Tamara M. Davidson–Sogard trustee; Patrick Oliver Sogard; Barrett W. Sogard; the Barrett W. Sogard Trust; Isabella M. Sogard; the Isabella M. Sogard Trust; Oliver T. Sogard; the Oliver T. Sogard Trust; Thomas P. Sogard; and the Thomas P. Sogard Trust, all of Williston, North Dakota and Thomas M. Davidson, Jr. and the Thomas M. Davidson Jr. Family Generation Skipping Trust, Thomas M. Davidson Jr. trustee, Minneapolis, Minnesota, a group acting in concert; to acquire voting shares of American State Bank Holding Company, Inc., Williston, North Dakota, and thereby indirectly acquire voting shares of American State Bank & Trust Company of Williston, Williston, North Dakota. In addition, Shirley A. Davidson, Tamara M. Davidson–Sogard, and Patrick O. Sogard to individually acquire voting shares of American State Bank Holding Company, Inc., Williston, North Dakota, and thereby indirectly acquire voting shares of American State Bank & Trust Company of Williston, Williston, North Dakota.

Board of Governors of the Federal Reserve System, November 14, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6369 Filed 11–17–05; 8:45 am]

BILLING CODE 6210–01–S

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 December 5, 2005.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Scott Lee Bolding, Fayetteville, Arkansas; John Spellings Everett, Collierville, Tennessee; John Edgar Griffin, Columbus, Mississippi; Dayton Reid Hedgepeth, Memphis, Tennessee; Donald Lee Hutson, Memphis, Tennessee; Pritesh Bhagubhai Patel, Fort Worth, Texas; Jon Abner Reeves, Southaven, Mississippi; James Lee Stafford, West Point, Mississippi; James Lynn Teel, Winter Park, Florida; Brent Derek Trulove, Memphis, Tennessee; Frank Pearson Uhlhorn, Germantown, Tennessee; Theodore Gaillard Uhlhorn, V, Memphis, Tennessee; John Bullington Walker, Germantown, Tennessee; and William Gerald Washington, Randolph, Mississippi, a group acting in concert; to acquire voting shares of MemphisFirst Corporation, Memphis, Tennessee, and thereby indirectly acquire voting shares of MemphisFirst Community Bank, Memphis, Tennessee.

Board of Governors of the Federal Reserve System, November 15, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6388 Filed 11–17–05; 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 Web site at *http://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 December 12, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Belmont Financial Group, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100

percent of the voting shares of Belmont Bank & Trust Company, Chicago, Illinois (in organization).

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Clayton Bancorp, Inc., Henderson, Tennessee; to merge with Bancshares of Camden, Inc., Camden, Tennessee, and thereby indirectly acquire voting shares of Bank of Camden, Camden, Tennessee.

In connection with this Application, Applicant also has applied to acquire BOC Reinsurance Company, Ltd., Crossville, Tennessee, and thereby engage in reinsuring credit life, credit accident, and health insurance activities, pursuant to section 225.28(b)(11)(ii) of Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. LubCo BancShares, Inc., Slaton, Texas; to acquire 17 percent of the voting shares of Wilson Bancshares, Inc., Wilson, Texas, and thereby indirectly acquire voting shares of Wilson State Bank, Wilson, Texas.

Board of Governors of the Federal Reserve System, November 14, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6368 Filed 11–17–05; 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 December 15, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Synovus Financial Corp., Columbus, Georgia; to merge with Banking Corporation of Florida, Naples, Florida, and thereby indirectly acquire voting shares of First Florida Bank, Naples, FLorida.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Home Bancshares, Inc., Conway, Arkansas; to acquire additional voting shares, for a total of 20 percent of the voting shares, of White River Bancshares Company, Fayetteville, Arkansas, and thereby indirectly acquire voting shares of Signature Bank, Fayetteville, Arkansas.

Board of Governors of the Federal Reserve System, November 15, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6389 Filed 11–17–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget (''OMB'') for review under the Paperwork Reduction Act (''PRA'') information collection requirements contained in its Automotive Fuel Ratings, Certification and Posting Rule (''Fuel Rating Rule'' or ''Rule''). The FTC is seeking public comments on the proposal to extend through December 31, 2008 the current PRA clearance for information collection requirements contained in the regulations. That clearance expires on December 31, 2005.

DATES: Comments must be filed by December 19, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Fuel Rating Rule: FTC File No. R811005'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H 135 (Annex J), 600 Pennsylvania Ave., NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: <*paperworkcomment@ftc.gov*>. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1]

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be sent to Neil Blickman, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3038.

SUPPLEMENTARY INFORMATION: On August 25, 2005, the FTC sought comment on the information collection requirements associated with the Fuel Rating Rule, 16 CFR Part 306 (OMB Control Number: 3084–0068). *See* 70 FR 49925. No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before December 19, 2005.

The Fuel Rating Rule, 16 CFR Part 306 (OMB Control Number: 3084–0068), establishes standard procedures for determining, certifying, and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuels, as required by the Petroleum Marketing Practices Act. 15 U.S.C. 2822(a)–(c). The Rule also requires refiners, producers, importers, distributors, and retailers to keep records showing how the ratings were determined, including delivery tickets or letters of certification.

Estimated annual hours burden:[2] 40,000 total burden hours (16,000 recordkeeping hours + 24,000 disclosure hours).

Recordkeeping: Based on industry sources, staff estimates that 195,000 fuel industry members each incur an average annual burden of approximately five minutes to ensure retention of relevant business records for the period required by the Rule, resulting in a total of 16,000 hours.

Disclosure: Staff estimates that affected industry members incur an average burden of approximately one hour to produce, distribute, and post octane rating labels. Because the labels are durable, only about one of every eight industry members (*i.e.*, approximately 24,000 of 195,000 industry members) incur this burden each year, resulting in a total annual burden of 24,000 hours.

Estimated annual cost burden: $804,000 ($720,000 in labor costs and $84,000 in non-labor costs).

Labor costs: Staff estimates that the work associated with the Rule's recordkeeping and disclosure requirements is performed by skilled information and record clerks at an average rate of $18.00 per hour. Thus, the annual labor cost to respondents of complying with the recordkeeping and disclosure requirements of the Rule is estimated to be $720,000 ((16,000 hours + 24,000 hours) × $18.00 per hour).

Capital or other non-labor costs: $84,000.

Staff believes that there are no current start-up costs associated with the Rule. Because the Rule has been effective since 1979 for gasoline, and since 1993 for liquid alternative automotive fuels, industry members already have in place the capital equipment and other means necessary to comply with the Rule. Retailers (approximately 170,000 industry members), however, do incur the cost of procuring (and replacing) fuel dispenser labels to comply with the Rule. According to industry input, the price per label is about fifty cents. Industry estimates of the useful life of dispenser labels range from 6 to 10 years. The estimate is based on the bottom of that range, i.e., 6 years. Based on industry input, staff believes that the average retailer has six dispensers, all being obtained or replaced in the same year. Assuming that, in any given year, ⅙th of all retailers (28,000 retailers) will replace their dispenser labels, staff estimates total labeling cost to be $84,000 (28,000 × 6 × .50).

William Blumenthal,

General Counsel.

[FR Doc. 05–22848 Filed 11–17–05; 8:45 am]

BILLING CODE 6750–01–P

[2] All numbers pertaining to hours and cost burden estimates have been rounded to the nearest thousand.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to survey consumers to advance its understanding of the incidence of identity theft (''ID Theft'') and to allow the FTC to better serve the people who experience ID Theft and the law enforcement agencies that investigate and prosecute it. The survey is a follow-up to the FTC's ID Theft Survey conducted in March 2003 and released in September 2003. Before gathering this information, the FTC is seeking public comments on its proposed consumer research. The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA'') (44 U.S.C. 3501–3520).

DATES: Comments on the proposed information requests must be received on or before December 19, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''ID Theft Survey: FTC File No. P034303'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex E), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by clicking on the following Web link: *https://secure.commentworks.com/FTC-IDTSurvey* and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at *https://secure.commentworks.com/FTC-IDTSurvey.* If this notice appears at *http://www.regulations.gov,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

Comments should also be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed collection of information, should be addressed to Joanna P. Crane, Program Manager, Federal Trade Commission ID Theft Program, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Telephone: (202) 326–3228.

SUPPLEMENTARY INFORMATION: In March 2003, OMB approved the FTC's request to conduct a survey on ID Theft and assigned OMB Control Number 3084–0124. The FTC completed the consumer research in April 2003 and issued its report, Federal Trade Commission—Identity Theft Survey Report, in September 2003.[2] On August, 25, 2005, the FTC published a **Federal Register** Notice seeking comments from the public concerning a new survey that would follow up on the 2003 survey. *See* 70 FR 49924. No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while requesting that OMB reinstate the clearance for the survey. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before December 19, 2005.

Description of the Collection of Information and Proposed Use

The FTC proposes to survey up to 5,000 consumers in order to gather specific information on the incidence of ID Theft in the general population. All information will be collected on a voluntary basis, and the identities of the consumers will remain confidential. The FTC has contracted with a consumer research firm to identify consumers and conduct the survey. The results will assist the FTC in determining the incidence of ID Theft in the general population, whether the type and frequency of ID Theft is changing, and how best to combat ID Theft.

ID Theft has been the top consumer complaint reported to the FTC since calendar year 2000. The information collected by the survey will ensure that the FTC has accurate and timely information on the extent of ID Theft and its impact on victims. This information will be highly useful to Congress and others who often request statistical information on ID Theft from the FTC.

The FTC intends to use a larger sample size than the 2003 survey to allow for a more in-depth analysis of the resulting data. The additional data points should produce statistically significant samples for particular types of fraud and particular demographic characteristics. The questions will be very similar to the 2003 survey so that the results from the 2003 survey can be used as a baseline for a time-series analysis.[3] The FTC may conduct another follow-up survey in approximately two years.

Estimated Hours Burden

The consumer research firm will pretest the survey on approximately 100 respondents to ensure that all questions are easily understood. This pretest will take approximately 3 minutes per person and 5 hours as a whole (100 respondents × 3 minutes each). Based on FTC staff's experience with the 2003 survey, the staff estimates that approximately 12 percent of those interviewed will have experienced ID Theft within the last 5 years. Survey participants who have not experienced ID Theft in this period of time will only be asked the initial 4 to 5 survey questions. The staff expects that this will take less than 2 minutes. For those who have experienced ID Theft in the last 5 years, our experience with the earlier survey suggests that it will take about 12 to 15 minutes to complete the survey. The staff therefore anticipates that the average time per survey participant will be approximately 3 minutes. Answering the consumer survey will require approximately 250 hours as a whole (5,000 respondents × 3 minutes each). Thus, cumulative total burden hours for the first year of the clearance will approximate 255 hours.

Estimated Cost Burden

The cost per respondent should be negligible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents.

William Blumenthal,
General Counsel.

[FR Doc. 05–22849 Filed 11–17–05; 8:45 am]

BILLING CODE 6750–01–P

[2] The Report is available at *http://www.ftc.gov/os/2003/09/synovatereport.pdf.*

[3] The questionnaire for the 2003 survey is available as Appendix A to the Report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–06AC]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–4766 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Low Back Exposure Assessment Tool for Mining—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

The Federal Mine Safety & Health Act of 1977, section 501, enables CDC/NIOSH to carry out research relevant to the health and safety of workers in the

mining industry. Mining has one of the highest incidence rates for back pain of any industry, and back injuries are consistently the leading cause of lost work days in the industry. The objective of this project is to develop a self-administered, paper and pencil risk assessment tool for the development of low back disorders specifically directed towards use in the mining industry. Many current methods of assessing the risk of low back disorders do not address stressors that are relatively unique to the mining environment, including the restricted vertical spaces in many coal mines that require workers to adopt stooping or kneeling postures for extended periods of their workday.

The low back exposure assessment tool for mining will assess various occupational exposures associated with development of back disorders in the literature (postural demands, lifting, whole body vibration exposure, individual and psychosocial issues), as well as specific mining stressors and will develop a score that will be used to assess the degree of risk for the job and the individual. The tool will be useful in both prioritizing jobs that need interventions to reduce low back disorder risk, and in evaluating the effectiveness of interventions through tool administration before and after the implementation of an intervention. There will be no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Surface and Underground Miners	320 miners	1	15/60	80
Total				80

Dated: November 10, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–22873 Filed 11–17–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–0463]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–4766 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Longitudinal Surveillance for Beryllium Disease Prevention—Extension—National Institute for Occupational Safety and Health (NIOSH)—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, Pub. L. 91–596 (section 20[a][1]) authorizes the National Institute for Occupational Safety and Health (NIOSH) to conduct research to advance the health and safety of workers.

NIOSH has been conducting this survey of beryllium workers for three years and this extension will allow for completion of the data collection. Workers are asked to complete an interviewer administered medical and work history questionnaire and to give a blood sample. Without medical and work history data on former workers, NIOSH staff will be unable to conduct the necessary research to make recommendations for preventing beryllium sensitization and disease. Follow-up on this cohort will provide invaluable information on the natural history of disease, gene-gene, and gene-environment interactions, which can become the basis for prevention policy at both company and government levels.

Beryllium is a lightweight metal with many applications. Exposed workers may be found in the primary production, nuclear power and weapons, aerospace, scrap metal reclamation, specialty ceramics, and electronics industries, among others. The size of the U.S. workforce at risk of chronic beryllium disease (CBD), from either current or past work-related exposure to the metal, may be as high as one million workers. Demand for beryllium is growing worldwide, which means that increasing numbers of workers are likely to be exposed.

CBD is a chronic granulomatous lung disease mediated through an immunologic mechanism in workers who become sensitized to the metal. Sensitization can be detected with a blood test called the beryllium lymphocyte proliferation test (BeLPT), which is used by the industry as a surveillance tool. Use of this test for surveillance was first reported in 1989. Sensitized workers, identified through workplace surveillance programs, undergo clinical diagnostic tests to determine whether they have CBD. Research has indicated certain genetic determinants in the risk of CBD; follow-up studies will be invaluable for further characterizing the genetic contribution to sensitization and disease.

NIOSH is in a unique position to accomplish this research for a number of reasons: (a) It has a successful collaboration with the leading

manufacturer of beryllium in the U.S. This has allowed us to establish well-characterized worker cohorts within the beryllium industry. (b) It is conducting industrial hygiene research that should significantly improve workplace-based exposure assessment methods. This research will allow characterization of jobs and tasks by physicochemical characteristics, leading to an estimation of dose rather than mass concentration-based exposure. (c) It has pioneered the evaluation of the dermal exposure route in the beryllium sensitization process. (d) It has developed and improved genetic research that will contribute to the understanding of risk variability in sensitization and disease, as well as discerning the underlying mechanisms. (e) NIOSH has the institutional stability to continue longitudinal evaluations of health outcomes in relation to exposure and genetic risk factors. There is no cost to respondents other than their time.

ESTIMATES OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses / respondent	Average burden/response (in hours)	Total burden (in hours)
Former Workers	100	1	30/60	50

Dated: November 14, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–22874 Filed 11–17–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice and Solicitation for Written Comments on the Draft CDC Health Protection Research Guide, 2006–2015

AGENCY: Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry.

SUMMARY: The U.S. Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry (hereto referred to as CDC) announces the availability for public comment of the draft *CDC Health Protection Research Guide, 2006–2015.* CDC is requesting input on this *Research Guide* because maximizing the health impact of public health research can only be achieved through the collective efforts of CDC, other Federal agencies, State and local partners, academic partners, business partners, non-profit organizations, professional societies, and the public. Please provide input on any aspect of the *Research Guide,* including but not limited to:

- Scope and use of the *Research Guide* (including whether it has identified the areas of health protection research that most need to be addressed within the next decade);
- Relevance and level of specificity of the proposed research topics;
- Additions, deletions or modifications to the proposed research topics;
- *Research Guide* development process; and
- Other improvements to the *Research Guide.*

DATES: The public comment period is 60 days long. Written comments must be received by close of business on January 15, 2006 at either of the addresses listed below.

ADDRESSES: The draft *CDC Health Protection Research Guide, 2006–2015* is available for review by visiting the Internet site, *http://www.rsvpBOOK.com/custom_pages/50942/index.php,* or by contacting Jamila Rashid, PhD, Senior Health Scientist, Centers for Disease Control and Prevention, Office Of Public Health Research, 1600 Clifton Road, NE., MD D–72, Atlanta, GA 30333, 404–639–4621, *ResearchGuide@cdc.gov,* for a hard copy. Written comments may be submitted electronically at the Internet site or at the email address listed above. Written comments may also be sent to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Additional information about the *CDC Health Protection Research Guide* is available via the Office of Public Health Research Web site, *http://www.cdc.gov/od/ophr/cdcra.htm* or may be obtained by communicating with the contact whose name and telephone number is listed above.

SUPPLEMENTATY INFORMATION: On January 10, 2005, the Centers for Disease Control and Prevention launched an effort to develop its first ever, agency-wide *CDC Public Health Protection Research Guide, 2006–2015.* The new *Research Guide* will address and support CDC's Health Protection Goals (For additional information about the Goals please see *http://www.cdc.gov/about/goals).*

The *Research Guide* will also provide overall guidance for CDC's intramural and extramural research as well as serve as an effective planning and communication tool for CDC's public health research.

The public comment period will give researchers, representatives of CDC's key partner organizations and the public the opportunity to voice their opinions regarding the *CDC Health Protection Research Guide, 2006–2015* and the future direction of CDC's public health research. The public comment period will begin on November 18, 2005 and end on January 15, 2006.

The Chief Science Officer, CDC, has been delegated the authority to sign general **Federal Register** notices for both the CDC and ATSDR.

Dated: November 9, 2005.

Dixie E. Snider, Jr.,

Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–22719 Filed 11–17–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10174]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions;

(2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because the regular clearance process will exceed the MMA mandated prescription drug benefit effective date and thereby result in public harm to enrolled Medicare prescription drug beneficiaries.

The Social Security Act as amended by the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA) mandates that the prescription drug benefit be available to beneficiaries on January 1, 2006. The conditions under which Medicare Advantage prescription drug plans (MA–PD), private prescription drug plans (PDP) and Fallout Plans/Sponsors receive payment for the Part D drug benefit upon collection of Prescription Drug Event (PDE) data are specified in sections 1860D–15(c)(1)(C), 1860D–15(d)(2) and 1860D–15(f) of the MMA and 42 CFR sections 423.322 and 422.310.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Collection of Prescription Drug Data from MA–PD, PDP and Fallout Plans/Sponsors for Medicare Part D Payments and Supporting Regulations in 42 CFR 423.301, 423.322, 423.875, 423.888 and 422.310; *Use:* The MMA requires Medicare payment to Medicare Advantage (MA) organizations, PDP sponsors, Fallbacks and other plan sponsors offering coverage of outpatient prescription drugs under the new Medicare Part D benefit. The Act provided four summary mechanisms for paying plans: Direct subsidies, subsidized coverage for qualifying low-income individuals, Federal reinsurance subsidies and risk corridor payments. In order to make payment in accordance with these provisions, CMS has determined to collect a limited set of data elements for 100 percent of prescription drug claims or events from plans offering Part D coverage. The transmission of the statutorily required data will be in an electronic format. The information users will be Pharmacy Benefit Managers (PBM), third party administrators and pharmacies and the PDPs, MA–PDs, Fallbacks and other plan sponsors that offer coverage of outpatient prescription drugs under the new Medicare Part D benefit to Medicare beneficiaries. The statutorily required data will be used primarily for payment, claims validation, quality monitoring, program integrity and oversight; *Form Number:* CMS–10174 (OMB#: 0938–NEW); *Frequency:* Monthly, Quarterly and Annually *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 455; *Total Annual Responses:* 2,418,000,000; *Total Annual Hours:* 4,836.

CMS is requesting OMB review and approval of these collections by *December 19, 2005,* with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by *December 18, 2005.*

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by *December 18, 2005:* Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–5267. Attn: Bonnie L Harkless; and, OMB Human Resources and Housing Branch, Attention: Carolyn Lovett,New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 9, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–22903 Filed 11–17–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10130, CMS–10164 and CMS 10156]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Federal Funding of Emergency Health Services (section 1011): Provider Payment Determination and Request for section 1011 On-Call Payments; *Form No.:* CMS–10130 (OMB # 0938–0952); *Use:* Section 1011 of MMA provides that the Secretary will establish a process for eligible providers to request payment. The Secretary must directly pay hospitals, physicians, and ambulance providers (including Indian Health Service, Indian tribe and tribal organizations) for their otherwise un-reimbursed costs of providing services required by Section 1867 of the Social Security Act (EMTALA) and related hospital inpatient, outpatient and ambulance services. Payments may be made only for services furnished to

certain individuals described in the statute as: (1) Undocumented aliens; (2) aliens who have been paroled into the United States at a United States port of entry for the purpose of receiving eligible services; and (3) Mexican citizens permitted to enter the United States for not more than 30 days under the authority of a biometric machine readable border crossing identification card (also referred to as a ''laser visa'') issued in accordance with the requirements of regulations prescribed under a specific section of the Immigration and Nationality Act as published in the Bureau of Customs and Border Protection's interim final rule dated August 13, 2004.; *Frequency:* Other—as needed; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Governments; *Number of Respondents:* 7,503,000; *Total Annual Responses:* 7,512,000; *Total Annual Hours:* 634,000.

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Electronic Data Interchange (EDI) Enrollment Form and Centers for Medicare and Medicaid Services EDI Registration Form; *Form No.:* CMS–10164 (OMB # 0938–NEW); *Use:* CMS is requiring that providers who wish to conduct Electronic Data Interchange (EDI) transactions, specifically the HIPAA Eligibility Inquiry and Response (270/271) directly with CMS at the Baltimore data center, provide certain information related to their organization and/or organizations conducting EDI business on their behalf. Health care providers, clearinghouses, and health plans that wish to access the Medicare system for the purposes of conducting other EDI business transactions are also required to complete this form. Furthermore, CMS has incorporated changes to the collection as a result of public comments. One specific comment resulted in the combining of the information collected related to Medicare Modernization Act (MMA) section 1011 and Medicare Fee-For Service Part A and Part B. Both programs collect similar information for the purposes of provider enrollment and trading partner profile information related to the exchange of EDI transactions. To further reduce the burden on providers enrolling in either the MMA section 1011 and/or the Medicare Fee-For Service program the CMS–10164 collection will change terms from ''Carrier/FI'' to ''Medicare contractor''. The purpose is to generically refer to the organization that CMS contracts with to operate the specific program function such as MMA section 1011 or Medicare Part A, Medicare Part B for a specific jurisdiction. The information will be used to assure that profile data for those entities that access the section 1011 and/or Medicare system are entered appropriately. *Frequency:* Recordkeeping and Reporting—Other (As-Needed); *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 1,220,000; *Total Annual Responses:* 1,220,000; *Total Annual Hours:* 400,000.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Retiree Drug Subsidy (RDS) Application and Instructions; *Form Number:* CMS'10156 (OMB#: 0938'' 0957); *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 and implementing regulations at 42 CFR subpart R plan sponsors (employers,unions) who offer prescription drug coverage to their qualified covered retirees are eligible to receive a 28% taxfree subsidy for allowable drug costs. In order to qualify, plan sponsors must submit a complete application to CMS with a list of retirees for whom it intends to collect the subsidy; *Frequency:* Quarterly, Monthly, Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal, State, local and/or tribal Government; *Number of Respondents:* 50,000; *Total Annual Responses:* 50,000; *Total Annual Hours:* 2,025,000.

To obtain copies of the supporting statement and any related forms for these paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB Desk Officer at the address below, no later than 5 p.m. on December 19, 2005. OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, CMS Desk Officer,New Executive Office Building, Room 10235,Washington, DC 20503.

Dated: November 9, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–22904 Filed 11–17–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10173, CMS–437A and CMS–437B]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Individuals Authorized Access to the CMS Computer Services; *Form Number:* CMS–10173 (OMB#: 0938–NEW); *Use:* The Centers for Medicare and Medicaid Services (CMS) is requesting the Office of Management and Budget (OMB) approval of the Individuals Authorized to Customer Service Application for Access to CMS Computer Systems. CMS has planned to provide a centralized user provisioning and administration service that supports the creation, deletion, and lifecycle management of enterprise identities. This service creates accounts, supports Role Based Access Control (RBAC), the form flow approval process and enterprise identity audit and recertification, and provides business application integration points. An application integration point allows

business application owners to use the form flow process of the user provisioning service to approve or deny requests for access to business applications. The primary purpose of this system is to implement a unified framework for managing user information and access rights, for those individuals who apply for and are granted access across multiple CMS systems and business contexts. Information in this system will also be used to: (1) Support regulatory and policy functions performed within the Agency or by a contractor or consultant; (2) support constituent requests made to a Congressional representative; and (3) to support litigation involving the Agency related to this system. We have provided background information about the proposed system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that the ''routine use'' portion of the system be published for comment, CMS invites comments on all portions of this notice. See ''Effective Dates'' section for comment period; *Frequency:* Other—As required; *Affected Public:* Business or other-for-profit, Individuals or Households, Not-for-profit institutions, Federal government, and State, Local, or Tribal Government; *Number of Respondents:* 60,000,000; *Total Annual Responses:* 60,000,000; *Total Annual Hours:* 15,000,000.

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Rehabilitation Unit Criteria Work Sheet and Rehabilitation Hospital Criteria Work Sheet and Supporting Regulations at 42 CFR 488.26; *Form Number:* CMS–437A and CMS–437B (OMB#: 0938–NEW—NOTE: These instruments are currently approved under 0938–0358 but are being carved out into a separate collection as they are updated more frequently.); *Use:* The rehabilitation hospital and rehabilitation unit criteria work sheets are necessary to verify that these facilities/units comply and remain in compliance with the exclusion criteria for the Medicare prospective payment system; *Frequency:* Annually; *Affected Public:* Business or other-for-profit, Not-for-profit institutions, and State, Local, or Tribal Government; *Number of Respondents:* 1227; *Total Annual Responses:* 1227; *Total Annual Hours:* 306.75.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/regulations/pra/,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on January 17, 2006. CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: William N. Parham, III, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 9, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–22906 Filed 11–17–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005P–0305]

Request for Comment on the Status of Pyridoxamine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of opportunity to comment.

SUMMARY: The Food and Drug Administration (FDA) is announcing that comments related to the status of pyridoxamine may be submitted until December 19, 2005. FDA is requesting comments in response to the submission of a citizen petition requesting, among other things, that the agency determine the status of pyridoxamine. All comments postmarked on or before December 19, 2005 will be accepted as part of the official record for this matter.

DATES: Submit written comments by December 19, 2005.

ADDRESSES: Submit written comments on the status of pyridoxamine to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Robert Moore, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1441.

SUPPLEMENTARY INFORMATION: On July 29, 2005, FDA received a citizen petition submitted, under 21 CFR 10.30, by the law firm Morgan Lewis & Bockius, LLP, on behalf of BioStratum, Inc. The petition requests that the agency: (1) State in writing that dietary supplements that contain pyridoxamine are adulterated under the Federal Food, Drug, and Cosmetic Act; (2) exercise its enforcement authority under the act to remove from interstate commerce dietary supplements containing pyridoxamine; and (3) not place this citizen petition in the agency's docket for premarket notifications for new dietary ingredients (Docket No. 2004N–0454).

In its citizen petition, BioStratum, Inc., states, among other things, that it is the manufacturer of Pyridorin (pyridoxamine dihydrochloride), which is the subject of an investigational new drug application (IND) that was filed with FDA in July 1999 for use as a potential therapeutic agent to slow or prevent the progression of diabetic nephropathy in patients with type 1 and type 2 diabetes. The petition further states that substantial clinical trials have been conducted for this drug and that the existence of those studies has been made public. In addition, the petition states that pyridoxamine was not marketed as a dietary supplement or as a food prior to Pyridorin's authorization for investigation as a new drug under an IND.

FDA has considered the information and legal argument set forth in the petition. Based on the facts set forth in the petition, the agency tentatively concludes that pyridoxamine, the active moiety[1] of pyridoxamine dihydrochloride, is excluded from the dietary supplement definition under the exclusion clause in 21 U.S.C. 321(ff)(3)(B)(ii) and therefore may not be marketed as or in a dietary supplement. However, although the petition asserts that there is no evidence that pyridoxamine was marketed as a dietary ingredient or as a food prior to the authorization of Pyridorin for investigation under an IND, the agency is interested in receiving information, if any, that bears on pyridoxamine's prior marketing as a dietary ingredient or as a food, as well as other information that would inform the agency's final decision on the status of pyridoxamine.

[1] Under 21 CFR 316.3(b)(2), ''active moiety'' means the molecule or ion, excluding those appended portions of the molecule that cause the drug to be an ester, salt (including a salt with hydrogen or coordination bonds), or other noncovalent derivative (such as a complex, chelate, or clathrate) of the molecule, responsible for the physiological or pharmacological action of the drug substance.

In order to afford all interested parties adequate opportunity to participate in this matter, the agency requests comments and supporting information related to this matter. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 10, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22884 Filed 11–17–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–05–8004]

Implementation Plan on the Sharing of Confidential Information Between the European Commission's Health and Consumer Protection Directorate General and the United States Food and Drug Administration of the Department of Health and Human Services

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of an Implementation Plan on the sharing of confidential information between the European Commission's Health and Consumer Protection Directorate General and the United States Food and Drug Administration of the Department of Health and Human Services. The purpose is for both participants to cooperate to facilitate the sharing of documents and/or information related to food safety.

DATES: The agreement became effective on September 23, 2005.

FOR FURTHER INFORMATION CONTACT: Matthew E. Eckel, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville MD, 20857, 301–827–4480; FAX 301–480–0716.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and Implementation Plans between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this Implementation Plan.

Dated: November 10, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

IMPLEMENTATION PLAN ON THE SHARING OF CONFIDENTIAL INFORMATION BETWEEN THE EUROPEAN COMMISSION'S HEALTH AND CONSUMER PROTECTION DIRECTORATE GENERAL AND THE UNITED STATES FOOD AND DRUG ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND HUMAN SEVICES

The European Commission's Health and Consumer Protection Directorate General (DG SANCO) and the United States Food and Drug Administration of the Department of Health and Human Services (HHS/FDA) (collectively "the Participants") recognise the need to further improve their relationship and in particular, in the Transatlantic Economic Partnership Action Plan, the need for increased co-operation as a means of promoting public health protection and addressing technical barriers to trade in food.

Such cooperation shall not compromise each Participant's ability to carry out its responsibilities and shall not create any kind of legal obligation on the part of HHS/FDA and the European Commission.

Therefore the Participants are pleased to cooperate to facilitate the sharing of documents and/or information related to ensuring food safety.

This cooperation activity will strengthen communication between public authorities involved in food safety activities and reinforce public health protection.

The type of information that may be shared includes, but is not limited to:

1. All legislation and guidance documents available under the rules and regulation governing food safety and public health protection in the EU and in the US in particular concerning nutrition labelling, compositional criteria for specific categories of foods, label claims relevant to health promotion and/or protection, added ingredients including nutrients, transgenic animals and animal cloning, use of animal drugs used in food-producing animals, emergency response and preparedness, and food and feed alerts associated with specific incidents. This also includes relevant position papers, notes for guidance and any other guidance documents developed by one Participant that may be made available for review by the other Participant either in draft, finalised or released for consultation.

2. Documents relating to controls carried out by HHS/FDA or DG SANCO and necessary for the preparation and effective execution of the verifications foreseen in Art. 9 of the Agreement between the United States of America and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products.

3. In relation to DG SANCO's Rapid Alert System for Food and Feed and HHS/FDA's corresponding notification system relevant to food safety emerging situations the information to be exchanged may include, but is not limited to, the following:
   - Product details: brand name, common name, size, codes (Universal Product Code (UP), best before, lot), photo (if available), package description;
   - Copy of press release if released, name of foreign manufacturer, name of foreign exporter, name of establishment, registration number of establishment, and distribution to other countries;
   - Reason for recall or for notification: identified hazard, links to illnesses or allergic reactions, whether the illness has been linked to food through epidemiological evidence or a match, through biological means (e.g. Pulse Field Gel Electrophoresis (PFGE) pattern);
   - Other microbiological information, PFGE pattern, stereotypes, etc;
   - Any conclusions on the cause of problem that led to the recall;
   - Lab results, with methodology used; open or closed samples; and
   - Any additional information on clients in the USA/the EU.

The Participants reserve the right to limit the scope of the above information should its dissemination or exchange undermine specific interests of either Participant, including national security; commercial, industrial or professional secrecy; the protection of the individual and of privacy; or the Participants' interests in the confidentiality of their proceedings. Any exchange of non-public information will be made in accordance with the Participants' laws and regulations and, in particular, with the letters exchanged by the Participants on June 6, 2005. In some cases, under this plan, exchange of proprietary or other similar company-specific information in the possession of one of the Participants may be subject to prior approval and authorisation from the private sector companies concerned.

We look forward to implementing this plan for the sharing of information and to continuing cooperative activities to further enhance the relationship between the HHS/FDA and the European Commission in the best interest of public and animal health.

Signed this the 23rd day of September, 2005.

Robert Madelin
Director General
Health and Consumer Protection
Directorate-General
European Commission
Rue de la Loi 200 / Wetstraat 200
B-1049 Brussels, Belgium
32 2 29 63338 (ph)
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Murray M. Lumpkin, M.D., M.Sc.
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[FR Doc. 05–22829 Filed 11–17–05; 8:45 am]
BILLING CODE 4160–01–CFNP≤

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22983]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0095, 1625–0099, 1625–0101, and 1625–0102

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to seek the approval of OMB for the renewal of four Information Collection Requests (ICRs). The ICRs are: (1) 1625–0095, Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalents/Alternatives and Exemptions; (2) 1625–0099, Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels; (3) 1625–0101, Periodic Gauging and Engineering Analyses for Certain Tank Vessels Over 30 Years Old; and (4) 1625–0102, National Response Resource Inventory. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before January 17, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2005–22983] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–267–2326, or fax 202–267–4814, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public participation and request for comments. We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2005–22983], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES;** but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

1. *Title:* Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalents/Alternatives and Exemptions.

OMB Control Number: 1625–0095.

Summary: This information is needed to minimize the number and impact of pollution discharges and accidents occurring during transfer of oil or hazardous materials. This information will also be used to evaluate proposed alternatives and requests for exemptions.

Need: The information collection requirement contained in this regulation is needed to: (1) Prevent or mitigate the results of an accidental release of bulk liquid hazardous materials being transferred at waterfront facilities; (2) ensure that facilities and vessels that use vapor control systems are in compliance with the safety standards developed by the Coast Guard; (3) provide equipment and operational requirements for facilities and vessels that transfer oil or hazardous materials in bulk to or from vessels with a 250 or more barrel capacity; and (4) provide procedures for vessel or facility operators who request exemption or partial exemption from the requirements of the pollution prevention regulations.

Respondents: Owners and operators of bulk oil and hazardous materials facilities and vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden remains 1,440 hours a year.

2. *Title:* Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels.

OMB Control Number: 1625–0099.

Summary: The collection of information requires passenger vessels

to have posted two placards that contain safety and operating instructions on the use of cooking appliances that use liquefied gas or compressed natural gas.

Need: Title 46 U.S.C. 3306(a)(5) authorizes the Coast Guard to prescribe regulations for the use of vessel stores of a dangerous nature. These regulations are prescribed in both un-inspected and inspected passenger vessel regulations.

Respondents: Owners and operators of passenger vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 2,680 hours to 2,547 hours a year.

3. *Title:* Periodic Gauging and Engineering Analyses for Certain Tank Vessels Over 30 Years Old.

OMB Control Number: 1625–0101.

Summary: This information is used to verify the structural integrity of older tank vessels. The Oil Pollution Act of 1990 required the issuance of regulations related to the structural integrity of tank vessels, including periodic gauging of the plating thickness of tank vessels over 30 years old.

Need: Title 46 U.S.C. 3703 authorizes the Coast Guard to prescribe regulations related to tank vessels, including design, construction, alteration, repair, and maintenance. Section 31.10–21a of 46 CFR sets out the regulations related to periodic gauging and engineering analyses of certain tank vessels over 30 years old.

Respondents: Owners and operators of certain tank vessels.

Frequency: Every 5 years.

Burden Estimate: The estimated burden remains 13,688 hours a year.

4. *Title:* National Response Resource Inventory.

OMB Control Number: 1625–0102.

Summary: The information is needed to improve the effectiveness of deploying response equipment in the event of an oil spill. It may also be used in the development of contingency plans.

Need: Section 4202 of the Oil Pollution Act of 1990 (Pub. L. 101–380) required the Coast Guard to compile and maintain a comprehensive list of spill removal equipment. This collection helps fulfill that requirement.

Respondents: Oil spill removal organizations.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,224 hours to 1,236 hours a year.

Dated: November 10, 2005.

R. T. Hewitt,

Rear Admiral, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 05–22824 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD14–05–002]

Implementation of Sector Guam

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the establishment of Sector Guam. Sector Guam is an internal reorganization that combines Marianas Section and Marine Safety Office Guam into a single command. The Coast Guard has established a continuity of operations whereby all previous practices and procedures will remain in effect until superseded by an authorized Coast Guard official or document.

DATES: The organizational changes described in this notice became effective December 30, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD14–05–002 and are available for inspection or copying at Commander (dl), Fourteenth Coast Guard District, PJKK Federal Building, 300 Ala Moana Boulevard, Room 9–216, Honolulu, Hawaii, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Rice, Fourteenth District Prevention Division, at (808) 541–2114.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

Sector Guam's address is PSC 455 Box 176, FPO AP 96540–1056. Sector Guam contains a single Command Center located at Victor Wharf, U.S. Naval Activities Marianas. Sector Guam is composed of a Response Department, a Prevention Department, and a Logistics Department. Effective December 30, 2004, all existing missions and functions performed by Marianas Section and Marine Safety Office Guam were consolidated and are now performed by Sector Guam. Marianas Section and Marine Safety Office Guam no longer exist as organizational entities.

Sector Guam is responsible for all Coast Guard Missions in the same zone as the one described in 33 CFR part 3, subpart 3.70–15(b). Coast Guard District Fourteen maintains Search and Rescue Mission Coordinator responsibilities in all other portions of its area of responsibility not specifically designated within the scope of Sector Honolulu or Sector Guam.

The Sector Guam Commander is vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer, Marine Safety Office, as provided in Coast Guard regulations, and is the successor in command to the Commanding Officer of Marine Safety Office Guam and the Commander, Marianas Section. The Sector Guam Commander is designated: (a) Captain of the Port (COTP) for the Guam COTP zone; (b) Federal Maritime Security Coordinator (FMSC) for Guam and the Commonwealth of the Northern Mariana Islands; (c) Federal On Scene Coordinator (FOSC) for the Guam COTP zone, consistent with the National Contingency Plan; and (d) Officer in Charge of Marine Inspection (OCMI) for the Guam Marine Inspection Zone. The Deputy Sector Commander is designated alternate COTP, FMSC, FOSC, and OCMI. A continuity of operations order has been issued ensuring that all previous Section Marianas and Marine Safety Office Guam practices and procedures will remain in effect until superseded by Commander, Sector Guam. This continuity of operations order addresses existing COTP regulations, orders, directives, and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Guam.

Address: Commander, U.S. Coast Guard Sector Guam, PSC 455 Box 176, FPO AP 96540–1056.

Contact Information: The general phone number for the Sector is (671) 339–2001. The following are specific points of contacts and their extensions—

Deputy Sector Commander: extension 109;

Chief, Prevention Department: extension 160;

Chief, Response Department: extension 112;

Chief, Logistics Department: extension 105;

Contingency Planning and Force Readiness Staff: extension 160;

Sector Command Center: extensions 112 and 113.

Dated: November 3, 2005.

P.F. Zukunft,

Captain, U.S. Coast Guard, Acting Commander, Fourteenth Coast Guard District.

[FR Doc. 05–22825 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD14–05–001]

Implementation of Sector Honolulu

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the establishment of Sector Honolulu. Sector Honolulu is an internal reorganization that combines Group Honolulu and Marine Safety Office Honolulu into a single command. The Coast Guard has established a continuity of operations whereby all previous practices and procedures will remain in effect until superseded by an authorized Coast Guard official or document.

DATES: The organizational changes described in this notice became effective July 16, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD14–05–001 and are available for inspection or copying at Commander (dl), Fourteenth Coast Guard District, PJKK Federal Building, 300 Ala Moana Boulevard, Room 9–216, Honolulu, Hawaii, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Rice, Fourteenth District Prevention Division, at (808) 541–2114.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

Sector Honolulu is located at 400 Sand Island Parkway, Honolulu, HI 96819 and contains a single Command Center. Sector Honolulu is composed of a Response Department, Prevention Department, and Logistics Department. Effective July 16, 2004, all existing missions and functions performed by Group Honolulu and Marine Safety Office Honolulu were consolidated and are now performed by Sector Honolulu. Group Honolulu and Marine Safety Office Honolulu no longer exist as organizational entities.

Sector Honolulu is responsible for all Coast Guard Missions in the same zone as the one described in 33 CFR part 3, subpart 3.70–10(b). The Sector Honolulu Commander is vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer, Marine Safety Office, as provided in Coast Guard regulations, and is the successor in command to the Commanding Officers of Group Honolulu and Marine Safety Office Honolulu. The Sector Honolulu Commander is designated: (a) Captain of the Port (COTP) for the Honolulu COTP zone; (b) Federal Maritime Security Coordinator (FMSC) for the Honolulu COTP zone; (c) Federal On Scene Coordinator (FOSC) for the Honolulu COTP zone, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Honolulu Marine Inspection Zone; and (e) Search and Rescue Mission Coordinator (SMC) for the Sector Honolulu area of responsibility, which is described above. The Deputy Sector Commander is designated alternate COTP, FMSC, FOSC, SMC, and OCMI. A continuity of operations order has been issued ensuring that all previous Group Honolulu and Marine Safety Office Honolulu practices and procedures will remain in effect until superseded by Commander, Sector Honolulu. This continuity of operations order addresses existing COTP regulations, orders, directives, and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Honolulu.

Address: Commander, U.S. Coast Guard Sector Honolulu, 400 Sand Island Parkway, Honolulu, HI 96819.

Contact Information: The general phone number for the Sector is (808) 842–2640. The following are specific points of contacts and their phone numbers—

Deputy Sector Commander: (808) 842–2640;

Chief, Prevention Department: (808) 522–8264;

Chief, Response Department: (808) 842–2661;

Chief, Logistics Department: (808) 522–8252;

Contingency Planning and Force Readiness Staff: (808) 842–2686;

Sector Command Center: (808) 842–2600.

Dated: November 3, 2005.

P.F. Zukunft,

Captain, U.S. Coast Guard, Acting Commander, Fourteenth Coast Guard District.

[FR Doc. 05–22823 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–46]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where

property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Heather Ranson, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Ms. Kathryn M. Halvorson, Director, Air Force Real Property Agency, 1700 North Moore St., Suite 2300, Arlington, VA 2209–2802; (703) 696–5502; *Army:* Ms. Audrey C. Ormerod, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310; (703) 601–2520; *COE:* Ms. Shirley Middleswarth, Army Corps of Engineers, Civil Division, Directorate of Real Estate, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–7425; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0084; *Navy:* Mr. Warren Meekins, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; (These are not toll-free numbers).

Dated: November 10, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 11/18/05

Suitable/Available Properties

Buildings (by State)

Arizona

Bldg. 66150
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540079
Status: Excess
Comment: 4027 sq. ft., most recent use—storage, off-site use only

Bldg. 90335
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540080
Status: Excess
Comment: 456 sq. ft., most recent use—storage, off-site use only

Bldg. 90336
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540081
Status: Excess
Comment: 8339 sq. ft., most recent use—storage, off-site use only

Illinois

SSA Federal Building
1530 4th Street
Peru Co: IL 61354–
Landholding Agency: GSA
Property Number: 54200540012
Status: Excess
Comment: 6007 sq. ft., most recent use—office/storage
GSA Number: 1–G–IL–732

Iowa

Social Security Building
904 W 4th Street
Waterloo Co: Black Hawk IA 50702–
Landholding Agency: GSA
Property Number: 54200540011
Status: Excess
Comment: 8880 sq. ft., needs repair, possible asbestos/lead paint, most recent use—office, tenants to relocate within 2 years
GSA Number: 7–G–IA–0501

Kentucky

Bldgs. 00023, 00024, 00025
Blue Grass Army Depot
Richmond Co: Madison KY 40475–
Landholding Agency: Army
Property Number: 21200540082
Status: Excess
Comment: 5530/2036/1062 sq. ft., most recent use—admin offices, off-site use only

Bldg. 00032
Blue Grass Army Depot
Richmond Co: Madison KY 40475–
Landholding Agency: Army
Property Number: 21200540083
Status: Excess
Comment: 153 sq. ft., most recent use—depot access control, off-site use only

Louisiana

Bldg. T7125
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540088
Status: Unutilized
Comment: 1875 sq. ft., off-site use only

Bldgs. T7163, T8043
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540089
Status: Unutilized
Comment: 4073/1923 sq. ft., off-site use only

Maryland

Bldg. 0706A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540090
Status: Unutilized
Comment: 576 sq. ft., most recent use—firing barracks, off-site use only

Bldg. 04925
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540091
Status: Unutilized
Comment: 1326 sq. ft., off-site use only

Bldg. E5001
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540092
Status: Unutilized
Comment: 400 sq. ft., most recent use—access control, off-site use only

Missouri

Courthouse/Post Office
811 Grand Blvd.
Kansas City Co: Jackson MO 64106–
Landholding Agency: GSA
Property Number: 54200540013
Status: Excess
Comment: 364,007 sq. ft., estimated renovation = $41 million, possible asbestos/lead paint, historic covenants will be required
GSA Number: 7–G–MO–06381

Montana

Bldg. 00001
Sheridan Hall USARC
Helena Co: MT 59601–
Landholding Agency: Army
Property Number: 21200540093
Status: Unutilized
Comment: 19,321 sq. ft., most recent use—Reserve Center

Bldg. 00003
Sheridan Hall USARC
Helena Co: MT 59601–
Landholding Agency: Army
Property Number: 21200540094
Status: Unutilized
Comment: 1950 sq. ft., most recent use—maintenance/storage

10.08 acres
Power Co: Teton MT 59468–
Landholding Agency: GSA
Property Number: 54200540015
Status: Surplus
Comment: unimproved land, subject to existing easements
GSA Number: 7–I–MI–0619

Ohio

Residence
5037 Deer Road
Bowerston Co: Carroll OH 44695–
Landholding Agency: COE
Property Number: 31200540007
Status: Unutilized
Comment: 2412 sq. ft., brick, needs repair, presence of asbestos, off-site use only

Residence
28700 Milarcik Road
Tippecanoe Co: Harrison OH 44699–
Landholding Agency: COE
Property Number: 31200540008
Status: Unutilized
Comment: 2412 sq. ft., brick/masonry, off-site use only

Structure
21897 Deer Creek Road
Mt. Sterling Co: Pickaway OH 43143–
Landholding Agency: COE
Property Number: 31200540009
Status: Unutilized
Comment: 1321 sq. ft., brick, off-site use only

Texas

Bldg. 04485
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200540095
Status: Excess
Comment: 640 sq. ft., presence of asbestos, most recent use—housing maint., off-site use only

Bldg. 56171
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200540097
Status: Excess
Comment: 3200 sq. ft., presence of asbestos, most recent use—housing maint, off-site use only

Bldg. 57030
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200540098
Status: Excess
Comment: 3108 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. 90082, 90083
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200540099
Status: Excess
Comment: 200 sq. ft., presence of asbestos, most recent use—fuel/POL, off-site use only

Suitable/Unavailable Properties

Buildings (by State)

Arizona

Bldg. 22040
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540076
Status: Excess
Comment: 1131 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 22404
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540077
Status: Excess
Comment: 928 sq. ft., presence of asbestos/lead paint, most recent use—company hdqts., off-site use only

Bldg. 22540
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540078
Status: Excess
Comment: 958 sq. ft., most recent use—storage, off-site use only

Louisiana

Bldg. T401
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540084
Status: Unutilized
Comment: 2169 sq. ft., most recent use—admin., off-site use only

Bldgs. T406, T407, T411
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540085
Status: Unutilized
Comment: 6165 sq. ft., most recent use—admin., off-site use only

Bldg. T412
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540086
Status: Unutilized
Comment: 12,251 sq. ft., most recent use—admin., off-site use only

Bldgs. T414, T421
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540087
Status: Unutilized
Comment: 6165/1688 sq. ft., most recent use—admin., off-site use only

Texas

Bldg. 10014
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200540096
Status: Excess
Comment: 2578 sq. ft., presence of asbestos, most recent use—bde hq bldg, off-site use only

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 21010
Fort Rucker
Dale Co: AL 36362–
Landholding Agency: Army
Property Number: 21200540100
Status: Unutilized
Reason: Extensive deterioration

Comfort Station
Clailborne Lake
Camden Co: AL 36726–
Landholding Agency: COE
Property Number: 31200540001
Status: Unutilized
Reason: Extensive deterioration

Pumphouse
Dannelly Reservoir
Camden Co: AL 36726–
Landholding Agency: COE
Property Number: 31200540002
Status: Unutilized
Reason: Extensive deterioration

California

Bldgs. 01423, 01428
Edwards AFB
Kern Co: CA
Landholding Agency: Air Force
Property Number: 18200540001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Structure 2600
Edwards AFB
Kern Co: CA
Landholding Agency: Air Force
Property Number: 18200540002
Status: Unutilized
Reason: Secured Area

Structure 08672
Edwards AFB
Kern Co: CA
Landholding Agency: Air Force
Property Number: 18200540003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 16
Naval Submarine Base
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200540017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Florida

Bldgs. 1, 2
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540018
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldg. 24
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540019
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldg. 66
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540020
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldg. 216
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540021
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldgs. 437, 450
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540022
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldgs. 1234, 1235
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200540023
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Georgia

Vault Toilet
Lake Sidney Lanier
Buford Co: GA 30518–
Landholding Agency: COE
Property Number: 31200540003
Status: Unutilized
Reason: Extensive deterioration

Indiana

Comfort Station
Salamonie Lake
Lagro Co: IN 46941–
Landholding Agency: COE
Property Number: 31200540004
Status: Unutilized
Reason: Extensive deterioration

Sewage Treatment Plant
Mississinewa Lake
Peru Co: IN 46970–
Landholding Agency: COE
Property Number: 31200540005
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Loading Docks
Nolin Lake
Bee Spring Co: KY 42007–
Landholding Agency: COE
Property Number: 31200540006
Status: Unutilized
Reason: Extensive deterioration

Michigan

Defense Fuel Supply
6734 P Road
Wells Township Co: MI
Landholding Agency: GSA
Property Number: 54200540014
Status: Surplus
Reason: Contamination
GSA Number: 1–D–MI–763

South Carolina

Building
N. Charleston Training Annex
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200540004
Status: Excess
Reason: Extensive deterioration

Bldgs. B323, B324
McEntire Air Natl Guard
Eastover Co: Richland SC 29044–
Landholding Agency: Air Force
Property Number: 18200540005
Status: Unutilized
Reason: Extensive deterioration

South Dakota

Bldg. 7219
Ellsworth AFB
Meade Co: SD 57706–
Landholding Agency: Air Force
Property Number: 18200540006
Status: Unutilized
Reason: Secured Area

Tennessee

Residence #5
5050 Dale Hollow Dam Rd.
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31200540010
Status: Unutilized
Reason: Landlocked

Texas

Bldg. B1274
Ellington Field
Houston Co: TX 77034–5586
Landholding Agency: Air Force
Property Number: 18200540007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Wisconsin

Nike Battery
74 Launcher Site
County Trunk Hwy
Waukesha Co: WI
Landholding Agency: GSA
Property Number: 54200540016
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–GR–WI–507

[FR Doc. E5–6332 Filed 11–17–05; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Renewal of the Advisory Committee on Water Information Charter

Summary: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the Advisory Committee on Water Information (ACWI).

The ACWI has been established under the authority of the Office of Management and Budget and Budget Memorandum No. M–92–01 and the Federal Advisory Committee Act. The purpose of this Presidential Committee is to represent the interests of water-information users and professionals in advising the Federal Government on Federal water-information programs and their effectiveness in meeting the Nation's water-information needs. Member organizations help to foster communications between the Federal and non-Federal sectors on sharing water information.

Membership represents a wide range of water resources interests and functions. Representation on the ACWI includes all levels of government, academia, private industry, and professional and technical societies. Member organizations designate their representatives and alternates. Membership is limited to a maximum of 35 organizations.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, 15 days from the date of publication of this notice.

For Further Information Contact: Ms. Toni M. Johnson (Executive Secretary), Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 417, Reston VA 20192. Telephone: 703–648–6810; Fax: 703–648–5644.

Dated: November 7, 2005.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 05–22857 Filed 11–17–05; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Final Environmental Impact Statement on Resident Canada Goose Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to announce the availability of a Final Environmental Impact Statement (FEIS) on resident Canada goose management. We published the Draft Environmental Impact Statement (DEIS) in March 2002. We considered over 2,700 public comments in revising the document.

DATES: The public inspection period for the FEIS will last 30 days and will end on December 19, 2005.

ADDRESSES: The document is available from the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 4107—MBSP, Arlington, Virginia 22203–1610. It is also available on the Division of Migratory Bird Management Web page at *http://migratorybirds.fws.gov.*

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703–358–1967.

SUPPLEMENTARY INFORMATION: The FEIS evaluates alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The objective of the FEIS is to provide a regulatory mechanism that would allow State and local agencies, other Federal agencies, and groups and individuals to respond to damage complaints or damages by resident Canada geese. The FEIS is a comprehensive programmatic plan intended to guide and direct resident Canada goose population growth and management activities in the conterminous United States. The FEIS analyzes seven management alternatives: (1) No Action (Alternative A); (2) Increase Use of Nonlethal Control and Management (excludes all permitted activities) (Alternative B); (3) Increase Use of Nonlethal Control and Management (continued permitting of those activities generally considered nonlethal) (Alternative C); (4) Expanded Hunting Methods and Opportunities (Alternative D); (5) Control and Depredation Order Management (consisting of an Airport Control Order, a Nest and Egg Depredation Order, an Agricultural Depredation Order, and a Public Health Control Order) (Alternative E); (6) Integrated Damage Management and Population Control (PROPOSED ACTION) (Alternative F); and (7) General Depredation Order (Alternative G). Alternatives were analyzed with regard to their potential impacts on resident Canada geese, other wildlife species, natural resources, special status species, socioeconomics, historical resources, and cultural resources.

Our proposed action (Alternative F) would establish a new regulation with three main program components. The first component would be targeted to address resident Canada goose depredation, damage, and conflict management by authorizing or establishing specific resident Canada goose Control and Depredation Orders. The second component would be targeted to increase the sport harvest of resident Canada geese by providing new regulatory options to State wildlife management agencies and Tribal entities by authorizing the use of additional hunting methods. The third component would consist of a new regulation authorizing a resident Canada goose population control program, or management take. Management take is defined as a special management action that is needed to reduce certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. The management take program would be implemented under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations. The intent of the program is to reduce resident Canada goose populations in order to protect personal property and agricultural crops, protect other interests from injury, resolve or prevent injury to people, property, agricultural crops, or other interests from resident Canada geese, and contribute to potential concerns about human health.

On March 1, 2002 (67 FR 9448), the Environmental Protection Agency published a Notice of Availability of our DEIS. On March 7, 2002 (67 FR 10431), we published our own Notice of Availability of the DEIS. We published a Notice of Meetings on the DEIS on March 26, 2002 (67 FR 13792). Initial comments were accepted until May 30, 2002. We subsequently published another Notice of Availability reopening the comment period on August 21, 2003 (68 FR 50546). Also on August 21, 2003, we published a proposed rule regarding control and management of resident Canada goose populations (68 FR 50496). Comments were accepted on both the DEIS and the proposed rule until October 20, 2003.

We received public comments on the DEIS from 2,657 private individuals, 33 State wildlife resource agencies, 37 nongovernmental organizations, 29 local governments, 5 Federal or State legislators, 4 Flyway Councils, 4 Federal agencies, 3 tribes, 3 businesses, and 2 State agricultural agencies. Of the 2,657 comments received from private individuals, 56% opposed the preferred alternative and supported only nonlethal control and management alternatives, while 40% supported either the proposed alternative or a general depredation order.

We modified the DEIS to respond to concerns and issues expressed by individuals, agencies, and organizations. Most notably, we excluded States in the Pacific Flyway from some of the available management components and shifted implementation and responsibility on some of the program components from the State to the U.S. Fish and Wildlife Service. Our proposed action remains Alternative F. A Record of Decision and final rule will be published after the inspection period (see **DATES** section).

Dated: October 17, 2005.

Matt Hogan,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 05–22813 Filed 11–17–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EY–24 1A; OMB Control Number 1004–0153]

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 9, 2004, the BLM published a notice in the **Federal Register** (69 FR 32365) requesting comments on this proposed collection. The comment period ended on August 9, 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 (1004–0153), 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: Conveyance of Federally-Owned Mineral Interest (43 CFR Part 2720).

OMB Control Number: 1004–0153.

Bureau Form Number: Nonform information.

Abstract: The Bureau of Land Management uses the information to determine if private surface estate land owners seeking conveyance of the Federally-owned mineral interests lying beneath the surface meet the statutory requirements of 43 CFR part 2720.

Frequency: Once.

Description of Respondents: Privately owned surface estate owners.

Estimated Completion Time: 10 hours.

Annual Responses: 12.

Application Fee Per Response: $50.

Annual Burden Hours: 120.

Bureau Clearance Officer: Ian Senio, (202) 452–5033.

Dated: July 18, 2005.

Ian Senio,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 05–22922 Filed 11–17–05; 8:45 am]

BILLING CODE 4310–84–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION; UNITED STATES AND MEXICO

United States Section; Notice of Availability for the Record of Decision on the Final Supplemental Environmental Impact Statement, Clean Water Act Compliance at the South Bay International Wastewater Treatment Plant, Located in San Diego County, CA

AGENCY: United States Section, International Boundary and Water Commission (USIBWC), United States and Mexico.

ACTION: Notice of Availability for the Record of Decision (ROD).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500 through 1508); and the USIBWC's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the USIBWC hereby gives notice that the Record of Decision (ROD) for the Supplemental Environmental Impact Statement, *Clean Water Act Compliance at the South Bay International Wastewater Treatment Plant*, located in San Diego County, California is available. The ROD was signed and made available via the USIBWC website on September 30, 2005. A Notice of Availability of the Final Supplemental Environmental Impact Statement (SEIS) dated July 14, 2005, provided a thirty (30)-day comment period. The Notice was published in the **Federal Register** on July 22, 2005 (70 FR 42379).

FOR FURTHER INFORMATION CONTACT: Gilbert Anaya, Environmental Management Division; United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4702, email: *gilbertanaya@ibwc.state.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action

The United States Section, International Boundary and Water Commission (USIBWC) has prepared the Record of Decision on the Final Supplemental Environmental Impact Statement for Clean Water Act Compliance at the South Bay International Wastewater Treatment Plant (Final SEIS). The South Bay International Wastewater Treatment Plant (SBIWTP) is an existing international wastewater treatment plant located in San Diego County at the United States-Mexico border. The SBIWTP and its associated facilities capture and treat to the advanced primary level an average of 25 million gallons per day (mgd) of raw sewage originating from the Tijuana region of Mexico and discharge the treated effluent approximately 3.5 miles offshore into the Pacific Ocean through the South Bay Ocean Outfall (SBOO). The SBIWTP and its system of canyon collectors prevent millions of gallons of dry weather flows of raw sewage from flowing daily into the United States from Mexico and polluting the Tijuana River, the Tijuana River Valley and Estuary, and south San Diego beaches.

The Final SEIS analyzed existing and new alternatives that would enable the USIBWC to bring the SBIWTP into compliance with the Clean Water Act (CWA) and with the SBIWTP's National Pollutant Discharge Elimination System (NPDES) permit either by providing secondary treatment at the SBIWTP; or by having another entity, either private or public, provide secondary treatment of the SBIWTP's effluent in Mexico; or by achieving CWA compliance by some other means. The Final SEIS also evaluated new information on the current discharges of advanced primary effluent from the SBIWTP through the SBOO, as well as potential interim actions that would allow continued operations of the SBIWTP until the SBIWTP achieves CWA compliance. The Record of Decision was prepared in compliance with 40 CFR 1505.2 to document the USIBWC's decision on the project. The decision is based on the Final SEIS development process (40 CFR part 1502) and public involvement (40 CFR part 1500).

On July 22, 2005, USIBWC made the Final SEIS available for public review and comment. A Notice of Availability of the Final SEIS was published in the **Federal Register** by the USIBWC on July 22, 2005 (70 FR 42379), and by the United States Environmental Protection Agency (EPA) on July 29, 2005 (70 FR 43867). USIBWC invited written comments on the Final SEIS to be submitted on or before August 24, 2005. USIBWC received one comment letter on the Final SEIS. The comments on the Draft and Final SEIS along with USIBWC responses are discussed in Sections VI and VII of the Record of Decision, respectively.

Availability

Single hard copies of the Record of Decision may be obtained by request at the above address. Electronic copies may also be obtained from the USIBWC Home Page at *http://www.ibwc.state.gov.*

Dated: November 7, 2005.

Susan Daniel,

General Counsel.

[FR Doc. 05–22868 Filed 11–17–05; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1099–1101 (Preliminary)]

Carbon and Certain Alloy Steel Wire Rod From China, Germany, and Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of an investigations and commencement of preliminary phase antidumping investigation Nos. 731–TA–1099–1101 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Germany, and Turkey of carbon and certain alloy steel wire rod, provided for in subheadings 7213.91.30, 7213.91.45, 7213.91.60, 7213.99.00, 7227.20.00, and 7227.90.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by December 27, 2005. The Commission's views are due at Commerce within five business days thereafter, or by January 4, 2006.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 10, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. The investigations are being instituted in response to a petition filed on November 10, 2005, by Connecticut Steel Corp., Wallingford, CT; Gerdau AmeriSteel U.S. Inc., Tampa, FL; Keystone Steel & Wire Company, Peoria, IL; Mittal Steel USA Georgetown, Georgetown, SC; and Rocky Mountain Steel Mills, Pueblo, CO.

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register.** Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:15 a.m. on December 1, 2005, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Michael Szustakowski (202–205–3188) not later than November 28, 2005, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 6, 2005, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: November 14, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–22831 Filed 11–17–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 14, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: 1,2-Dibromo-3-Chloropropane Standard (29 CFR 1910.1044).

OMB Number: 1218–0101.

Frequency: On occasion; Quarterly; Semi-annually; and Annually.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 1.

Number of Annual Responses: 1.

Total Burden Hours: 1.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The information collection requirements specified in the 1,2–Dibromo-3–Chloropropane (DBCP) Standard protect employees from the adverse health effects that may result from their exposure to DBCP. The Standard requires employers to: Monitor employees' exposure to 1,2–Dibromo-3–Chloropropane; monitor employee health; and medical records; and provide employees with information about their exposures and health effects of exposure to DBCP.

After extensive research, OSHA found no U.S. employer who currently produces DBCP or DBCP-based end-use products; therefore, no cost or time burdens accrue to employers under the Standard. The Environmental Protection Agency (EPA) registered DBCP as a soil fumigant for controlling nematodes during growth of field crops, vegetables, fruits and nuts, greenhouse and nursery crops, and turf. In 1977, the EPA suspended all registration of DBCP-based end-use products, except fumigants for Hawaiian pineapples; EPA revoked this exception in 1985.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 05–22864 Filed 11–17–05; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 14, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Requirements of a Bona Fide Thrift or Savings Plan (29 CFR part 547) and Requirements of a Bona Fide Profit-Sharing Plan or Trust (29 CFR part 549).

OMB Number: 1215–0119.

Frequency: On occasion.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; and State, Local, or Tribal Government.

Number of Respondents: 818,000.

Estimated Annual Responses: 818,000.

Estimated Annual Burden Hours: 3.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The maintenance of the records required by 29 CFR parts 547 and 549 enables DOL investigators to determine whether a given thrift or savings plan, profit-sharing plan or trust, is in compliance with section 7(e)(3)(b) of the Fair Labor Standards Act. Without these records, such a determination could not be made.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 05–22865 Filed 11–17–05; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 14, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics (BLS), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Type of Review: Revision of a currently approved collection.

Title: Local Area Unemployment Statistics Program.

OMB Number: 1220–0017.

Agency Form Numbers: LAUS–8, LAUS–15, LAUS–16, LAUS–3040 (Manual).

Frequency: Monthly and Annually.

Type of Response: Reporting.

Affected Public: State, Local, or Tribal Government.

Number of Respondents: 52.

Annual Responses: 95,069.

Average Response Time: 1.5 hours for the LAUS–3040; 1 hour for the LAUS–8 and LAUS–16; and 2 hours for the LAUS–15.

Annual Burden Hours: 142,298.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Manual provides the theoretic basis and essential technical instructions and guidance which States require to prepare State and area labor force estimates, while the reports ensure and/or measure the timeliness, quality, consistency, and adherence to Local Area Unemployment Statistics Program directives and research.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 05–22866 Filed 11–17–05; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request ERISA Technical Release 91–1

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the information collections in ERISA Technical Release 91–1, issued in 1991. Technical Release 91–1 provides guidance on permitted transfers of excess assets from a defined benefit pension plan to a retiree health benefits account under provisions of the Internal Revenue Code (the Code) and the Employee Retirement Income Security Act of 1974 (ERISA). A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted on or before January 17, 2006.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 693 219–5333. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

ERISA section 101(e) sets forth certain notice requirements that must be satisfied before an employer may transfer excess assets from a defined benefit plan to a retiree health benefits account, as otherwise permissible after satisfying the conditions set forth in section 420 of the Code. Section 101(e)(1) establishes the plan administrator's obligation to provide advance written notification of such transfers to participants and beneficiaries. Section 101(e)(2)(A) separately establishes the employer's obligation to provide advance written notification of such transfers to the Secretaries of Labor and Treasury, the administrator, and each employee organization representing participants in the plan. The requirements relating to advance notification of transfers to retiree health benefit accounts were added to ERISA as part of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508). ERISA Technical Release 91–1 provides guidance on the type of information to be provided in the notices to both the participants and beneficiaries and to the Secretaries. EBSA submitted the information collection provisions in the Technical Release to the Office of Management and Budget (OMB) for review in connection with issuance of the Technical Release. OMB approved the ICR under OMB Control No. 1210–0084. The ICR approval is scheduled to expire on February 28, 2006.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submission of responses.

III. Current Action

This notice requests comments on an extension of the information collections in ERISA Technical Release 91–1. EBSA is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Titles: ERISA Technical Release 91–1.

OMB Number: 1210–0084.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 21.

Frequency of Response: One time.

Responses: 135,450.

Estimated Total Burden Hours: 3,386.

Total Burden Cost (Operating and Maintenance): $26,413.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request and will also become a matter of public record.

Dated: November 14, 2005.

Susan G. Lahne,

Senior Pension Law Specialist, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 05–22867 Filed 11–17–05; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Security Programs: Training and Employment Guidance Letter Interpreting Federal Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) and workforce program. These interpretations are issued in Training and Employment Guidance Letters (TEGLs) to the State Workforce Agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 6–05

TEGL 6–05 advises states of the Federal law requirements related to determining and allocating the cost of assessing and collecting state taxes that are collected along with state unemployment compensation (UC) taxes, but are not used solely for UC purposes.

The laws in many states require the state UC agency to collect taxes that are used for non-UC purposes, and additional states have considered enacting such laws. Examples of non-UC taxes collected by state UC agencies include personal income, temporary disability, economic development, and job training-related taxes.

In General Administration Letter (GAL) 4–91, the Department outlined the requirements related to the costs of collecting these non-UC taxes. Specifically, these costs may not be paid from UC grant funds, and when a state UC agency collects non-UC taxes, the state must submit a plan for allocating such costs. Although that GAL has expired, these requirements remain in effect.

TEGL 6–05 is being issued to eliminate any confusion caused by the expiration of GAL 4–91. Although this advisory merely states what is already required by Federal law and regulation regarding the allocation of costs for all Federal grants to states, states have found it useful to have a concise statement of these requirements available, particularly as it regards tax collection.

Dated: November 14, 2005.

Emily Stover DeRocco,

Assistant Secretary of Labor.

Employment and Training Administration, Advisory System, U.S. Department of Labor, Washington, D.C. 20210

Classification: Grants/Cost Allocation

Correspondence Symbol: OWS/DL

Date: September 29, 2005

Training and Employment Guidance Letter No. 6–05

To: All State Workforce Agencies. All State Workforce Liaisons. All One-Stop Center System Leads.

From: Emily Stover DeRocco, Assistant Secretary.

Subject: Allocation of Costs of Assessing and Collecting State Taxes that are Collected in Conjunction with the State. Unemployment Compensation Tax.

1. *Purpose.* To provide guidance to the states in determining and allocating the costs of assessing and collecting state taxes that are collected along with state unemployment compensation (UC) taxes, but are not used solely for UC purposes.

2. *References.* Title III of the Social Security Act (SSA); 39 U.S.C. 3201(1); 29 CFR 97.22; Office of Management and Budget (OMB) Circular No. A–87, ''Cost Principles for State and Local Governments'' (as revised May 10, 2004); General Administration Letter (GAL) No. 4–91; Unemployment Insurance Program Letter (UIPL) No. 25–92; and One-Stop Comprehensive Financial Management Technical Assistance Guide, Part II.

3. *Background.* The laws in many states requires the state UC agency to collect taxes that are used for non-UC purposes, and additional states have considered enacting such laws. Examples of non-UC taxes collected by state UC agencies include personal income, temporary disability, economic development, and job training-related taxes.

In GAL 4–91, the Department outlined the requirements related to the costs of collecting these non-UC taxes. Specifically, these costs may not be paid from UC grant funds, and when a state UC agency collects non-UC taxes, the state must submit a plan for allocating such costs. Although that GAL has expired, these requirements remain in effect.

Recissions: None

Expiration Date: Continuing

This advisory is being issued to eliminate any confusion caused by the expiration of GAL 4–91. Also, although this advisory merely states what is already required by Federal law and regulation regarding cost allocation for all Federal grants to states, states have found it useful to have a concise statement of these requirements available, particularly as it regards tax collection.

4. *Federal law and cost principles.* Section 302(a), SSA, provides that the Secretary of Labor shall certify for payment to a state such amounts as the Secretary determines to be necessary for the proper and efficient administration of the state's UC law. These payments are sometimes referred to as Title III grants. Further, section 303(a)(8), SSA, provides that, as a condition of receiving a Title III grant, the state may expend its Title III grant solely ''for the proper and efficient administration'' of the state's UC law. Since state UC tax administration is an integral part of administering a state's UC law, these administrative costs may be charged to Title III grants consistent with Federal laws and regulations. Conversely, since collecting taxes that will not be used for state UC

purposes is not necessary for the proper and efficient administration of a state's UC law, the costs of collecting those taxes may not be charged to Title III grants.

Departmental regulations at 29 CFR 97.22(b) provide that, for purposes of determining allowable costs under a grant to a state (including the Title III grant), the Department will follow the cost principles in OMB Circular A–87. Section C.3 of Attachment A of the Circular provides that—

(a) A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

* * *

(d) Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required. * * *

Applying these principles to Title III grants, a cost allocation plan must be developed whenever a state UC agency incurs costs for a ''cost objective'' unrelated to the administration of the UC program. Collection of a tax that is not used entirely for Title III (that is, UC) purposes is such a cost objective.

5. *Application.*

a. *In general.* Whenever a state UC agency collects a tax that is not used entirely for UC purposes, the state must obtain the cognizant Federal agency's approval of its plan for allocating the costs of assessing, processing, and collecting the tax. The following indicates whether Title III grants may be used to collect a tax and whether collection of the particular tax requires a plan for allocating costs:

- Title III grants may be used to administer a tax when all revenues from the tax are (1) deposited in the state's unemployment fund to be used for the payment of compensation, (2) used to pay interest on advances under Title XII, SSA, or (3) used for the administration of the UC program. No cost allocation plan is required.
- Title III funds may not be used for *any* costs of collecting a tax that is used entirely for non-UC purposes, such as administering other workforce programs (including providing employment services to UC claimants), job training, economic development, temporary disability payments, health related benefits, or state income tax. A cost allocation plan is required.
- Title III grants may be used in proportion to the benefit received by the UC program if a portion of the revenues of a tax are used for UC purposes and a portion for non-UC purposes. A cost allocation plan is required.

Cost allocation plans addressing taxes will generally be included with the state's annual submission of its Indirect Cost Rate Proposal. However, in some cases (such as newly enacted taxes that are assessed immediately after enactment), it will be necessary to submit the tax plan as soon as possible to assure proper allocation of costs.

b. *Taxes which might be used for UC purposes.* Many state UC agencies collect taxes which permit (but do not require) the revenues, or a part thereof, to be used for UC purposes. As a result, there is no guarantee that the UC program will receive any benefit from these taxes. For any year in which such taxes are collected, the state's cost allocation plan will need to address, to the extent possible and taking into account prior history regarding the tax's revenues, whether any of the revenues will be used for UC purposes.

c. *Penalty mail.* When a UC agency collects a tax that is not solely restricted to UC purposes, penalty mail, as defined in 39 U.S.C. 3201(1), must not be used for any mailing related to the tax, whether or not the mailing also includes UC material. When a state UC agency collects a tax (or taxes) for other than UC purposes, the allocation of postage costs between the programs supported by the tax (or taxes) must be addressed in the state's cost allocation plan.

d. *Use of non-UC grants and state financing.* Funds granted for administering the Wagner-Peyser Act and the Workforce Investment Act are restricted to activities in support of the specific purposes set forth in those Acts. Unlike Federal UC law, these Acts do not authorize the collection of taxes, even if tax revenues enhance program activities performed under either of these Acts. As a result, funds granted under these Acts may not under any circumstances be used to collect any tax revenues. Aside from any Federal limitations on the use of granted funds, states are otherwise free to determine how to finance the costs of collecting non-UC or mixed-use taxes. States may use state general revenues or deduct the costs of collection from the revenues generated by the non-UC or mixed-use tax.

e. *Identification of taxes for FUTA credit purposes.* States must assure that employers are aware that only contributions deposited in the state's unemployment fund may be used to obtain credit against the Federal unemployment tax. See UIPL 25–92. (This matter does not need to be addressed in the cost allocation plan.)

6. *Action required.* Administrators should distribute this advisory to appropriate staff.

7. *Inquiries.* Please direct questions to the appropriate Regional Office.

[FR Doc. E5–6387 Filed 11–17–05; 8:45 am]

BILLING CODE 4510–30–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

Amended Notice; Technical Correction to the Agenda

Notice

The Legal Services Corporation (LSC) is announcing a technical amendment to the notice of a meeting of the Board of Directors. The amendment is being made to reflect a technical correction to the meeting Agenda. There are no other changes.

Specifically, the following correction has been made to the agenda.

- The language at item 2 has been corrected to read: ''Consider and act on Board of Directors' response to the LSC Inspector General's Semiannual Report to Congress for the period of *April 1, 2005 through September 30, 2005.*'' [Emphasis added.]

TIME AND DATE: November 28, 2005 at 12 p.m. (e.s.t.).

LOCATION: The Legal Services Corporation, 3333 K Street, NW., Washington, DC, 3rd Floor.

STATUS OF MEETING: Open.

Amended Agenda

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of the agenda.
2. Consider and act on Board of Directors' response to the LSC Inspector General's Semiannual Report to Congress for the period of April 1, 2005 through September 30, 2005.
3. Consider and act on other business.
4. Public comment.
5. Consider and act on adjournment of meeting.

FOR FURTHER INFORMATION CONTACT: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: November 16, 2005.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–23034 Filed 11–16–05; 3:13 pm]

BILLING CODE 7050–01–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 05–19]

Report on the Selection of Eligible Countries for Fiscal Year 2006

AGENCY: Millennium Challenge Corporation.

SUMMARY: Section 608(d) of the Millennium Challenge Act of 2003, Pub. L. 108–199 (Division D) requires the Millennium Challenge Corporation to publish a report that lists the countries determined by the Board of Directors of the Corporation to be eligible for assistance for Fiscal Year 2006. The report is set forth in full below.

Report on the Selection of Eligible Countries for Fiscal Year 2006

Summary

This report is provided in accordance with Section 608(d)(2) of the Millennium Challenge Act of 2003, Pub. L. 108–199, Division D, (the ''Act'').

The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance under Section 605 of the Act to countries that enter into Compacts with the United States to support policies and programs that advance the progress of such countries in achieving lasting economic growth and poverty reduction and are in furtherance of the Act. The Act requires the Millennium Challenge Corporation (''MCC'') to take a number of steps to determine the countries that, based, to the maximum extent possible, on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people, will be eligible to receive MCA assistance for a fiscal year. These steps include the submission of reports to appropriate congressional committees and the publication of notices in the **Federal Register** that identify, among other things:

1. The ''candidate countries'' for MCA assistance for a fiscal year and all countries that would be candidate countries if they met the requirement of Section 606(a)(1)(B) (Section 608(a) of the Act);

2. The eligibility criteria and methodology that the MCC Board of Directors (the ''Board'') will use to select ''eligible countries'' from among the ''candidate countries'' (Section 608(b) of the Act); and

3. The countries determined by the Board to be ''eligible countries'' for a fiscal year, the countries on the list of eligible countries with which the Board will seek to enter into MCA ''Compacts'' and a justification for the decisions regarding eligibility and selection for negotiation (Section 608(d)(1) of the Act).

This is the third of the above-described reports by MCC. This report is for Fiscal Year 2006 (''FY06''). It identifies countries determined by the Board to be eligible under Section 607 of the Act for FY06 and those that the Board will seek to enter into MCA Compacts under Section 609 of the Act, and the justification for such decisions.

Eligible Countries

The Board met on November 8, 2005, to select countries that will be eligible for MCA assistance under Section 607 of the Act for FY06. The Board determined the following countries as eligible for such assistance for FY06: Armenia, Benin, Bolivia, Burkina Faso, Cape Verde, East Timor, El Salvador, The Gambia, Georgia, Ghana, Honduras, Lesotho, Madagascar, Mali, Mongolia, Morocco, Mozambique, Namibia, Nicaragua, Senegal, Sri Lanka, Tanzania, and Vanuatu.

In accordance with the Act and with the ''Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY 2006'' submitted to the Congress on September 6, 2005, selection was based primarily on a country's overall performance in relation to three broad policy categories: Ruling Justly, Encouraging Economic Freedom, and Investing in People. The Board relied on sixteen publicly available indicators to assess policy performance and demonstrated commitment in these three areas, to the maximum extent possible, for determining which countries would be eligible for assistance. In determining eligibility, the Board considered if a country performed above the median in relation to its peers on at least half of the indicators in each of the three policy categories and above the median on corruption and, if the country performed substantially below the median on any indictor, whether it is taking appropriate action to address the shortcomings.

The Board also considered whether any adjustments should be made for data gaps, lags, trends, recent events since the indicators were published, and strengths or weaknesses in particular indicators. Where appropriate, the Board took into account additional quantitative and qualitative information, such as evidence of a country's commitment to fighting corruption and promoting democratic governance, its economic policies to promote the sustainable management of natural resources, and the rights of people with disabilities. In addition, the Board considered the opportunity to reduce poverty, promote economic growth and have a transformational impact in a country in light of the overall context of the information available to it as well as the availability of appropriated funds.

Sixteen of the countries selected as eligible for MCA assistance for FY06 were in the low income category and were previously selected as eligible in FY04 and/or FY05: Armenia, Benin, Bolivia, Ghana, Georgia, Honduras, Lesotho, Madagascar, Mali, Mongolia, Morocco, Mozambique, Nicaragua, Senegal, Sri Lanka, and Vanuatu. On November 8, 2005, the Board re-selected these countries based on their continued performance since their prior selection, most notably in the areas outlined in MCC's Report on the Selection of MCA Eligible Countries for FY 2004 and FY 2005, previously submitted to Congress on May 7, 2004 and November 12, 2004, respectively. The Board also determined that no material change has occurred in the performance of these countries on the selection criteria since the FY05 selection that would justify not including them in the FY06 eligible country list.

Six new countries were selected for the first time in FY06, which included (i) Four in the ''low income'' category under Section 606(a) of the Act: Burkina Faso, East Timor, Tanzania and The Gambia and (ii) two in the ''lower middle income'' category under Section 606(b) of the Act: El Salvador and Namibia. Each of these countries (i) Performed above the median in relation to their peers on at least half of the indicators in each of the three policy categories, (ii) performed above the median on corruption and (iii) in cases where they performed substantially below the median on an indicator, there was either evidence that the data did not adequately reflect their policy performance or that the government was taking corrective action to address the problem. The Board also selected Cape Verde in the lower middle income category. Cape Verde was selected as a low income eligible country in FY04 but was not a candidate in FY05 because it exceeded the per capita income threshold for that year. Although Cape Verde ''passes'' only two of the six indicators in the ''Economic Freedom'' category, this was because the International Finance Corporation does not yet include Cape Verde in its Doing Business survey. As a result, there was no data for Cape Verde on two indicators: ''Cost of a Business'' and ''Days to Start a Business.'' Based on supplemental information available to MCC, we believe that, had this data been collected, Cape Verde would have ''passed'' this category and, indeed, have been one of the highest performing of the lower middle income countries. A number of countries that performed well on the quantitative elements of the selection criteria (*i.e.*, on the policy indicators) were not chosen as eligible countries for FY06. As discussed above, the Board considered a variety of factors in addition to the country's performance on the policy indicators in determining whether they were appropriate candidates for assistance (*e.g.*, the country's commitment to fighting corruption and promoting democratic governance; the availability of

appropriated funds; and in which countries MCC would likely have the best opportunity to reduce poverty, generate economic growth and have a transformational impact).

Selection for Compact Negotiation

The Board also authorized MCC to seek to negotiate an MCA Compact, as described in Section 609 of the Act, with each of the eligible countries identified above that develops a proposal that justifies beginning such negotiations. MCC will initiate the process by inviting newly eligible countries to submit program proposals to MCC (previously eligible countries will not be asked to submit another proposal for FY06 assistance). MCC has posted guidance on the MCC Web site (*www.mcc.gov*) regarding the development and submission of MCA program proposals. Submission of a proposal is not a guarantee that MCC will finalize a Compact with an eligible country. Any MCA assistance provided under Section 605 of the Act will be contingent on the successful negotiation of a mutually agreeable Compact between the eligible country and MCC, approval of the Compact by the Board, and availability of funds.

Dated: November 14, 2005.

Jon A. Dyck,

Vice President and General Counsel, Millennium Challenge Corporation.

[FR Doc. 05–22840 Filed 11–17–05; 8:45 am]

BILLING CODE 9210–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Draft NARA Guidance for Implementing Section 207(e) of the E-Government Act of 2002; Request for Comment; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of document; request for comment; correction.

SUMMARY: NARA published a notice in the November 14, 2005, **Federal Register** [70 FR 69165] seeking public comment on the draft NARA Guidance for Implementing Section 207(e) of the E-Government Act of 2002. The **DATES** paragraph was incorrect. Comments are due no later than November 30, 2005.

DATES: Comments must be received by November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–837–1477 or via e-mail at. *nancy.allard@nara.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 05–22527 appearing in the third column on page 69165, the **DATES** paragraph is corrected to read:

Dates: Comments must be received by November 30, 2005.

Dated: November 15, 2005.

Nancy Y. Allard,

Federal Register Liaison.

[FR Doc. 05–22974 Filed 11–16–05; 11:05 am]

BILLING CODE 7515–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Evidence of Marital Relationship—Living with Requirements.

(2) *Form(s) submitted:* G–124, G–124a, G–237, G–238, and G–238a.

(3) *OMB Number:* 3220–0021.

(4) *Expiration date of current OMB clearance:* January 31, 2006.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,100.

(8) *Total annual responses:* 1,100.

(9) *Total annual reporting hours:* 196.

(10) *Collection description:* Under the RRA, to obtain a benefit as a spouse of an employee annuitant or as the widow(er) of the deceased employee, applicants must submit information to be used in determining if they meet the marriage requirements for such benefits. The collection obtains information supporting claimed common-law marriage, termination of previous marriages and residency requirements.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–22833 Filed 11–17–05; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment.

(2) *Form(s) submitted:* G–19L.

(3) *OMB Number:* 3220–0179.

(4) *Expiration date of current OMB clearance:* February 28, 2006.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 75.

(10) *Collection description:* Under section 2(e)(3) of the Railroad Retirement Act, an annuity is not payable for any month in which the beneficiary works for a railroad or earns more than the prescribed amounts. The collection obtains earnings information needed by the Railroad Retirement Board to determine possible reductions in annuities because of earnings.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget,

Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–22908 Filed 11–17–05; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Continuing Disability Report.

(2) *Form(s) submitted:* G–254, G–254a.

(3) *OMB Number:* 3220–0187.

(4) *Expiration date of current OMB clearance:* January 31, 2006.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or Households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 1,500.

(8) *Total annual responses:* 3,000.

(9) *Total annual reporting hours:* 748.

(10) *Collection description:* Under the Railroad Retirement Act, a disability annuity can be reduced or not paid, depending on the amount of earnings and type of work performed. The collection obtains information about a disabled annuitant's employment and earnings.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–22909 Filed 11–17–05; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27145; File No. 812–13204]

AIG SunAmerica Life Assurance Company, et al., Notice of Application

November 10, 2005.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order pursuant to section 26(c) of the Investment Company Act of 1940 (''1940 Act'').

Applicants: AIG SunAmerica Life Assurance Company (''AIG SunAmerica''), and the Variable Separate Account of AIG SunAmerica Life Assurance Company (collectively, the ''Applicants'').

Summary of the Application: The Applicants request an order pursuant to Section 26(c) of the 1940 Act to permit the substitution of shares of the Nations International Value Portfolio (the ''NIV Portfolio'' or the ''Replaced Portfolio''), one Portfolio of the Nations Separate Account Trust (''NSAT''), with shares of the International Growth and Income Portfolio (the ''IGI Portfolio'') and the International Diversified Equities Portfolio (the ''IDE Portfolio,'' with the IGI Portfolio, collectively the ''Replacement Portfolios''), two Portfolios of the SunAmerica Series Trust (''SAST'') (the ''Substitution'').

Filing Date: The application was filed on June 24, 2005, and amended and restated on November 1, 2005 and amended November 10, 2005.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on December 5, 2005, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303. Applicants: c/o Jorden Burt LLP, 1025 Thomas Jefferson Street, NW., East Lobby, Suite 400, Washington, DC 20007–5208, Attention: Joan E. Boros, Esq.

FOR FURTHER INFORMATION CONTACT: Jeffrey Foor, Senior Counsel, or Zandra Bailes, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Room 1580, Washington, DC 20549 (telephone (202) 551–5850).

Applicants' Representations

1. AIG SunAmerica is a stock life insurance company originally organized under the laws of the state of California in April 1965. AIG SunAmerica (previously known as Anchor National Life Insurance Company), through a series of transactions, redomesticated under the laws of the state of Arizona on January 1, 1996. AIG SunAmerica is a wholly-owned subsidiary of SunAmerica Life Insurance Company, an Arizona corporation, which is, in turn, wholly-owned by AIG Retirement Services, a Delaware corporation, which is, in turn, wholly-owned by American International Group, Inc. AIG SunAmerica is authorized to write annuities and life insurance in the District of Columbia and all states except New York.

2. The Variable Separate Account of AIG SunAmerica (the ''Separate Account'') was established by AIG SunAmerica on June 25, 1981, in accordance with the laws of the state of California and is currently authorized under the laws of the state of Arizona. The Separate Account is registered as a unit investment trust under the 1940 Act. The Separate Account is used to fund the Contracts and other annuity contracts issued by AIG SunAmerica and is currently divided into a total of 160 subaccounts (the ''Variable Accounts''). Each of the available Variable Accounts invests in and reflects the investment performance of specific portfolios in which the Variable Accounts invest. One of the Variable Accounts currently invests in the Replaced Portfolio (referred to hereafter as the ''Variable Account'').

3. The Contracts, PolarisAmerica and Polaris Choice, issued by AIG SunAmerica through its Separate Account, are fixed and variable flexible premium deferred non-participating variable annuity contracts that currently utilize the Replaced Portfolio as one of many underlying investments. AIG SunAmerica discontinued new allocations into the Replaced Portfolio under both Contracts as of the close of business on September 30, 2002, consistent with the Replaced Portfolio

advising that it was no longer accepting new investments. As a result, the ReplacedPortfolio is not actively marketed in either Contract. The Contracts are the only contracts to utilize the Variable Accounts that invest in the Replaced Portfolio. Neither of the Contracts continues to be actively marketed. Applicants were recently informed of NSAT's intention to liquidate the Replaced Portfolio on December 9, 2005.

4. The Replaced Portfolio, which offers a single class of shares, constitutes a separate series available through NSAT. NSAT was organized as a Delaware business trust on November 24, 1997, and prior to May 1, 2001, was named National Annuity Trust. NSAT is registered as a diversified, open-end management investment company under the 1940 Act (File No. 811–08481), and its shares are registered as securities under the Securities Act of 1933 (the ''1933 Act'') (File No. 333–40265). NSAT was established and serves to provide a funding medium for certain variable annuity accounts and/or variable life insurance separate accounts issued by leading life insurance companies. The inception date of the Replaced Portfolio was July 7, 2000, and as of September 30, 2002, it is no longer accepting investments from current or prospective investors and will be liquidated on December 9, 2005.

5. The Separate Account buys and sells shares of the Replaced Portfolio at net asset value that is net of the advisory fee of 0.90% based on average daily net assets, paid to the Investment Adviser, Banc of America Capital Management, LLC (''BACAP''), to manage the Business affairs of the Replaced Portfolio and to provide administrative services pursuant to a written investment advisory agreement (''NSAT's Investment Advisory Agreement''); BACAP Distributors is paid .25% of average daily net assets for performing distribution services and other shareholder servicing functions pursuant to a written agreement (''Rule 12b-1 Plan''). The Replaced Portfolio's other expenses were .61% for the fiscal year ended December 31, 2004. The Replaced Portfolio's total annual operating expenses for this period were 1.76%, subject to fee waivers and expense reimbursement by BACAP and other service providers of (0.51%) that provided for Total Annual Net Expenses of 1.25%. Brandes Investment Partners, L.P. (''Brandes'') serves as subadviser to the Replaced Portfolio. BACAP and Brandes are not affiliated with AIG SunAmerica.

6. SAST was organized as a Massachusetts business trust on September 11, 1992. SAST was established and serves to provide a funding medium for the Variable Accounts that are its sole shareholders. SAST is registered as an open-end management investment company under the 1940 Act (File No. 811–07238), and its offering of its shares is registered under the 1933 Act (File No. 033–52742). The Replaced Portfolio is a portfolio in which the Separate Account invests under the PolarisAmerica Contract as one of 27 subaccount investment alternatives and under the Polaris Choice Contract as one of 38 subaccount investment alternatives. The Substitution will result in the reduction of the respective numbers of investment alternatives by one.

7. If the requested Substitution Order is granted, Class 1 shares [1] in the PolarisAmerica Contract and Class 2 [2] shares in the Polaris Choice Contract of the Replacement Portfolios will be substituted for shares of the Replaced Portfolio as set forth below:

Replaced portfolio of NSAT		Replacement portfolios of SAST
Nations International Value Portfolio	→	International Growth and Income Portfolio (Class 1) (PolarisAmerica Contract)
Nations International Value Portfolio	→	International Diversified Equities Portfolio (Class 2) (Polaris Choice Contract)

8. Shares of the IGI Portfolio and the IDE Portfolio, which the Variable Account will purchase, will be offered at net asset value that is net of the IGI Portfolio's Advisory Fee of .95%, and the IDE Portfolio's Advisory Fee of .84%, each of which are paid to AIG SunAmerica Asset Management Corp. (''SAAMCO''), to manage the business affairs of the SAST and to provide administrative services pursuant to an investment advisory agreement. The IDE Portfolio's Advisory Fee levels reflect the fact that the SAST Board of Trustees has approved a new advisory fee schedule, effective October 3, 2005, based on breakpoints at the following asset levels: At $250 million the advisory fee is reduced to 0.85%; at the next $250 million in assets the advisory fee is reduced to .80%; and at $500 million or greater the advisory fee is reduced to 0.75%. Based on the current level of assets under management, the IDE Portfolio's advisory fee was reduced from 1.00% to 0.84% beginning on October 3, 2005. The IGI Portfolio paid AIG SunAmerica Capital Services, Inc. (the ''Distributor'') .02% of average daily net assets for Class 1 shares and the IDE Portfolio paid AIG SunAmerica .15% for Class 2 shares for distribution services pursuant to a Rule 12b–1 Plan for the period ended December 31, 2004. Effective November 30, 2004, the .02% distribution fee of the IGI Portfolio was terminated when SAST's Board of Directors approved new policies and procedures as a result of changes by the SEC to Rule 12b–1 under the 1940 Act, which no longer permits the IGI Portfolio to charge a distribution fee for directed brokerage. The IGI Portfolio's other expenses were .27% and the IDE Portfolio's other expenses were .25% for this period. The IGI Portfolio's total annual operation expenses for this period were 1.24% for Class 1 shares. The IDE Portfolio's total annual operation expenses, prior to the Advisory Fee changes, for this period was 1.40% and would been 1.24% had the fee reduction been in effect for that period.

9. Putnam Investment Management, LLC (''Putnam'') serves as the Subadviser to the IGI Portfolio. Morgan Stanley Investment Mangement, under the name Van Kampen, serves as the Subadviser to the IDE Portfolio. SAAMCO is affiliated with AIG SunAmerica, but Putnam and Van Kampen are not affiliated with AIG SunAmerica.

10. The application covers a single Portfolio in which the Separate Account invests under the Contracts. When AIG SunAmerica was recently informed of the intention of NSAT to liquidate the Replaced Portfolio effective December 9, 2005, AIG SunAmerica undertook to review the various alternative investment portfolios to determine which would be a suitable replacement for the Replaced Portfolio. AIG SunAmerica determined that the Replacement Portfolios are appropriate and suitable replacements for the Replaced Portfolio.

11. The Applicants represent that the Replacement Portfolios have investment objectives, policies, and restrictions substantially similar in all material respects to those of to those of the Replaced Portfolio.

12. Applicants also represent that the Replaced Portfolio takes on higher investment risk than the Replacement Portfolios when compared with a common benchmark, and the investments of the Replaced Portfolio are concentrated in a substantially more

[1] The PolarisAmerica Replacement Portfolio also offers Class 2 and Class 3 shares.

[2] The Polaris Choice Replacement Portfolio also offers Class 1 and Class 3 shares.

limited number of securities than the Replacement Portfolios.

13. The Replacement Portfolios have lower total annual expense ratios than the Replaced Portfolio. The IGI Portfolio has lower total annual expenses than the Replaced Portfolio prior to and after fee waivers and reimbursements by the Replaced Portfolio with respect to the Class 1 shares. The IDE Portfolio has lower total annual expenses than the Replaced Portfolio prior to and after fee waivers and reimbursements by the Replaced Portfolio with respect to the Class 2 shares.

14. Applicants state that the Replacement Portfolios have significantly larger asset bases than the Replaced Portfolio. The IGI Portfolio's assets at March 31, 2005, were approximately $327 million, and at June 30, 2005, were approximately $312 million and the IDE Portfolio's assets at March 31, 2005 were approximately $343 million, and at June 30, 2005 were approximately $341 million while the Replaced Portfolio's assets at March 31, 2005 were approximately $7.4 million, and at June 30, 2005, were approximately $6.6 million. The larger asset bases of the IGI Portfolio and IDE Portfolio provide the potential for a future reduction in the total annual expenses of all its share classes, in addition to providing potential enhanced performance.

15. The Applicants will effect the proposed Substitution by first redeeming shares of the Replaced Portfolio in cash at net asset value and then immediately contributing those assets to the Replacement Portfolios to purchase their shares. As a result, at all times, before and after the Substitution, monies attributable to the owners of the Contracts (''Owners'') then invested in the Replaced Portfolio will remain fully invested and will result in no change in the amount of any Owner's Contract value, death benefit or investment in the Replaced Portfolio so that the full net asset value of the redeemed shares held by the Variable Account will be reflected in the Owners' accumulation values or annuity unit values following the Substitution. In addition, AIG SunAmerica assumes all applicable expenses relating to the Substitution, including brokerage commissions and legal accounting, and other fees and expenses so that the full net asset value of redeemed shares of the Replaced Portfolio held by the Variable Account will be reflected in the Owners' accumulation values or annuity unit values following the Substitution.

16. Owners will not incur any fees or charges as a result of the Substitution, nor will the rights of Owners or obligations of AIG SunAmerica under the Contracts be altered in any way. The proposed Substitution will not have any adverse tax consequences to Owners. The proposed Substitution will not cause Contract fees and charges currently being paid by existing Owners to be greater after the proposed Substitution than before the proposed Substitution. The proposed Substitution will not be treated as a transfer for the purpose of transfer limits or assessing transfer charges, and after the Substitution, AIG SunAmerica will treat each of the Variable Accounts currently invested in a Replaced Portfolio as currently invested in the Replacement Portfolios.

17. AIG SunAmerica will schedule the Substitution to occur after issuance of the requested order and any required state insurance department approvals. Further, although the Substitution will result in the replacement of the Replaced Portfolio as the investment of the Variable Account under the Contracts, AIG SunAmerica will not exercise any right it may have under the Contracts to collect transfer fees or impose any additional restrictions on Owners who may wish to make transfers from the Variable Account among the other available Variable Accounts for a period of at least thirty (30) days following mailing of the Notice, as defined below, of the proposed Substitution (the ''Free Transfer Period''). During the Free Transfer Period, transfers among the other available Variable Accounts will be permitted without those transfers being counted against any limit on free transfers under the Contracts, or any requirements for the method of submitting transfer requests.

18. Upon filing the application, AIG SunAmerica supplemented the prospectus for the Contracts to reflect the proposed Substitution. Within five days after the Substitution, AIG SunAmerica will send to its Owners written notice of the Substitution identifying the shares of the Replaced Portfolio that have been eliminated and the shares of the Replacement Portfolios that have been substituted. AIG SunAmerica will include in the mailing the applicable prospectus supplement for the Contracts describing the Substitution. AIG SunAmerica will also mail a copy of the prospectus for the Replacement Portfolios to Owners who have not already received a copy of that prospectus in the ordinary course. The Notice will further advise Owners that during the Free Transfer Period, Owners may transfer all assets, as substituted, from the Variable Account to the other available Variable Accounts without limit or charge and without those transfers being counted against any limit on free transfers under their Contracts, or any requirements for the method of submitting transfer requests.

Applicable Law

1. Section 26(c) of the 1940 Act provides that ''[I]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution.''

2. Applicants represent that the proposed Substitution involves a substitution of securities within the meaning of meaning of section 26(c) of the 1940 Act. The Applicants, therefore, request an order from the SEC pursuant to section 26(c) approving the proposed Substitution.

3. Applicants represent that the Substitution does not present the type of costly forced redemption or other harms that section 26(c) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons:

a. The Substitution will continue to fulfill Owners' objectives and risk expectations, because each of the Replacement Portfolios has substantially similar objectives, policies, and restrictions in all material respects to the objectives, policies, and restrictions of the Replaced Portfolio and favorable comparative risk characteristics.

b. After receipt of the Notice informing an Owner of the Substitution, an Owner may request that his or her assets be reallocated among the other available Variable Accounts at any time during the Free Transfer Period without any limit or charge and without those transfers being counted against any limit on free transfers under the Contract, or any requirements for the method of submitting transfer requests. This right also will be granted to Owners, if any, who are receiving variable payments based on the Replaced Portfolio.

c. The Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge.

d. AIG SunAmerica has undertaken to assume all expenses and transaction costs, including, but not limited to, legal and accounting fees and any brokerage commissions, in connection with the Substitution involving the Variable Account.

e. The Substitution will in no way alter the contractual obligations of AIG SunAmerica or the rights and privileges of Owners under the Contracts.

f. The Substitution will in no way alter the tax benefits to Owners.

g. The Substitution is expected to confer certain future economic benefits on Owners by virtue of greater asset base or lower expenses.

h. At the time of the Substitution, the total annual expenses of the IGI Portfolio's shares and the IDE Portfolio's shares are expected to be lower than the Replaced Portfolio.

i. The Substitution will be effected by redeeming shares of the Replaced Portfolio in cash to be conveyed immediately to each of the Replacement Portfolios to purchase its respective shares.

j. For those Owners invested in the subaccount corresponding to the Replaced Portfolio on the date of the Substitution (the ''Affected Contracts''), AIG SunAmerica will reimburse, on the last business day of each fiscal period (not to exceed a fiscal quarter) during the twenty-four months following the date of the Substitution (the ''Substitution Date''), the subaccount value attributable to investing in the Replacement Portfolio such that the sum of the Replacement Portfolio's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses (asset-based fees and charges deducted on a daily basis from subaccount assets and reflected in the calculation of subaccount unit values) for such period will not exceed with respect, on an annualized basis, the sum of the Replaced Portfolio's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses for the fiscal year preceding the Substitution Date.

4. Because the liquidation of the Replaced Portfolio was pursuant to a determination by NSAT in which AIG did not participate, AIG SunAmerica represents that the proposed Substitution involving the Replaced Portfolio and its selection of the Replacement Portfolios was not motivated by any financial consideration paid or to be paid to it or to any of its affiliates by the Replacement Portfolios, their adviser, sub-adviser or underwriters, or by affiliates of the Replacement Portfolios, their adviser or underwriters.

5. AIG SunAmerica has determined that each of the Replacement Portfolios is an appropriate replacement for the Replaced Portfolio. The Replacement Portfolios have investment objectives, policies, and restrictions substantially similar in all material respects to the Replaced Portfolio. Over the past three years, the Replacement Portfolios have taken on investment risks to a significantly lesser extent than risks that have been assumed by the Replaced Portfolio, whereby the Replacement Portfolios' portfolio securities are significantly less concentrated than those of the Replaced Portfolio.

Conclusion

For the reasons and upon the facts set forth in the application, the Applicants state that the proposed Substitution meets the standards of section 26(c) of the 1940 Act and request that the SEC issue an order of approval pursuant to section 26(c) of the 1940 Act.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52754; File No. SR–Amex–2005–113]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Elimination of the Equity Option Transaction Fee Discount for Member Firms Facilitating Customer Orders

November 9, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex filed the proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to eliminate the equity option transaction fee discount for member firms facilitating customer orders.[5] The text of the proposed rule change is available on the Amex's Web site (*http://www.amex.com*), at the Amex's Office of the Secretary, and atthe Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In April 2000, the Exchange eliminated its transaction, clearance, and floor brokerage fees for customer equity options transactions.[6] To offset this fee elimination, the Exchange increased certain fees charged for equity options transactions of members. Specifically, the transaction fee for member firm proprietary orders was increased from $0.07 to $0.19 per contract side. However, the Exchange determined at that time to keep the transaction fee at $0.07 for those member firm proprietary orders that facilitated a customer equity options order.[7] A facilitation occurs when a member firm crosses an order for its own account by buying from or selling to an order from its customer. The Exchange chose to keep the fee for these types of transactions lower in order to encourage member firms to continue to send these types of orders to the Exchange.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Exchange clarified that the option transaction fee discount applies only to equity options. Telephone conversation between Claire P. McGrath, Senior Vice President and General Counsel, Amex, and Jennifer Dodd, Special Counsel, and Ted Venuti, Attorney, Division of Market Regulation, Commission, November 7, 2005 (''November 7, 2005 Telephone Conversation'').

[6] *See* Securities Exchange Act Release No. 42675 (April 13, 2000), 65 FR 21223 (April 20, 2000) (Notice of Filing and Immediate Effectiveness of File No. SR–Amex–00–15).

[7] The Exchange clarified that this $.07 transaction fee applies only to equity options. *See* November 7, 2005 Telephone Conversation, *supra* note 5.

Subsequently, in 2004, the Exchange adopted a monthly cap on fees charged for all equity and index options transactions by member firms including transactions resulting from customer facilitations.[8] Pursuant to the monthly cap, the transaction, comparison, and floor brokerage fees charged to member firms are capped at $75,000 per month per member firm.[9] The purpose of this monthly cap was to provide an incentive for member firms to transact more volume on the floor of the Exchange, which provides more trading opportunities for floor members thus increasing revenue potential for specialists and registered options traders.

Based on the implementation of the monthly fee cap described above, management now proposes to eliminate the equity option transaction fee discount for member firms facilitating customer orders.[10] Given that member firm fees are currently capped at $75,000 per month, an additional incentive in the form of a discount for these facilitation transactions is no longer necessary. The elimination of the fee discount also will allow the Exchange to charge the same fee for all types of transactions thereby simplifying the fee schedule and eliminating the need to identify transactions resulting from the member firm facilitation of customer orders.

2. Statutory Basis

The Amex believes the proposed rule change is consistent with section 6(b) of the Act,[11] in general, and furthers the objectives of section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In addition, the Amex believes that eliminating the discount for transactions resulting from the member firm facilitation of customer orders in equity options allows for a more consistent application of options transaction fees to all types of orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange,[13] and, therefore, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[14] and subparagraph (f)(2) of Rule 19b–4 thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2005–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–Amex–2005–113. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2005–113 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

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[8] *See* Securities Exchange Act Release No. 49217 (February 10, 2004), 69 FR 7828 (February 19, 2004) (Notice of Filing and Immediate Effectiveness of File No. SR–Amex–2004–10). The Exchange clarified that the monthly cap on fees applies to all equity and index options transactions. *See* November 7, 2005 Telephone Conversation, *supra* note 5.

[9] The Exchange clarified that the monthly cap applies to transaction, comparison, and floor brokerage fees. *See* November 7, 2005 Telephone Conversation, *supra* note 5.

[10] The Exchange clarified that the option transaction fee discount applies only to equity options. *See* November 7, 2005 Telephone Conversation, *supra* note 5.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] The Exchange clarified that the proposed rule change would change a fee applicable only to a member. *See* November 7, 2005 Telephone Conversation, *supra* note 5.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52765; File No. SR–Amex–2005–102]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Interpretation of Exchange Rule 577 and Section 723 of the Amex Company Guide

November 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 12, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend an Exchange interpretation of Exchange Rule 577 (Giving Proxies by Member Organization) and Section 723 (Giving Proxies by Member Organization) of the Amex Company Guide.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 577 provides that a member organization may give a proxy to vote shares registered in its name, notwithstanding the failure of the beneficial owner to instruct the firm how to vote, provided, among other things, that the proposal being voted on does not involve a matter which ''may affect substantially the rights or privileges of such stock.''[4] Commentary .11 to Amex Rule 577 lists, by way of example, 18 ''non-routine'' actions in respect of which member organizations may not vote uninstructed shares. In addition to those 18 specific actions, the Amex has interpreted Rule 577 to preclude member organizations from voting without instructions in certain other situations, including those involving any material amendment to an investment advisory contract with an investment company. The New York Stock Exchange (''NYSE'') Rule 452 is virtually identical to Amex Rule 577 and has been similarly interpreted.

In the past, where the only change being made to the substantive terms of the investment advisory contract was a change in the identity of the investment adviser, both the Amex and the NYSE interpreted their respective proxy voting provisions to permit member organizations to vote uninstructed shares on the authorization of the new investment company investment advisory contract.[5] A proposed rule change filed by the NYSE of its interpretation of its rule governing proxies by member organizations on votes relating to changes to investment advisory contracts recently became effective.[6] Under the new interpretation, any proposal to obtain shareholder approval of an investment company's investment advisory contract with a new investment adviser,[7] which approval is required by the Investment Company Act of 1940, as amended (''1940 Act''),[8] and the rules thereunder, will be deemed by NYSE to be a ''matter which may affect substantially the rights or privileges of such stock'' on which a member organization may not give a proxy to vote shares registered in its name absent instruction from the beneficial holder of the shares. This policy means that where the 1940 Act requires shareholder approval of an investment advisory contract due to an assignment of an investment company's investment advisory contract (including an assignment caused by a change in control of the investment adviser that is a party to the assigned contract), a member organization may not give a proxy to vote shares registered in its name absent instruction from the beneficial holder of the shares.

Following discussions with the staff of the Commission's Division of Investment Management, the Amex has determined to adopt a comparable interpretation of Rule 577 to conform to the NYSE interpretation. Under the proposed interpretation of Amex Rule 577, any proposal to obtain shareholder approval of an investment company's investment advisory contract with a new investment adviser,[9] which approval is required by the 1940 Act, and the rules thereunder, will be deemed to be a ''matter which may affect substantially the rights or privileges of such stock'' (that is, a ''non-routine'' matter) on which a member organization may not give a proxy to vote shares registered in its name absent instruction from the beneficial holder of the shares.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and paragraph (f)(1) of Rule 19b–4 thereunder[13] as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Exchange rule. At any time within 60 days of the filing of the proposed rule change, the Commission

[3] The Commission notes that the proposed rule change does not amend the text of Exchange Rule 577 and its Commentary or Section 723 of the Amex Company Guide and its Commentary.

[4] Section 723 of the Amex Company Guide is the same as Amex Rule 577 and this proposed rule interpretation will apply to both Section 723 of the Amex Company Guide and Amex Rule 577.

[5] In 1992, the NYSE issued a formal interpretation of Rule 452 to, among other things, allow member organizations to give a proxy on the initial approval of an investment advisory contract if the beneficial holder does not exercise his right to vote; however, member organizations are precluded from voting without instructions if there is a material amendment to the investment advisory contract. *See* Securities Exchange Act Release No. 30697 (May 13, 1992), 57 FR 21434 (May 20, 1992) (SR–NYSE–92–05). Telephone conversation between Steve L. Kuan, Special Counsel, Division of Market Regulation (''Division''), Commission, and Marija Willen, Associate General Counsel, Amex, on October 27, 2005.

[6] *See* Securities Exchange Act Release No. 52569 (October 6, 2005), 70 FR 60118 (October 14, 2005) (SR–NYSE–2005–61).

[7] Telephone conversation between Steve L. Kuan, Special Counsel, Division, Commission, and Marija Willen, Associate General Counsel, Amex, on October 27, 2005.

[8] 15 U.S.C. 80a–1 *et seq.*

[9] *See* note 7 *supra.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(1).

may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2005–102 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–102. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–102 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6379 Filed 11–17–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52767; File No. SR–Amex–2005–108]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt an Options Licensing Fee for the PowerShares Lux Nanotech Portfolio (PXN) and the PowerShares Aerospace & Defense Portfolio (PPA)

November 10, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to modify its Options Fee Schedule by adopting a per-contract license fee in connection with the orders of specialists, registered options traders, firms, non-member market makers, and broker-dealers (collectively, ''Market Participants'') in connection with options transactions in the PowerShares Lux Nanotech Portfolio (symbol: PXN) and the PowerShares Aerospace & Defense Portfolio (symbol: PPA).[5] The text of the proposed rule change is available on the Exchange's Internet Web site (*http://www.amex.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has entered into numerous agreements with issuers and owners of indexes for the purpose of trading options on certain exchange-traded funds (''ETFs'') and securities indexes. As a result, the Exchange is required to pay index license fees to third parties as a condition to the listing and trading of these ETF and index options. In many cases, the Exchange is required to pay a significant licensing fee to an index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has recently established per-contract licensing fees for orders of Market Participants that are collected on each option transaction in certain designated products in which such Market Participant is a party.[6]

The purpose of the proposal is to charge options licensing fees in connection with options on PXN and PPA. Specifically, Amex seeks to charge options licensing fees of $0.10 and $0.09 per contract side in connection with PXN and PPA options, respectively, for orders of Market Participants executed on the Exchange. In all cases, the fees would be charged only to Exchange

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] In this proposed rule change filing, Amex inadvertently included references to an options ticker symbol other than PXN and PPA in certain places. Amex has represented that these references were made in error and that the only options which are subject to the license fees contemplated by this proposal are PXN and PPA. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Leah Mesfin, Special Counsel, and Edward Cho, Staff Attorney, Division of Market Regulation, Commission (November 3, 2005).

[6] *See* Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005).

members through whom such orders are placed.

Amex represents that the proposed options licensing fees would allow the Exchange to recoup its costs in connection with the index license fees for the trading of PXN and PPA options. The fees would be collected on every Market Participant order executed on the Exchange. The Exchange believes that requiring the payment of a per-contract licensing fee in connection with PXN and PPA options by those Market Participants that benefit from the index license agreements is justified and consistent with the rules of the Exchange.

The Exchange notes that, in recent years, it has revised a number of its fees to better align Amex fees with the actual cost of delivering services and reduce Amex's subsidization of such services.[7] The Exchange represents that the implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that these fees will help to allocate to those Market Participants engaging in transactions in PXN and PPA options a fair share of the related costs of offering such options for trading.

The Exchange asserts that the proposal provides for an equitable allocation of fees as required by section 6(b)(4) of the Act.[8] In connection with the adoption of options licensing fees for PXN and PPA options, the Exchange notes that charging the options licensing fees, where applicable, to all Market Participant orders, except for customer orders, is reasonable given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its transaction charges with the cost of providing trading products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(4) of the Act[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[11] and Rule 19b–4(f)(2)[12] thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2005–108 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–108. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–108 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6381 Filed 11–17–05; 8:45 am]

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[7] *See, e.g.*, Securities Exchange Act Release No. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002); Securities Exchange Act Release No. 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

[8] Section 6(b)(4) of the Act states that the rules of a national securities exchange must ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.'' 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52766; File No. SR–CHX–2004–38]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Records of Orders and Executions

November 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 3, 2004, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. On July

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

3, 2005, the Exchange filed Amendment No. 1 to the proposal [3] and on September 8, 2005, the Exchange filed Amendment No. 2 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its rules to require its on-floor participants to electronically record specific details about orders originating on or off the floor of the Exchange for execution on the Exchange, as well as orders issued from the floor of the Exchange to any other market or trading venue.

The text of the proposed rule change is below. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

ARTICLE XX

Regular Trading Sessions

* * * * *

Records of Orders *and Executions*

RULE 24. (a) Every *Floor* Participant shall preserve for at least three years *(or any longer period of time required by Exchange Act Rule 17a–4)* a record*, meeting the criteria set out in paragraph (b) below,* of*:*

(1) every order originat[ed]*ing* [by him or it] on the Floor [and] *that is* given to *(or received from)* another Participant for execution *and any execution of that order*, and

(2) [of] every *order* [commitment or obligation to trade] issued from the Floor *to any other market or trading venue and any execution of that order* [through ITS or any other application of the System or pursuant to Rule 39 or Rule 40,]; and

(3) [of] every order originating off the Floor, transmitted by any person*, whether or not that person is* [other than] a Participant, to such Participant on the Floor *and any execution of that order[*, which record shall include the name and the amount of the security, the terms of the order and the time when such order was so given or transmitted]; provided, however, that the Exchange may, upon application, grant exemption from the provisions of this Rule.

(b) *Subject to the exceptions set out in Interpretations .02, .04, .05 and .07 below, each Floor Participant must record, in such electronic system(s) as the Exchange shall designate, the following details about each order and execution identified in (a)(1) through (3) above:*

(1) Symbol;

(2) Clearing Participant;

(3) Order identifier that uniquely identifies the order;

(4) Identification of Participant recording the order details;

(5) Number of shares or quantity of security;

(6) Side of market;

(7) Designation of order type (e.g., market, limit, stop, stop limit);

(8) Whether the order is agency or professional;

(9) Whether the order is being handled pursuant to Exchange Act Section 11(a)(1)(G) and any applicable rules thereunder;

(10) Whether the order is short or short exempt;

(11) Whether the order is a bona fide arbitrage order;

(12) Any limit price and/or stop price;

(13) Date and time of order receipt or transmission (as applicable);

(14) The market, off-floor firm or on-floor Participant to which the order was transmitted or from which the order was received (if applicable);

(15) Time in force;

(16) Designation as held or not held;

(17) Any special conditions or instructions (including any customer do-not-display or display instructions and any all-or-none conditions);

(18) Any modifications to the details set out in (1)–(17) above or (20) below, for all or part of the order, or any cancellation of all or part of the order;

(19) Date and time of receipt or transmission of any modifications to the order or any cancellation of the order;

(20) Date and time of any order expiration;

(21) Identification of the party cancelling or modifying the order;

(22) Transaction price (if applicable);

(23) Number of shares executed (if applicable);

(24) Date and time of execution (if applicable);

(25) Contra party to the execution (if applicable);

(26) Settlement instructions (if applicable);

(27) System-generated time(s) of recording required information; and

(28) Such other information as the Exchange may from time to time require.

[Whenever a cancellation is entered with respect to such an order or commitment or obligation to trade, or a report of the execution of such an order or commitment or obligation to trade is received, there shall be preserved for at least three years, in addition to the record required by the foregoing paragraph, a record of the cancellation of the order or commitment or obligation to trade or of the receipt of such report, which shall include the time of entry of such cancellation or of the receipt of such report.]

(c) Floor Participants must record the information required by (b) above immediately after such information is received or becomes available.

[c]*(d)* Before any such order is executed, including the case where an order is to be executed by the issuance from the Floor of a commitment or obligation to trade through ITS or any other application of the System or pursuant to Rule 39 or Rule 40, there shall be placed upon the order slip or other record the name or designation of the account for which such order is to be executed. No change *to the name or designation of the* [in such] account *for which an order is to be executed* [name or designation] shall be made unless the change has been authorized by the Participant or by a partner or officer of the Participant Firm, who shall, prior to giving his approval of such change, be personally informed of the essential facts relative thereto and shall indicate his approval of such change in writing on the order.

[Exceptions

Under exceptional circumstances the Exchange may upon written request waive the requirements contained in (1)(a) above.]

* * * Interpretations and Policies:

.01 Every order covered by [(1)] *paragraph* (a) above*, which is* to be

[3] In Amendment No. 1, which replaced and superseded the original filing in its entirety, the Exchange amended the proposed rule text to add requirements that participants confirm whether an order was an agency or professional order; whether an order was short or short exempt; the market to which the order was transmitted; the identification of any party cancelling or modifying the order; the date and time of any order expiration; and the contra party to the execution (if applicable). The Exchange also added Interpretation and Policy .09 to confirm that the requirements of the proposed rule would not replace any record retention obligations to which the Exchange's participants may be subject under the Act and the rules thereunder. Finally, the Exchange replaced references to the Exchange's ''members'' with references to its ''participants,'' reflecting changes in terminology associated with the Exchange's February 2005 demutualization. *See* Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (approval order for the Exchange's proposed rule changes in connection with its demutualization).

[4] In Amendment No. 2, which replaced and superseded the filing as amended by Amendment No. 1 in its entirety, the Exchange made minor changes to the proposed rule text, including (1) confirming that a participant must record any modifications to the date and time of any order expiration and (2) consistently capitalizing the word ''Rule.'' In addition, the Exchange conformed the footnotes in the purpose section to reflect changes made to the rule language in Amendment No. 1. The substantive changes in Amendment No. 1 were included in Amendment No. 2.

executed pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder, shall bear an identifying notation that will enable the executing Participant to disclose to other Participants that the order is subject to those provisions.

.02 For purposes of this Rule, an order shall be any written, oral or electronic instruction to effect a transaction. A decision by a co-specialist, market maker or floor broker to buy or sell securities for his or her own account on the Floor of the Exchange shall not constitute an order for which a record must be made under this Rule.

.03 Each required record of the time of an event shall be expressed in terms of hours, minutes and seconds.

.04 This Rule shall not apply to orders sent or received through the Exchange's MAX system or through any other electronic systems that the Exchange expressly recognizes as providing the required information in a format acceptable to the Exchange. The Exchange will not recognize a non-Exchange system as providing information in an acceptable format unless that system has synchronized its business clocks for recording data with reference to a time source designated by the Exchange and maintains that synchronization in conformity with procedures prescribed by the Exchange.

.05 Any orders which the Exchange has expressly recognized as incompatible for entry in an Exchange system relied on by a Floor Participant to record the details of the order in compliance with this Rule shall be exempt from the order entry requirements of paragraph (b) above; provided, however, that Floor Participants shall retain a written record of those orders which includes as much of the information set out in paragraph (b) as is possible, but no less than the name and the amount of the security, the terms of the order, the time when such order was so given or transmitted, the date and time of any modifications or cancellations of the order, the date and time of execution and the execution price.

.06 With respect to a bona fide arbitrage order, a Floor Participant may execute such order before entering the order into an electronic system as required by paragraph (b) above, but such Floor Participant must enter such order into such electronic system no later than 60 seconds after the execution of such order. With respect to an order to offset a transaction made in error, a Floor Participant may, upon discovering such error within the same trading session, effect an offsetting transaction without first entering such order into an electronic system, but such Floor Participant must enter such order into such electronic system no later than 60 seconds after the execution of such order.

.07 A Floor Participant who receives orders to buy and sell the same security and executes those orders in full immediately upon receipt shall record only the information set out in (b)(1), (2), (4), (9), (10) and (22) through (28) above.

.08 Failure to comply with the provisions of this Rule may be considered conduct inconsistent with just and equitable principles of trade, in violation of Article VIII, Rule 7.

.09 The provisions of this Rule do not replace any record retention obligations to which the Exchange's Participants may be subject under the Exchange Act and the rules thereunder.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's on-floor participants execute trades on the Exchange and on other markets.[5] Currently, the Exchange's electronic systems capture information about most of the orders executed on the Exchange and about many of the orders executed in other markets. This information is used by the Exchange to conduct surveillance of its floor participants' trading activities. In some instances, however, the Exchange does not have complete information about the orders received and executed by its participants or does not have that information in electronic form. To bolster its ability to conduct automated surveillance of its participants' trading activities, the Exchange is proposing to require its floor participants to provide particular data about all orders originating on or off the floor of the Exchange for execution on the Exchange, as well as all orders issued from the floor of the Exchange to any other market or trading venue.[6] For purposes of this submission, these orders will be called ''covered orders.''

Specifically, through this submission, the Exchange is proposing to require floor participants to record, in electronic systems designated by the Exchange, the following details about each covered order: (1) The symbol of the security; (2) the clearing participant; (3) an order identifier that uniquely identifies the order;[7] (4) the identity of the participant recording the order details; (5) the number of shares or quantity of the security; (6) the side of the market (*i.e.*, whether the order is a buy or sell order); (7) a designation of the order type (*e.g.*, market, limit, stop, stop limit); (8) whether the order is agency or professional;[8] (9) whether the order is being handled pursuant to Section 11(a)(1)(G) of the Act and any applicable rules thereunder; (10) whether the order is short or short exempt; (11) whether the order is a bona fide arbitrage order; (12) any limit price and/or stop price; (13) the date and time of order receipt or transmission (as applicable); (14) the market, off-floor firm, or on-floor participant to which the order was transmitted or from which the order was received (if applicable); (15) the order's time in force; (16) any designation as held or not held; (17) any special conditions or instructions (*e.g.*, any customer display or do-not-display

[5] On February 9, 2005, the Exchange's proposal to demutualize took effect. Under the Exchange's new rules, the Exchange's members are referred to as ''participants.''

[6] The proposed rule, for example, would require a floor broker who receives an order from another participant (whether the participant is on-floor or off-floor) to record detailed information relating to the order, any changes to the order, and its execution. Similarly, if a floor broker receives an order and then transmits it to another market, he would be required to record information not only about the order, but about its transmission to another market and any execution that it received in that market. The proposed rule change is designed to provide a complete record of the handling of orders received by the Exchange's floor participants and, together with a recently-adopted rule, will provide a complete record of any orders sent by the Exchange's floor participants to other trading venues. *See* Securities Exchange Act Release No. 52534 (September 29, 2005), 70 FR 58500 (October 6, 2005) (SR–CHX–2004–25) (rule change relating to a prohibition on using a layoff service unless the service provides required information to the Exchange).

[7] This order identifier does not change when modifications are made to the order, or when it is cancelled, allowing any changes to be tracked back to the original order.

[8] The Exchange's rules define a ''professional'' order as one that is for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. *See* CHX Article XXX, Rule 2, Interpretation and Policy .04.

instructions or any all-or-none conditions); (18) any modifications that are made to the details set out in (1) through (17) or (20) below, for all or part of the order, or any cancellation of all or part of the order; (19) the date and time of receipt or transmission of any modifications to, or cancellation of, the order; (20) the date and time of any order expiration; (21) the identity of the party cancelling or modifying the order; (22) the transaction price, if applicable; (23) the number of shares executed, if applicable; (24) the date and time of execution, if applicable; (25) the contra party to the execution (if applicable); (26) the settlement instructions associated with the order, if applicable; (27) system-generated time(s) of recording required information; and (28) any other information that may be required by the Exchange from time to time.[9] Floor participants would be required to record this information immediately after that information is received or becomes available.[10]

Proposed Interpretations and Policies .01 to .09 to the proposed rule change contain additional information about the information that participants must record and preserve. Among other things, these interpretations confirm that each required record of the time of an event must be expressed in terms of hours, minutes, and seconds. These interpretations also provide a definition of the term ''order'' and identify particular items of information that must be provided by participants who receive orders to buy and sell a security and immediately execute those orders.[11] The remaining interpretations note that participants will not be required to record information with respect to orders sent or received through the Exchange's MAX® system or through any other electronic systems that the Exchange recognizes as providing the required information in an acceptable format and set out two limited exceptions to the data-recording requirements.[12]

The Exchange believes that these proposed requirements appropriately permit the Exchange to collect the electronic information needed to conduct automated surveillance of its participants' trading activities.[13] The Exchange has worked to tailor the rules so that they require participants to record and retain information needed to conduct appropriate surveillance, without imposing unnecessary data-collection requirements.[14] Moreover, the Exchange is working to complete changes to its existing Brokerplex® system, so that that system can be used by CHX floor brokers and market makers to record all required order details.[15] As a result, the Exchange's on-floor participants will not be required to develop their own data-recording systems in response to this rule.[16]

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[17] In particular, the CHX believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by permitting the Exchange to require its participants to provide the Exchange with data necessary to conduct appropriate surveillance of its participants' trading activities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received by the Exchange.

[9] *See* CHX Article XX, Proposed Rule 24(b).

[10] *See* CHX Article XX, Proposed Rule 24(c).

[11] Proposed Interpretation and Policy .02 defines an order as ''any written, oral or electronic instruction to effect a transaction.'' This interpretation also notes that a decision by a co-specialist, market maker or floor broker to buy or sell securities for his or her own account on the floor of the Exchange would not constitute an order for purposes of the rule's data recording requirements. This exception for principal trading on the Exchange's floor is designed to recognize that all necessary information about a floor participant's own trading is already captured by the Exchange's trade reporting systems.

Proposed Interpretation and Policy .07 confirms that a floor participant who receives orders to buy and sell the same security and who executes those orders in full immediately upon receipt, would be required to record information only about the security's symbol, the clearing organization, the identity of the participant firm recording the order details, whether the order is short or short exempt, whether the order is being handled pursuant to Section 11(a)(1)(G) of the Act, the transaction price, the number of shares executed, the date and time of execution, settlement instructions, the contra side to the execution, a system-generated time of recording the required information and any other information required from the Exchange from time to time. This requirement is designed to recognize that the Exchange currently believes that it may not be necessary for the Exchange's participants to record detailed order information about orders that are immediately executed; at the same time, however, the Exchange has retained the ability (through paragraph (b)(28)) to require participants to provide additional information about those orders, including information that is set out in other provisions of paragraph (b).

[12] *See* Proposed Interpretations and Policies .04 (regarding orders sent and received through certain systems), .05 (regarding orders that the Exchange expressly recognizes as incompatible for entry into an Exchange system) and .06 (regarding bona fide arbitrage orders and orders to offset a transaction made in error). As set forth below in note 13, the Exchange believes that these exceptions are appropriately tailored to ensure that the Exchange's participants are not required to enter unnecessary information about orders, while still providing information necessary for the Exchange's surveillance efforts.

[13] Moreover, this proposal is consistent with recommendations made by the independent consultant retained by the Exchange under its recent settlement agreement with the Commission. *See* Securities Exchange Act Release No. 48566 (September 30, 2003), Administrative Proceeding File No. 3–11282.

[14] For example, Proposed Interpretation and Policy .04 recognizes that participants are not required to record information that is already captured by the Exchange's systems or by other systems that the Exchange expressly recognizes as providing the required data in an acceptable format. (The Exchange's MAX system already captures all of the information required by this rule). Other exceptions to the recording requirements—such as the exceptions for bona fide arbitrage orders and for orders offsetting transactions made in error—are designed to recognize participants' need to immediately execute certain types of orders, while still requiring prompt input of required order information to permit the Exchange to conduct appropriate surveillance. Finally, Proposed Interpretation and Policy .05—a general provision that would allow the Exchange to identify specific types of orders that might be exempt from the data-recording requirements when they are incompatible for entry into Exchange systems—is designed to cover those rare situations where, due to unexpected consequences of unrelated systems changes or a software failure, participants cannot enter data about a particular type of order into the Exchange's systems for a limited period of time. This exception is not intended to allow participants to avoid the recording requirements of the rule; indeed, it requires participants to record as much information about these orders as possible. The Exchange anticipates that both it and its participants would work quickly to correct any software or systems problems that prevented some or all of the required information from being transmitted to, or received by, the Exchange.

[15] The CHX has represented that these changes would not delay the implementation of the proposed rule change once approved by the Commission. Telephone conversation between Ellen J. Neely, President and General Counsel, CHX, and Richard Holley III, Special Counsel, Division of Market Regulation, Commission, on September 16, 2005. The Exchange's Brokerplex system currently can be used by CHX floor brokers to manage their orders, route orders to the Exchange's co-specialists for execution and report executed trades.

[16] The Exchange's staff will present to the Exchange's Board of Directors a separate rule that confirms the record-keeping obligations of its off-floor participants.

[17] 15 U.S.C. 78f(b).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2004–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–CHX–2004–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2004–38 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6380 Filed 11–17–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52756; File No. SR–NASD–2005–119]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Listing and Trading of Strategic Total Return Securities SM Linked to the CBOE Nasdaq-100 BuyWrite Index

November 9, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On October 14, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to list and trade Strategic Total Return Securities SM (''STRS'' or ''Notes''), the return on which is based upon the CBOE Nasdaq-100 BuyWrite Index (''BXN Index'' or ''Index'') and issued by Morgan Stanley. The text of the proposed rule change is available on the NASD's Web site *(http://www.nasd.com)*, at the principal offices of the Nasdaq, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to list and trade the Notes. The Notes provide for a return based upon the BXN Index.

Description of Notes

The Notes are non-convertible debt issued by Morgan Stanley that are due on October 30, 2011 and have a principal amount and issue price of $10. The Notes will trade as a single, exchange-listed security. However, the principal amount is initially reduce by underwriting commissions of 1.20%, so that the Notes, in fact, are initially valued at $9.88, which is known as the initial net entitlement value (''Initial NEV''). Additional fees of 2% each year reduce the Net Entitlement Value (''NEV''). Because the initial NEV is 1.20% less than the issue price of the securities and because the 2% per annum adjustment amount reduces the NEV over the term of the securities, the BXN Index must increase for the investor to receive an amount upon sale, exchange, redemption or at maturity equal to the issue price for each security. Thus, unlike ordinary debt, the Notes have no guaranteed return of principal and do not pay interest.[4]

The payout on the Notes upon exchange, upon redemption, or at

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the original filing in its entirety.

[4] Telephone conference between Jonathan Cayne, Associate General Counsel, Nasdaq, and Ronesha Butler, Special Attorney, Division of Market Regulation (''Division''), Commission, on November 8, 2005 (relating to additional descriptive material about the Notes provided in prospectus supplement).

maturity will be based on the applicable NEV of the securities determined on a valuation date, as compared to the Initial NEV.

For each trading day, the NEV is equal to $9.88 (*e.g.*, the Initial NEV) multiplied by the ratio of the BXN Index closing value on that trading day over the closing value of the Index on the pricing date (''Initial BXN Index Value'') minus the Adjustment Amount [5] as of that trading day. In other words:

$$NEV_T = NEV_{T-1} * \left(\frac{BXN_T}{BXN_{T-1}}\right) - \text{Adjustment Amount}$$

where

T = each trading day

BXN_T = the closing value of the BXN Index on T

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security, dividend payments or any other ownership right or interest in the portfolio or index of securities comprising the Index. The Commission has previously approved the listing of options on, and other securities the performance of which have been linked to or based on similar and parallel buy-write indexes.[6]

Beginning in October 2008, upon at least 10 but not more than 30 days notice to the holders, Morgan Stanley may redeem the Notes each quarter on certain dates specified in the prospectus (''Exchange Date''). In addition, prior to October 2008, Morgan Stanley may redeem the Notes for mandatory exchange on any Exchange Date if the NEV (which is a value calculated as described in the above paragraph) equals or is less than $2.00 on any trading day. Furthermore, during the period from January 2006 to July 2011, a holder may exchange the Notes each quarter on certain specified dates for an amount of cash for each security equal to the NEV, plus accrued but unpaid interim payments, subject to a minimum of at least 10,000 Notes. The payout on the Notes upon exchange, upon redemption, or at maturity will be based on the applicable NEV of the securities determined on a valuation date, as compared to the Initial NEV. The payout on the Notes upon exchange, upon redemption, or at maturity will be based on the applicable NEV of the securities determined on a valuation date as compared to the Initial NEV.

Description of the Index

The BXN Index [7] is a benchmark index designed to measure the performance of a hypothetical ''buy-write'' [8] strategy on the Nasdaq-100 Index.[9] Developed by the CBOE in cooperation with Nasdaq, the Index was initially announced in 2005.[10] The CBOE developed the BXN Index in response to requests by options portfolio managers that the CBOE provide an objective benchmark for evaluating the performance of buy-write strategies, one of the most popular option trading strategies. In addition, the BXN Index could provide investors with a straightforward indicator of the risk-reducing character of options.

The BXN Index is a passive total return index based on (1) buying a portfolio consisting of the component stocks of the Nasdaq-100, and (2) ''writing'' (or selling) near-term Nasdaq-100 call options with the closest out-of-the money strike price, generally on the third Friday of each month. This strategy consists of a hypothetical portfolio consisting of a ''long'' position indexed to the Nasdaq-100 on which are deemed sold a succession of one-month, at-the-money call options on the Nasdaq-100 listed on the CBOE. Dividends paid on the component stocks underlying the Nasdaq-100 and the dollar value of option premium deemed received from the sold call options are functionally ''reinvested'' in the covered Nasdaq-100 portfolio.

The value of the BXN Index on any given date will equal: (1) The value of the BXN Index on the previous day, multiplied by (2) the daily rate of return [11] on the covered Nasdaq-100

[5] On any trading day, the Adjustment Amount is 2% multiplied by NEV on the previous trading day multiplied by the number of calendar days since the previous calculation of NEV divided by 365.

[6] The BXN Index is similar to Chicago Board Options Exchange's (''CBOE'') BXM and BXD indexes, which are buy-writes on the S&P 500 and the Dow Jones Industrial Average, respectively. The Commission has previously, on multiple occasions, approved the listing and trading of notes linked to the BXM and BXD indexes. *See* Securities Exchange Act Release Nos. 51966, (July 1, 2005), 70 FR 40069 (July 12, 2005) (approving an exception to the requirement in the American Stock Exchange LLC (''Amex'') ''generic'' listing standards pursuant to Rule 19b–4(e) for index-linked notes that index values be disseminated at least every 15 seconds, thereby allowing the listing and trading of notes linked to the BXM and BXD even though the BXM and BXD values are not so disseminated); 51840 (June 14, 2005), 70 FR 35468 (June 20, 2005) (approving the listing and trading of JPMorgan Chase notes linked to the BXD Index); 51634 (April 29, 2005), 70 FR 24138 (May 6, 2005) (approving the listing and trading of Wachovia notes linked to the BXM Index); 51426 (March 23, 2005), 70 FR 16315 (March 30, 2005) (approving the listing and trading of Morgan Stanley notes linked to the BXM Index); and 50719 (November 22, 2004), 69 FR 69644 (November 30, 2004) (approving the listing and trading of Morgan Stanley notes linked to the BXM Index).

[7] Morgan Stanley and Nasdaq have entered into a non-exclusive license agreement providing for the use of the Index by Morgan Stanley in connection with the Notes. Nasdaq is not responsible for and will not participate in the issuance of the Notes.

[8] A ''buy-write'' is a conservative options strategy in which an investor buys a stock or portfolio and writes call options on the stock or portfolio. This strategy is also known as a ''covered call'' strategy. A buy-write strategy provides option premium income to cushion decreases in the value of an equity portfolio, but will underperform stocks in a rising market. A buy-write strategy tends to lessen overall volatility in a portfolio.

[9] The BXN Index consists of a long position in the component securities of the Nasdaq-100 Index and options on the Nasdaq-100 Index. The Commission has approved the listing of numerous securities linked to the performance of the Nasdaq-100 Index as well as options on the Nasdaq-100 Index. *See, e.g.*, Securities Exchange Act Release Nos. 50916 (December 22, 2004), 69 FR 78508 (December 30, 2004) (approving the listing and trading of Performance Leveraged Upside Securities based on the value of the Nasdaq-100 Index); 48065 (June 19, 2003)), 68 FR 38414 (June 27, 2003) (approving the listing and trading of Performance Leveraged Upside Securities based on the value of the Nasdaq-100 Index); 45429 (February 11, 2002), 67 FR 7438 (February 19, 2002) (approving the listing and trading of Enhanced Return Notes Linked to the Nasdaq-100 Index); 45024 (November 5, 2001), 66 FR 56872 (November 13, 2001) (approving the listing and trading of Enhanced Return Notes Linked to the Nasdaq-100 Index); 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (approving the listing and trading of Performance Leveraged Upside Securities based upon the performance of the Nasdaq-100 Index); 43000 (June 30, 2000), 65 FR 42409 (July 10, 2000) (approving the listing and trading of options based upon one-tenth of the value of the Nasdaq-100 Index); 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (approving the listing and trading of Portfolio Depositary Receipts based on the Nasdaq-100 Index); and 33428 (January 5, 1994), 59 FR 1576 (January 11, 1994) (approving the listing and trading of options on the Nasdaq-100 Index).

As of the close of business on September 30, 2005, the adjusted market capitalization of the securities included in the Index ranged from a high of $178 billion to a low of $3 billion. As of the same date, the average daily trading volume for these same securities since the beginning of 2005 ranged from a high of 67 million shares to a low of 450,000 shares.

[10] *See* supra note 6.

[11] The daily rate of return on the covered Nasdaq-100 portfolio is based on (a) the change in the closing value of the stocks in the Nasdaq-100 portfolio, (b) the value of ordinary cash dividends on the stocks underlying the Nasdaq-100 that are trading ''exdividend'' on that date (that is, when transactions in the stock on an organized securities

Continued

portfolio on that date. Thus, the daily change in the BXN Index reflects the daily changes in value of the covered Nasdaq-100 portfolio, which consists of the Nasdaq-100 (including dividends) and the component Nasdaq-100 option. The daily closing price of the BXN Index is calculated and disseminated by the CBOE on its Web site at *http://www.cboe.com* and via the Options Pricing and Reporting Authority (''OPRA'') at the end of each trading day. The value of the Nasdaq-100 Index is disseminated at least once every fifteen (15) seconds throughout the trading day. Nasdaq believes that the intraday dissemination of the Nasdaq-100 Index along with the ability of investors to obtain real-time, intraday Nasdaq-100 call option pricing provides sufficient transparency regarding the BXN Index.[12] In addition, as indicated above, the value of the BXN Index is calculated once every trading day, thereby providing investors with a daily value of such ''hypothetical'' buywrite options strategy on the Nasdaq-100.

As noted above, the Index is not calculated or disseminated continuously throughout the trading day. Instead, the CBOE calculates the value of the Index shortly after the close.[13] In addition, CBOE will disseminate daily an updated value of the amount investors would receive for the Notes if exchanged or redeemed (''Indicative Value''). The Indicative Value equals the performance of the Index less fees and other adjustment amounts, if any. The Indicative Value is calculated by the CBOE after the close of trading and after the BXN is calculated for use by investors during the next trading day. It is designed to provide investors with a daily reference value of the adjusted Index. The Indicative Value may not reflect the precise value of the Notes.

As stated below, in the event the calculation and dissemination of the Index is discontinued, Nasdaq will consult with the Commission and will prohibit the continued listing of the Notes unless otherwise authorized by the Commission.[14]

Listing and Trading Rules

Under NASD Rule 4420(f), Nasdaq may approve for listing and trading innovative securities that cannot be readily categorized under traditional listing guidelines.[15] Nasdaq proposes to list and trade Notes based on the BXN Index under NASD Rule 4420(f).

The Notes, which will be registered under Section 12 of the Act, will initially be subject to Nasdaq's listing criteria for other securities under NASD Rule 4420(f). Specifically, under NASD Rule 4420(f)(1):

(A) The issuer shall have assets in excess of $100 million and stockholders' equity of at least $10 million.[16] In the case of an issuer which is unable to satisfy the income criteria set forth in Rule 4420(a)(1), Nasdaq generally will require the issuer to have the following: (i) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (ii) assets in excess of $100 million and stockholders' equity of at least $20 million;

(B) There must be a minimum of 400 holders of the security; provided, however, that if the instrument is traded in $1,000 denominations, there must be a minimum of 100 holders;

(C) For equity securities designated pursuant to this paragraph, there must be a minimum public distribution of 1,000,000 trading units;

(D) The aggregate market value/principal amount of the security will be at least $4 million.

In addition, Morgan Stanley satisfies the listed marketplace requirement set forth in NASD Rule 4420(f)(2).[17] Lastly, pursuant to NASD Rule 4420(f)(3), prior to the commencement of trading of the Notes, Nasdaq will distribute a circular to members providing guidance regarding compliance responsibilities and requirements, including suitability recommendations, and highlighting the special risks and characteristics of the Notes. In particular, Nasdaq will advise members recommending a transaction in the Notes to: (1) Determine that such transaction is suitable for the customer; and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

The Notes will be subject to Nasdaq's continued listing criterion for other securities pursuant to NASD Rule 4450(c). Under this criterion, the aggregate market value or principal amount of publicly held units must be at least $1 million. The Notes also must have at least two registered and active market makers, which is a continued listing requirement under NASD Rule 4310(c)(1). In addition, Nasdaq will commence delisting or removal proceedings with respect to the Notes (unless the Commission has approved the continued trading of the Notes) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Notes publicly held is less than $400,000;

(ii) If the value of the Index is no longer calculated or widely disseminated as described above in this filing; or

(iii) If such other event shall occur or condition exist which, in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Nasdaq will also consider prohibiting the continued listing of the Notes if Morgan Stanley is not able to meet its obligations on the Notes. The Notes will be subject to the NASD's existing trading halt rules.

Since the Notes will be deemed equity securities for the purpose of NASD Rule 4420(f), the NASD and Nasdaq's existing equity trading rules will apply to the Notes. First, pursuant to NASD Rule 2310 and IM–2310–2, members must have reasonable grounds for believing that a recommendation to a customer regarding the purchase, sale or exchange of any security is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.[18] In

exchange or trading system no longer carry the right to receive that dividend or distribution) as measured from the close in trading on the previous day and (c) the change in the market price of the call option.

[12] Call options on the Nasdaq-100 are traded on the CBOE, and both last sale and quotation information for the call options are disseminated in real-time through OPRA. Nasdaq states that the value of the BXN can be readily approximated as a function of observable market prices throughout the trading day. In particular, such a calculation would require information on the current price of the Nasdaq-100 Index and specific nearest-to-expiration call and put options on that Index. These components trade in highly liquid markets, and real-time prices are available continuously throughout the trading day from a number of sources including Bloomberg and the CBOE.

[13] The Commission previously approved the listing and trading of notes linked to similar CBOE indexes (BXM and BXD) that are not disseminated every 15 seconds. The Commission also recently approved an exception to the 15-second requirement in the Amex ''generic'' listing standards for notes linked to these indexes. *See* supra note 7.

[14] Prior to such change in the manner in which the Index is calculated, or in the event of any Index substitution, Nasdaq will file a proposed rule change pursuant to Rule 19b–4, which must be approved by the Commission prior to continued listing and trading in the Notes.

[15] *See* Securities Exchange Act Release No. 32988 (September 29, 1993); 58 FR 52124 (October 6, 1993).

[16] Morgan Stanley satisfies this listing criterion.

[17] NASD Rule 4420(f)(2) requires issuers of securities designated pursuant to this paragraph to be listed on The Nasdaq National Market or the New York Stock Exchange, Inc. (''NYSE'') or be an affiliate of a company listed on The Nasdaq National Market or the NYSE; provided, however, that the provisions of NASD Rule 4450 will be applied to sovereign issuers of ''other'' securities on a case-by-case basis.

[18] NASD Rule 2310(b) requires members to make reasonable efforts to obtain information concerning a customer's financial status, a customer's tax status, the customer's investment objectives, and

addition, as previously described, Nasdaq will distribute a circular to members providing guidance regarding compliance responsibilities and requirements, including suitability recommendations, and highlighting the special risks and characteristics of the Notes. Furthermore, the Notes will be subject to the equity margin rules. Lastly, the regular equity trading hours of 9:30 a.m. to 4:00 p.m. will apply to transactions in the Notes.

Surveillance

Nasdaq represents that NASD's surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, NASD will rely on its current surveillance procedures governing equity securities, and will include additional monitoring on key pricing dates, such as redemption, call and maturity dates.[19]

Pursuant to Rule 10A–3 of the Act and Section 3 of the Sarbanes-Oxley Act of 2002, Pub. L. No. 107–204, 116 Stat. 745 (2002), Nasdaq will prohibit the initial or continued listing of any security of an issuer that is not in compliance with the requirements set forth therein.

Morgan Stanley will deliver a prospectus in connection with every purchase of the Notes. The procedure for the delivery of a prospectus will be the same as Morgan Stanley's current procedure involving primary offerings.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[20] in general, and with Section 15A(b)(6) of the Act,[21] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–119 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–119. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–119 and should be submitted on or before December 9, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

Nasdaq requests that the Commission approve this filing on an accelerated basis since it raises no new or novel issues and will enable Nasdaq to accommodate the timetable of listing the Notes. In this regard, Nasdaq notes that the Commission has previously approved the listing of securities the performance of which has been linked to the Index.[22]

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A of the Act.[23] Specifically, the Commission finds that the proposal is consistent with section 15(A)(b)(6) of the Act, which requires that the rules be designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[24]

In approving the product, the Commission recognizes that the Index is a passive total return index based on (1) buying a portfolio consisting of the component stocks of the Nasdaq-100, and (2) ''writing'' (or selling) near-term Nasdaq-100 call options, with the closest out-of-the money strike price, generally on the third Friday of each month. Given the large trading volume and capitalization of the compositions of the stocks underlying the Index, the Commission believes that the listing and trading of the Notes that are linked to the BXN Index should not unduly impact the market for the underlying securities compromising the Nasdaq-100 or raise manipulative concerns.[25]

such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

[19] Telephone conference between Jonathan Cayne, Associate General Counsel, Nasdaq, and Ronesha Butler, Special Counsel, Division of Market Regulation, Commission, on November 8, 2005.

[20] 15 U.S.C. 78o–3.

[21] 15 U.S.C. 78o–3(6).

[22] *See* supra note 10.

[23] 15 U.S.C. 78*o*–3.

[24] In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[25] The issuer, Morgan Stanley, disclosed in the prospectus that the original issue price of the Notes includes commissions (and the secondary market prices are likely to exclude commissions) and Morgan Stanley's costs of hedging its obligations under the Notes. These costs could increase the initial value of the Notes, thus affecting the payment investors receive at maturity.

Continued

Moreover, the issuers of the underlying securities comprising the Nasdaq-100 are subject to reporting requirements under the Act, and all of the component stocks are either listed or traded on, or traded through the facilities of, U.S. securities markets.

The Commission also believes that any concerns that a broker-dealer, such as Morgan Stanley, or a subsidiary providing a hedge for the issuer, will incur undue position exposure are minimized by the size of the Notes issuance in relation to the net worth of Morgan Stanley.[26]

Finally, the Commission notes that the value of the Index will be calculated and disseminated by CBOE once every trading day after the close of trading. However, the Commission notes that the value of the Nasdaq-100 will be widely disseminated at least once every fifteen seconds throughout the trading day and that investors are able to obtain real-time call option pricing on the Nasdaq-100 Index during the trading day. Further, the Indicative Value, which will be calculated by the CBOE after the close of trading and after the CBOE calculates the BXN Index for use by investors the next trading day, is designed to provide investors with a daily reference value of the adjusted Index.

Further, the Commission notes that the Nasdaq has agreed to undertake to delist the Notes in the event that CBOE ceases to calculate and disseminate the Index, and Morgan Stanley is unable to arrange to have the BXN Index calculated and widely disseminated through a third party.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register.** Nasdaq has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Nasdaq.[27] Additionally, the Notes will be listed pursuant to Nasdaq's existing hybrid security listing standards as described above. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[28] to approve the proposal on an accelerated basis.

Accordingly, the Commission believes there is good cause, consistent with Sections 15A(b)(6) and 19(b)(2) of the Act,[29] to approve the proposal, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–NASD–2005–119) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6386 Filed 11–17–05; 8:45 am]

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Additionally, the issuer discloses in the prospectus that the hedging activities of its affiliates, including selling call options on the Nasdaq-100, could affect the value of these call option during the half hour period in which their value is determined for purposes of inclusion in the BXN Index. Such hedging activity must, of course, be conducted in accordance with applicable regulatory requirements.

[26] *See* Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (SR–NASD–2001–73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR–Amex–2001–40); and 3774 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (SR–Amex–96–27).

[27] *See* supra note 10.

[28] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[29] 15 U.S.C. 78o3(b)(6) and 78s(b)(2).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52761; File No. SR–NYSE–2005–76]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to iShares® Index Funds of iShares Trust and iShares, Inc.

November 10, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 28, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The Exchange filed the proposed rule change as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to list and trade the following iShares® Index Funds, which are Investment Company Units (''ICUs'') under section 703.16 of the Exchange Listed Company Manual: iShares MSCI℠ Brazil Index Fund, iShares MSCI Hong Kong Index Fund, iShares MSCI Japan Index Fund, iShares MSCI Malaysia Index Fund, iShares MSCI Singapore Index Fund, iShares MSCI South Korea Index Fund, iShares MSCI Taiwan Index Fund, iShares MSCI United Kingdom Index Fund, and iShares S&P Europe 350 Index Fund.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The NYSE notes that it has adopted listing standards applicable to ICUs, which are consistent with the listing criteria currently used by other exchanges, and trading standards pursuant to which the Exchange may trade ICUs on the Exchange, including on an unlisted trading privileges (''UTP'') basis.[5] The Exchange now proposes to list the following iShares Index Funds (''Funds''), which are ICUs, under section 703.16 of the Exchange

[4] MSCI and MSCI Indices are registered service marks of Morgan Stanley & Co., Incorporated.

[5] In 1996, the Commission approved section 703.16 of the Listed Company Manual, which sets forth the rules related to the listing of ICUs. *See* Securities Exchange Act Release No. 36923, March 5, 1996; 61 FR 10410, March 13, 1996 (SR–NYSE–95–23). In 2000, the Commission also approved the Exchange's generic listing standards for the listing and trading, or the trading pursuant to UTP, of ICUs under Section 703.16 of the Listed Company Manual and Exchange Rule 1100. *See* Securities Exchange Act Release No. 43679, December 5, 2000; 65 FR 77949, December 13, 2000 (SR–NYSE–00–46).

Listed Company Manual (''Manual''): iShares MSCI Brazil Index Fund, iShares MSCI Hong Kong Index Fund, iShares MSCI Japan Index Fund, iShares MSCI Malaysia Index Fund, iShares MSCI Singapore Index Fund, iShares MSCI South Korea Index Fund, iShares MSCI Taiwan Index Fund, iShares MSCI United Kingdom Index Fund, and iShares S&P Europe 350 Index Fund.

The Funds are currently listed and traded on the American Stock Exchange LLC (''Amex'')[6] and the issuer intends to move listing of the Funds to the NYSE. The Funds also trade on the NYSE[7] on a UTP basis and other securities exchanges[8] and in the over-the-counter market.[9]

The shares of the Funds are issued by iShares, Inc. and, for iShares S&P Europe 350 Index Fund, iShares Trust, which are open-ended management investment companies. Barclays Global Fund Advisors (''BGFA''), a subsidiary of Barclays Global Investors, N.A. (''BGI''), is the investment advisor (''Advisor'') for each Fund. BGI is a wholly owned indirect subsidiary of Barclays Bank PLC of the United Kingdom. BGFA and its affiliates are not affiliated with the index providers (MSCI and S&P). Investors Bank and Trust Company serves as administrator, custodian and transfer agent for the Funds and SEI Investments Distribution Co. is distributor for the Funds. The distributor is not affiliated with the NYSE or BGFA.

The number of shares of each Fund outstanding as of September 15, 2005 ranged from approximately 15 million shares (iShares S&P Europe 350) to approximately 698 million shares (iShares MSCI Japan). The NYSE notes that these numbers far exceed the minimum number of shares to be issued in connection with initial listing of the Funds on the Amex in 1996 and in 2000.[10] A minimum of two Creation Units of each MSCI Fund (ranging from 40,000 to 200,000 shares per Creation Unit) were required to be outstanding at the time of listing on the Amex, with the exception of iShares MSCI Japan Index Fund, for which one Creation Unit (600,000 shares) was required to be outstanding.

The NYSE notes that these number of shares outstanding also far exceed the 100,000 minimum number of shares required to be outstanding in connection with listing of ICUs under Rule 19b–4(e)[11] under the Act[12] pursuant to the Exchange's generic listing standards in Section 703.16 of the Manual. In addition, the Exchange has required a minimum number of 100,000 shares of ICUs to be outstanding in connection with initial listing of iShares FTSE/Xinhua China 25 Index Fund, which the Commission noted is comparable to requirements previously applied to listed series of ICUs.[13] The operation of the Funds, specifically, the creation and redemption process, is described in more detail in the prior Amex Listing Orders and the NYSE UTP Orders and has not materially changed.[14]

Correlation

According to the Funds' prospectus, BGFA expects that over time, the correlation between each Fund's performance and that of its underlying index, before fees and expenses, will be 95% or better. A figure of 100% would indicate perfect correlation. Any correlation of less than 100% is called ''tracking error.'' A Fund using a representative sampling strategy (which all of the Funds utilize) can be expected to have a greater tracking error than a Fund using a replication strategy. Replication is a strategy in which a Fund invests in substantially all of the securities in its underlying index in approximately the same proportions as in the underlying index.

The Funds have chosen to pursue a representative sampling strategy which, by its very nature, entails some risk of tracking error. (It should also be noted that Fund expenses, the timing of cash flows, and other factors all contribute to tracking error.) The Web site for the Funds, *http://www.iShares.com*, contains detailed information on the performance and the tracking error for each Fund.[15]

Industry Concentration Policy

As disclosed in the applicable Fund prospectus, each of the iShares MSCI Singapore Index and iShares MSCI South Korea Index Funds has the

[6] The Funds (with the exception of the S&P Europe 350 Fund) were formerly known as World Equity Benchmark Shares or WEBS, and an initial series of WEBS, including the Funds that are the subject of the instant filing were initially approved for listing and trading on the Amex in 1996. *See* Securities Exchange Act Release No. 36947, March 8, 1996, 61 FR 10606, March 14, 1996 (SR–Amex–95–43). The iShares S&P Europe 350 Fund was approved for listing and trading on the Amex in Securities Exchange Act Release No. 34–42786, May 15, 2000; 65 FR 33586, May 24, 2000 (SR–Amex–99–49). Collectively these Commission orders are subsequently referred to as the ''Amex Listing Orders.''

[7] The Commission has previously approved trading on the Exchange on a UTP basis of the iShares MSCI Japan Index Fund. *See* Securities Exchange Act Release No. 46298, August 1, 2002; 67 FR 51614, August 8, 2002; (SR–NYSE–2002–27). The Commission also has approved trading on the Exchange of the following iShares Funds on a UTP basis: iShares MSCI EAFE; iShares S&P Europe 350; iShares MSCI Taiwan; iShares MSCI Pacific ex-Japan; iShares MSCI Brazil; iShares MSCI United Kingdom; iShares MSCI South Korea; iShares MSCI Singapore; iShares MSCI Germany; iShares MSCI Australia; iShares MSCI Mexico; iShares MSCI Hong Kong; iShares MSCI South Africa; iShares MSCI Emerging Markets Free; and iShares MSCI Malaysia. *See* Securities Exchange Act Release No. 50142, August 3, 2004; 69 FR 48539, August 10, 2004; (SR–NYSE–2004–27). Except as noted below, information relating to the Funds and the indexes underlying the Funds as described in SR–NYSE–2002–27 and SR–NYSE–2004–27 is incorporated by reference herein. Barclays Global Fund Advisors, Inc., the investment advisor for each Fund (''BGFA'' or the ''Advisor''), has represented to the Exchange that, except for the information referenced herein, the information included in the prospectuses and Statements of Additional Information upon which information in SR–NYSE–2002–27 and SR–NYSE–2004–27 was based has not materially changed since Commission approval of those filings. Telephone conversation by and between Michou Nguyen, Attorney, Division of Market Regulation (''Division''), Commission, and John Carey, Assistant General Counsel, NYSE, on November 1, 2005. Collectively, these Commission orders are subsequently referred to as the ''NYSE UTP Orders.''

[8] *See e.g.*, Securities Exchange Act Release No. 39117, September 22, 1997; 62 FR 50973, September 29, 1997 (SR–CHX–96–14) (approving the UTP trading of WEBS).

[9] Additional information regarding the Funds (except for the S&P Europe 350 Index Fund) is included in the Prospectus of iShares, Inc., dated January 1, 2005, as revised September 23, 2005, and Statement of Additional Information (''SAI'') of iShares, Inc., dated January 1, 2005, as revised September 23, 2005. For iShares S&P Europe 350 Index Fund, additional information is included in the Prospectus of iShares Trust, dated August 1, 2005, as revised September 12, 2005, and SAI of iShares Trust, dated August 24, 2005, as revised September 12, 2005. Additional Information for the Funds is available on the iShares Web site (*http://www.iShares.com*). Fund information relating to NAV, returns, dividends, component stock holdings and other information is updated on a daily basis on the iShares Web site.

While the Advisor would manage the Funds, the Funds' Board of Directors would have overall responsibility for the Funds' operations. The composition of the Board is, and would be, in compliance with the requirements of section 10 of the Investment Company Act of 1940 (''1940 Act''). The Funds are subject to and must comply with section 303A.06 of the Manual, which requires that the Funds have an audit committee that complies with SEC Rule 10A–3.

[10] *See* Securities Exchange Act Release No. 36947, March 8, 1996, 61 FR 10606, March 14, 1996 (SR–Amex–95–43); Securities Exchange Act Release No. 42786, May 15, 2000, 65 FR 33586, May 24, 2000 (SR–Amex–99–49).

[11] 17 CFR 240.19b–4(e).

[12] U.S.C. 78a.

[13] *See* note 51 of Securities Exchange Act Release No. 50505, October 8, 2004; 69 FR 61280, October 15, 2004; (SR–NYSE–2004–55).

[14] Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

[15] The price at which the Funds' shares trade should be disciplined by arbitrage opportunities created by the ability to purchase or redeem shares of the Funds in Creation Unit Aggregations throughout the trading day. This should help ensure that the Funds' shares will not trade at a material discount or premium to their net asset value or redemption value.

following concentration policy: with respect to the two most heavily weighted industries or groups of industries in its underlying index, the Fund will invest in securities (consistent with its investment objective and other investment policies) so that the weighting of each such industry or group of industries in the Fund does not diverge by more than 10% from the respective weighting of such industry or group of industries in its underlying index. An exception to this policy is that if investment in the stock of a single issuer would account for more than 25% of the Fund, the Fund will invest less than 25% of its net assets in such stock and will reallocate the excess to stock(s) in the same industry or group of industries, and/or to stock(s) in another industry or group of industries, in its underlying index. Each Fund will evaluate these industry weightings at least weekly, and at the time of evaluation will adjust its portfolio composition to the extent necessary to maintain compliance with the above policy.

Each of the iShares MSCI Brazil Index, iShares MSCI Hong Kong Index, iShares MSCI Malaysia Index, iShares MSCI Japan Index, iShares MSCI Taiwan Index and iShares MSCI United Kingdom Index Funds will not concentrate its investments (*i.e.*, hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except that, to the extent practicable, the Fund will concentrate to approximately the same extent that its underlying index concentrates in the stocks of such particular industry or group of industries.[16]

The iShares S&P Europe 350 Index Fund will not concentrate its investments (*i.e.*, hold 25% or more of its total assets) in a particular industry or group of industries, except that a Fund will concentrate its investments to approximately the same extent that its underlying index is so concentrated. For purposes of this limitation, securities of the U.S. Government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. Government securities, and securities of state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

BGI has represented that each of the following Funds will invest at all times at least ninety percent (90%) of its total assets in component securities that are represented in the underlying index for such Fund and in ADRs representing the component securities in the underlying index for such Fund: iShares S&P Europe 350 Index Fund; iShares MSCI United Kingdom Index Fund; iShares MSCI Hong Kong Index Fund; iShares MSCI Singapore Index Fund; iShares MSCI Japan Index Fund; and iShares MSCI Malaysia Index Fund. Each of these Funds will invest not more than ten percent (10%) of fund assets in ADRs and other securities [17] that are not included in the component securities of their underlying index or representing the component securities of their underlying index.

BGI has further represented that each of the following Funds will invest at all times at least eighty percent (80%) of its total assets in component securities that are represented in the underlying index for such Fund and in ADRs and other securities [18] representing the component securities in the underlying index for such Fund, and at least half of the remaining twenty percent (20%) of its assets in such stocks or in stocks included in the relevant market but not in the index: iShares MSCI Brazil Index Fund; iShares MSCI South Korea Index Fund; and iShares MSCI Taiwan Index Fund. Each of these Funds will invest not more than twenty percent (20%) of fund assets in ADRs that are not included in the component securities of their underlying index or representing the component securities of their underlying index.

Finally, BGI has represented that each of the ADRs in which these Funds will invest shall be listed on a national securities exchange or the Nasdaq National Market.

The Exchange believes that these concentration requirements and policies prevent any Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in an Index Fund could become a surrogate for trading a single or a few unregistered securities.[19]

Availability of Information Regarding iShares and the Underlying Indexes

The MSCI and S&P Indexes are calculated by MSCI and S&P each trading day in the applicable foreign exchange markets based on official closing prices in such exchange markets. For each trading day, MSCI and S&P publicly disseminate the Index values for the previous day's close. The Index methodology for the MSCI Indexes, including weighting methodology, component selection criteria, calculation methodology, and changes to the Index, has been updated and is described in SR–NYSE 2005–70.[20] The Index methodology for the S&P 350 Europe Index has not materially changed from the description in the NYSE UTP Order.[21] The Indexes are reported periodically in major financial publications and also are available through vendors of financial information.[22] BGI now makes available every 60 seconds (through dissemination by vendors such as Bloomberg and Reuters) an updated index value for those Indices that are based on foreign trading markets whose hours overlap with the NYSE trading hours of 9:30 a.m. to 4:15 p.m. Eastern Time (*i.e.*, the iShares MSCI$_{SM}$ Brazil Index, iShares MSCI United Kingdom Index, and iShares S&P Europe 350 Index). Otherwise, if the foreign market is closed during NYSE trading hours, BGI provides closing index value on *http://www.ishares.com*.[23]

To provide current pricing information for the Funds, there will be disseminated through the facilities of the Consolidated Tape Association an amount per iShare representing the sum of the estimated Balancing Amount effective through and including the previous business day plus the current value of the Deposit Securities in U.S.

[16] Telephone conversation by and between Michou Nguyen, Attorney, Division, and John Carey, Assistant General Counsel, NYSE, on November 3, 2005.

[17] Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005

[18] *Id.*

[19] 19 *Id.* Additionally, the MSCI and S&P index methodologies generally seek to have represented either 85% of the free float adjusted market capitalization of a country's stock market or (with the iShares S&P Europe 350 Index Fund) all securities comprising 95% of the eligible investable universe in fourteen European markets and the United Kingdom, which the Exchange notes makes it unlikely that the Funds will become surrogates for trading a single or a few unregistered stocks. Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

[20] *Id.*

[21] *Id.*

[22] As the Commission has previously stated, when a broker-dealer, or a broker-dealer's affiliate such as MSCI, is involved in the development and maintenance of a stock index upon which a product such as iShares is based, the broker-dealer or its affiliate should have procedures designed specifically to address the improper sharing of information. See Securities Exchange Act Release No. 52178, July 29, 2005; 70 FR 46244, August 8, 2005; (SR–NYSE–2005–41). The Exchange notes that MSCI has implemented procedures to prevent the misuse of material, non-public information regarding changes to component stocks in the MSCI Indexes. The Commission has stated that it believes that the information barrier procedures put in place by MSCI address the unauthorized transfer and misuse of material, non-public information. *See Id.*

[23] Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

Dollars, on a per iShare basis. This amount is referred to herein as the ''indicative optimized portfolio value'' (the ''IOPV'') and will be calculated by an independent third party such as Bloomberg L.P. The IOPV will be disseminated every fifteen seconds during regular NYSE trading hours of 9:30 a.m. to 4:15 p.m. (New York time). Because the Funds utilize a representative sampling strategy, the IOPV likely will not reflect the value of all securities included in the applicable indexes. In addition, the IOPV will not necessarily reflect the precise composition of the current portfolio of securities held by the Funds at a particular moment. The IOPV disseminated during NYSE trading hours should not be viewed as a real-time update of the NAV of the Funds, which is calculated only once a day.[24] It is expected, however, that during the trading day the IOPV will closely approximate the value per share of the portfolio of securities for the Funds except under unusual circumstances.

For each of the Funds for which there is an overlap in trading hours between the foreign and U.S. markets, the IOPV calculator will update the applicable IOPV every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the currency exchange rate. For all Funds, (including Funds for which there is no overlap in trading hours between the foreign and U.S. markets), when the foreign market or markets are closed but U.S. markets are open, the IOPV will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign market closes. The IOPV will also include the applicable cash component for each Fund.

The Exchange notes that, except as modified by this filing, all representations made by the Exchange in SR–NYSE–2002–27 and SR–NYSE–2004–27 relating to regulation of UTP trading of the Funds, including surveillance procedures, Information Memos and due diligence, among other matters, will be fully applicable to trading of the Funds upon Exchange listing.

Stop and Stop Limit Orders

Commentary .30 to Exchange Rule 13 provides that stop and stop limit orders in an ICU shall be elected by a quotation, but specifies that if the electing bid or an offer is more than 0.10 points away from the last sale and is for the specialist's dealer account, prior Floor Official approval is required for the election to be effective. The Exchange states that this rule applies to ICUs generally.

Rule 460.10

Rule 460.10 generally precludes certain business relationships between an issuer and the specialist (or its affiliate) in the issuer's securities. Exceptions in the Rule permit specialists in ETF shares to enter into Creation Unit transactions through the Distributor to facilitate the maintenance of a fair and orderly market. A specialist Creation Unit transaction may only be effected on the same terms and conditions as any other investor, and only at the net asset value of the ETF shares. A specialist (or its affiliate) may acquire a position in excess of 10% of the outstanding issue of the ETF shares, provided, however, that a specialist registered in a security issued by an investment company may purchase and redeem the investment company unit or securities that can be subdivided or converted into such unit, from the investment company as appropriate to facilitate the maintenance of a fair and orderly market in the subject security.

Trading Halts

In order to halt the trading of the Funds, the Exchange may consider, among other things, factors such as the extent to which trading is not occurring in underlying security(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Fund shares is subject to trading halts caused by extraordinary market volatility pursuant to Exchange Rule 80B. The Exchange will suspend trading in a Fund if the Index value or IOPV applicable to such Fund is no longer calculated or disseminated.[25]

Prospectus or Product Description Delivery

The Commission has granted iShares, Inc. an exemption from certain prospectus delivery requirements under section 24(d)[26] of the 1940 Act.[27] Any product description used in reliance on a section 24(d) exemptive order will comply with all representations made therein and all conditions thereto. The Exchange, in an Information Memo to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus or product description delivery requirements applicable to the Funds and will refer members and member organizations to NYSE Rule 1100(b). The Information Memo will also advise members and member organizations that delivery of a prospectus to customers in lieu of a product description would satisfy the requirements of Rule 1100(b).

Surveillance Procedures

The Exchange will utilize its existing surveillance procedures applicable to ICUs to monitor trading in the Funds. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Funds.

The Exchange believes that surveillance procedures applicable to trading in iShares are comparable to those applicable to other ICUs currently trading on the Exchange. The Exchange believes that its surveillance procedures, which the Exchange has filed with the Commission, are adequate to properly monitor the trading of the Funds. The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in both the Fund shares and the component securities through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG.

Original and Annual Listing Fees

The original listing fee applicable to each Fund for listing on the Exchange is $5,000, and the continuing fee would be $2,000 for each Fund, paid annually.

[24] As of the date of NYSE's filing of SR–NYSE 2005–76, the NAV for each of the Funds is generally calculated at 4 p.m. (New York time) on each trading day, except that the NAV for each of the iShares MSCI Malaysia Index Fund, iShares MSCI South Korea Index Fund, and iShares MSCI Taiwan Index Fund is generally calculated at 11 a.m. (New York time) on each trading day. Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

[25] In the event an Index value or IOPV is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss alternative measures that may be appropriate under the circumstances.

[26] 15 U.S.C. 80a–24.

[27] *See, In the Matter of iShares, Inc., et al.*, Investment Company Act Release No. 25623 (June 25, 2002).

Trading Hours

The trading hours for the Funds on the Exchange will be 9:30 a.m. to 4:15 p.m.

2. Statutory Basis

The NYSE believes that its proposal is consistent with section 6(b) of the Act [28] in general, and furthers the objectives of section 6(b)(5) of the Act [29] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [30] and subparagraph (f)(6) of Rule 19b–4 thereunder.[31] As required under Rule 19b–4(f)(6)(iii),[32] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[33] However, Rule 19b–4(f)(6)(iii) [34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, the Exchange has requested that the Commission waive the 30-day operative delay and render the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the 30-day operative delay would enable investors to avail themselves immediately to trading opportunities in the Funds. In addition, the Commission notes that the Funds have been previously approved for trading on the NYSE.[35] Therefore, the Commission does not believe that the proposed rule change raises new regulatory issues. For the reasons stated above, the Commission designates the proposal to become operative on November 18, 2005.[36]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9309.

All submissions should refer to File Number SR–NYSE–2005–76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–76 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6375 Filed 11–17–05; 8:45 am]

BILLING CODE 8010–01–P

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] *Id.*

[34] *Id.*

[34] *See supra,* footnote 7.

[36] For purposes of waiving the operative date of this proposal only, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52768; File No. SR–NYSE–2005–64]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change to Add Rules Regarding Time Tracking Requirements of Specialists and Specialist Organizations to Its Minor Rule Violation Plan

November 10, 2005.

On September 22, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Minor Rule Violation Plan (''MRVP'') to include NYSE Rule 103.12, which requires specialists and specialist organizations to record and report the actual time spent working as a specialist or clerk while on the trading floor of the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 7, 2005.[3] The Commission received no comments regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[5] because a rule that is reasonably designed to encourage specialists and clerks to report accurately the time they work on the trading floor should help the Exchange carry out its supervisory responsibilities and thereby help protect investors and the public interest. The Commission also believes that handling violations of NYSE Rule 103.12 pursuant to the MRVP is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[6] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing NYSE Rule 476A provides procedural rights to a person fined under the MRVP to contest the fine and permits a hearing on the matter, the Commission believes the MRVP, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.[7]

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act[8] which governs minor rule violation plans. The Commission believes that the change to the MRVP will strengthen its ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires formal disciplinary action under NYSE Rule 476.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[9] and Rule 19d–1(c)(2) under the Act,[10] that the proposed rule change (SR–NYSE–2005–64) be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6378 Filed 11–17–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 52550 (October 3, 2005), 70 FR 58770.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[7] 15 U.S.C. 78f(b)(7) and 78f(d)(1).

[8] 17 CFR 240.19d–1(c)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 240.19d–1(c)(2).

[11] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52769; File No. SR–PCX–2005–119]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Regarding Clearly Erroneous Executions

November 10, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. On October 27, 2005, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On November 9, 2005, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] The Exchange filed the proposed rule change as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[5] which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, through PCXE, proposes to amend its rules governing the Archipelago Exchange, the equities trading facility of PCXE. This filing proposes to amend PCXE Rule 7.10 regarding clearly erroneous executions. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

Rules of PCX Equities, Inc.

Rule 7 Equities Trading

Rule 7.10. Clearly Erroneous Executions

(a)–(b) No change.

(c) Review Procedures.

(1) No change.

(2) If [a party] *an ETP Holder* affected by a determination made under this Rule so requests within the time permitted below, the Clearly Erroneous Execution Panel (''CEE Panel'') will review decisions made by the Officer under this Rule, including whether a clearly erroneous execution occurred and whether the correct adjustment was made*; provided however that the CEE Panel will not review decisions made by*

[3] Amendment No. 1 properly identified proposed rule text that had not been indicated as new text in the original filing.

[4] Amendment No. 2 corrected minor typographical errors and properly indentified changes being made to existing rule text.

[5] 17 CFR 240.19b–4(f)(6).

[6] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on November 9, 2005, the date on which the Exchange submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

an officer under subsection (d) of this Rule if such Officer also determines under subsection (d) of this Rule that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest.

(A)–(B) No change.

(3)–(4) No change.

(d) System Disruption and Malfunctions. In the event of any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the PCXE, or extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, the Officer, on his or her own motion, may review such transactions and declare such transactions arising out of the use or operation of such facilities during such period null and void or modify the terms of these transactions *if the Officer determines that the transaction(s) is clearly erroneous, or that such actions are necessary for the maintenance of a fair and orderly market or for the protection of investors and the public interest.* Absent extraordinary circumstances, any such action of the Officer pursuant to this subsection (d) shall be taken within thirty (30) minutes of detection of the erroneous transaction. Each ETP Holder involved in the transaction shall be notified as soon as practicable, and the ETP Holder aggrieved by the action may appeal such action in accordance with the provisions of subsection (c)(2)–(4).

(e) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

Currently, PCXE Rule 7.10 sets forth procedures for PCXE when the terms of a transaction executed on PCXE are clearly erroneous. PCXE Rule 7.10 provides for PCXE review procedures, an appeal process and various procedures with respect to system disruption and malfunction and trade nullification and price adjustments for unlisted trading privileges securities that are subject to an initial public offering.

At this time, the Exchange proposes to amend PCXE Rule 7.10 with respect to the appeal procedures. Currently, PCXE Rule 7.10(c)(2) provides that if a party affected by a determination made under this Rule so requests within the time permitted, the Clearly Erroneous Execution Panel (''CEE Panel'') will review decisions made by an officer of PCXE under this rule, including whether a clearly erroneous execution occurred and whether the correct adjustment was made. The Exchange proposes to modify this provision to provide that the CEE Panel will not review decisions made by a PCXE officer under this rule in the event of any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the PCXE, or extraordinary market conditions or other circumstances, when the officer making the determination also determines on his or her own motion that it is necessary to nullify or modify clearly erroneous transactions because the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. PCXE also proposes to amend subsection (d) of PCXE Rule 7.10 to state that PCXE's authority may be exercised in the event of extraordinary market conditions or other circumstances in which the PCXE officer determines that the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest. PCXE believes that in such circumstances review(s) by the CEE Panel(s) of large numbers of trades would be impractical and could expose market participants to unacceptable levels of risk. PCXE expects that the amended rule would be used only on rare occasions and primarily in circumstances where the disruption or malfunction of a system resulted in the execution of large numbers of trades with obvious errors, such as prices substantially unrelated to the inside market.[7] According to the Exchange, with this rule change, it would be able to keep the markets orderly during such times when finality of trade rulings is necessary. The Exchange notes that this rule proposal is based on the National Association of Securities Dealers' (''NASD'') Rule 11890(c)(l).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[8] in general, and furthers the objectives of section 6(b)(5) of the Act[9] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The PCX neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and

[7] For example, PCX believes that if an erroneously priced order or quote causes a large number of transactions to occur at prices far in excess of a security's true value and if a decision is made to break all of the affected trades, some sellers may appeal the decision to break the trades. If a market participant is a party to trades on both sides of the market, and some remain broken while others are appealed and reinstated, it will suffer losses that arise solely from the inconsistent treatment of its trades.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(6) of Rule 19b–4 thereunder.[11] As required under Rule 19b–4(f)(6)(iii),[12] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–119 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9309.

All submissions should refer to File Number SR–PCX–2005–119. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–119 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6374 Filed 11–17–05; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* supra note 6.

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5231]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Summer Language Institute for American Youth

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–06–16.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: January 18, 2006.

Executive Summary: The Youth Programs Division, Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs, announces an open competition for projects to provide Arabic or Chinese language instruction overseas for American high school students in Summer 2006. 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 implement six-to eight-week summer institutes in an Arabic-speaking country and/or a Chinese-speaking country (hereafter referred to as China and understood to include mainland China and Taiwan as training sites) for U.S. students aged 15 to 18 to have both formal and informal Arabic or Chinese language instruction through a comprehensive exchange experience. ECA plans to award one or two grants for either an Arabic Institute or a Chinese Institute, or both. Applicants may apply to implement institutes in one or both languages.

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 that 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

The Bureau of Educational and Cultural Affairs (ECA) is supporting the participation of youth in intensive, substantive educational experiences that will promote language learning as well as engage the successor generation in a dialogue for greater understanding.

Promoting the study of critical languages among American youth is a vital element of America's security in the post-9/11 world, as well as promoting mutual understanding and respect between the people of the United States and the citizens of strategically important countries around the world.

The goals of the Summer Language Institute for American Youth are:

- To improve the ability of Americans to engage with the people of Arabic or Chinese-speaking countries through the shared language of the partner country;
- To develop a cadre of Americans with advanced linguistic skills and cultural understanding who are able to advance the international dialogue, promote the security of the United States, and compete effectively in the global economy;
- To provide a tangible incentive for the learning and use of foreign languages.

In order to achieve these goals, the Bureau is offering the opportunity for American secondary school students to gain basic to intermediate skills in the Arabic language or the Chinese language. ECA plans to award one or two grants for either an Arabic Institute or a Chinese Institute, or both. Applicants may apply to implement institutes in one or both languages. 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.

The Summer Language Institutes for American Youth are to be conducted in an Arabic-speaking country (Egypt or Jordan) or in China. Through these institutes, a total of 30 to 40 high school students from the United States will spend six to eight weeks on a program abroad in the summer of 2006. The Arabic Institute and the Chinese Institute will provide not only intensive language instruction in a classroom setting but will also provide language-learning opportunities through immersion in the cultural, social, educational, and home life of the partner country. The exchange program will enhance the participants' knowledge of the host country's history, culture, and political system.

Indicators of a successful program

- Pre- and post-institute language testing of participants will demonstrate a substantive increase in language skills.
- Participants will demonstrate—for example, through surveys, essays, focus groups, or presentations—a deeper understanding of the host country's culture, including its customs, beliefs, and practices.
- Alumni will continue their foreign language study and/or participate in other exchanges to Arabic-speaking countries or to China.
- Students and families from the host country who engage with the U.S. participants demonstrate an interest in learning more about the United States.

Capacity of administering organization: U.S. applicant organizations must have the necessary capacity in the partner country to implement the program through either its own offices or a partner institution. Organizations applying for this grant must demonstrate their (or their partners') capacity for conducting projects of this nature, focusing on three areas of competency: (1) Provision of foreign language instruction programs and provision of educational and cultural exchange activities as outlined in this document; (2) age-appropriate programming for the target audience; and (3) experience in working with the proposed partner country or countries.

Country Selection

For the Arabic Institute: Applicant organizations should plan to send students to Egypt or Jordan, in consideration of both linguistic and safety issues.

For the Chinese Institute: Applicant organizations should plan to send students to Mandarin-speaking regions of mainland China or Taiwan.

Participant Selection: The grant recipient will recruit, screen, and select a group of students, aged 15 to 18, representing the ethnic, racial, socio-economic, and religious diversity of the United States. Participants may be beginning Arabic/Chinese speakers who have had little or no instruction in the language or they may be students with basic language skills who are ready for intermediate instruction. The delegation may be a mix of both groups, as long as the proposed institute makes explicit accommodation for learners of varying skill levels. Selected students will also demonstrate suitability for an intensive exchange experience.

Institute Summary: This six to eight-week summer institute overseas for high school students will focus on language study and cultural immersion and will include four to six hours per day of formal language training, plus excursions, briefings and discussions on key issues.

The grant recipient will provide instruction in the Arabic or Chinese language for a delegation of teenagers who may be beginning and/or intermediate students of the language. While teaching conversational Arabic or Chinese will be necessary to help students cope with their immersion setting, classes should also provide formal instruction in grammar, vocabulary, and pronunciation, and will cover reading, speaking, listening, and writing.

Arabic: The institute should emphasize the acquisition of colloquial Arabic, though it is useful for students to learn Modern Standard Arabic and its study may also be woven into the program.

Chinese: Students must learn Mandarin. Teaching materials used in the program should be available in both simplified and traditional character versions. The Hanyu pinyin romanization system should be used.

During the exchange, the students will also have the opportunity to participate in activities designed to teach them about community life, citizen participation, and the culture and history of the host country. Activities should engage host country teenagers as much as possible. The program activities will introduce the students to the community—its leaders and institutions, the ways citizens participate in local government, and the resolution of societal problems—and will include educational excursions that serve to enhance the visitors' understanding of the history, culture, media, political institutions, ethnic diversity, and environment of the region. ECA requires participation in a community service project that also involves youth of a similar age from the host country. Participants should also have opportunities to give presentations on their lives in the United States in community forums.

Since the purpose of the institute is to provide an immersion program for the language learners and increase their language skills, ECA strongly urges organizations to arrange homestays with local families for as much of the duration of the institute as possible, balancing this with time spent in a hotel or dormitory setting where the participants may be more inclined to speak English.

The delegation should have an adult accompany them on the international flight, and adult staff should be available to support the participants during the course of the institute.

Applicants must provide a plan of follow-up with alumni by e-mail, through a Web site or Web log, and/or in person, and should assist alumni in maintaining connections with organizations and individuals in the host country. The grant recipient will be expected to work in coordination with ECA to track the activities of alumni and their continued interest in studying the language.

Grant funding includes recruitment and selection of participants, orientation, travel, tuition and maintenance costs, educational enhancements, cultural and social activities, alumni activities, and administrative costs.

Note: All printed materials and formal oral communications should acknowledge the role of the U.S. Department of State's Bureau of Educational and Cultural Affairs. Drafts of printed materials developed for this program should be submitted to ECA for review and distribution as it sees fit. Copies of materials given to and prepared by the students should be provided to the ECA program office in a timely fashion.

Proposal Contents

In a maximum 20-page, one-sided, double-spaced narrative, please describe the proposed project in detail. Clearly outline whether you are applying to implement an Arabic Institute, a Chinese Institute, or both. We recommend using the following outline to organize your narrative. Refer to the proposal review criteria in this document for further guidance.

(1) Vision—Statement of the applicant's objectives as they relate to the Department's goals.

(2) Preparation—Describe the program planning and the recruitment, selection, orientation of participants.

(3) Institute Activities—Outline with detail the exchange activity (language instruction, educational excursions, cultural activities, community service, participant monitoring, logistics). Include a sample itinerary under Tab E.

(4) Follow-on Activities—Describe programming and support provided for exchange alumni.

(5) Diversity—Describe how various aspects of the program will promote an understanding of geographic, ethnic, and socioeconomic diversity in the U.S. and the partner country or countries.

(6) Program Evaluation Plan—Describe the design and methodology.

(7) Organization Capacity and Program Management—Describe the organization and program staffing (identify individuals and their responsibilities, both in the U.S. and overseas), structure, and resources. Indicate plan for working with ECA and PAS.

(8) Work Plan/Time Frame.

Please include any attachments in Tab E of your proposal. Limit the attachments to those essential for completing an understanding of the proposal.

Programs must comply with J–1 visa regulations. Please refer to the Proposal Submission Instructions for further information.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: 2006.

Approximate Total Funding: $300,000.

Approximate Number of Awards: One or two.

Approximate Average Award: Two awards at approximately $150,000 or one award at $300,000.

Anticipated Award Date: Pending availability of funds, the proposed start date is April 15, 2006.

Anticipated Project Completion Date: February 28, 2007.

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.

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, you must maintain written records to support all costs which are claimed as your 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 you do 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. ECA anticipates awarding a grant (or grants) in an amount over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

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 Youth Programs Division, Office of Citizen Exchanges (ECA/PE/C/PY), room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 203–7502, Fax (202) 203–7529, or E-mail *NowlinJR@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–06–16) when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Bureau Program Officer Carolyn Lantz and refer to the Funding Opportunity Number (ECA/PE/C/PY–06–16) 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 eight copies of the application should be sent per the instructions under IV.3f. ''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.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

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.* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa

program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 et. seq., including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing any DS–2019 forms to foreign participants.

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.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. 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. Grant requests may not exceed $300,000. The anticipated unit cost for a six-to-eight-week program is $8,000 to $10,000. There must be 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. *Allowable costs for the program include the following:*

(1) Recruitment/selection.
(2) Preparation/orientation.
(3) Visas and associated costs.
(4) Travel.
(5) Institute costs, including language instruction, program activities, and monitoring.
(6) Room and board, as necessary.
(7) Follow-on activities.
(8) Evaluation.
(9) Administration.

Maximum limits on grant funding are as follows: Books and educational materials allowance—$100 per participant; Conference room rental costs—$250 per day per room; Consultant fees and honoraria—$250/day; Cultural allowance—$150 per participant; Per diem—standard government rates; Working meals—one per project; Evaluation costs—2% to 5% of the grant.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Submission Dates and Times:*

Application Deadline Date: Wednesday, January 18, 2006.

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, one fully-tabbed copy, and seven copies of the application with Tabs A–E (for a total of 9 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–06–16, 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.

IV.3h. With the submission of the proposal package, please also submit the Executive Summary, Proposal Narrative, and Budget sections of the proposal as e-mail attachments in Microsoft Word and/or Excel to the program officer at *LantzCS@state.gov.* The Bureau will provide these files electronically to the Public Affairs Sections at the relevant U.S. embassies for their review.

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, as well as the Public Diplomacy section overseas, where appropriate. 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. Proposals should display an understanding of the goals of the program. Proposals will demonstrate a commitment to excellence and creativity in the implementation and management of the program.

2. Program planning and ability to meet program objectives: Objectives should be reasonable, feasible, flexible, and respond to the priorities outlined in this announcement. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan. A detailed agenda and relevant work plan will demonstrate substantive undertakings and logistical capacity. The agenda and plan should adhere to the program overview and guidelines described above and will show the timetable by which major tasks will be completed. The substance of the instruction and the exchange activities should be described in detail and included as an attachment. The responsibilities of partner organizations will be clearly delineated.

3. Follow-on/Alumni Activities: Proposals should provide a strategy for maximizing the opportunities for alumni to further their study of the language and culture of the host country, presenting plans that are within the context of the grant (with Bureau support) and after its completion (without the Bureau's financial support).

4. 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).

5. Project Evaluation: Proposals should include a plan and methodology to evaluate the project's successes and challenges, both as the activities unfold and at the end of the program. The evaluation plan should show a clear link between program objectives and expected outcomes, and should include

a description of performance indicators and measurement tools. Applicants should provide draft questionnaires or other techniques for use in surveying participants to facilitate the demonstration of results. Applicants will indicate their willingness to submit periodic progress reports in accordance with the program office's expectations.

6. Institutional Capacity: Applicants should demonstrate knowledge of each country's educational environment and the capacity for hosting this language institute. Proposals should include detailed information about the applicant's capacity in the United States and about in-country support for the program, including descriptions of experienced personnel who will implement it. Institutional resources should be adequate and appropriate to achieve the project's goals. 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.

7. Cost-effectiveness/Cost sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. While lower ''per participant'' figures will be favorably viewed, the Bureau expects all figures to be realistic. All other items must 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.1a. 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 reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Quarterly program and financial reports that include information on the progress made on the program plan and program results to date.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (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.

VI.4. Program Data Requirements: Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carolyn Lantz, Youth Programs Division, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, ECA/PE/C/PY–06–16, U.S. Department of State, SA–44, 301 4th Street, SW., Room 568, Washington, DC 20547, Telephone (202) 203–7505, Fax (202) 203–7529, E-mail *LantzCS@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–06–16.

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.

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: November 14, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05–22921 Filed 11–17–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5214]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m. on Tuesday, December 13, 2005 in room 6319 of the U.S. Coast Guard Headquarters building, 2100 Second Street, SW., Washington, DC 20593–0001. The primary purpose of the meeting is to prepare for the 50th Session of the International Maritime Organization (IMO) Subcommittee on Fire Protection to be held at IMO Headquarters in London, England from January 9–13, 2006. The meeting will also cover five agenda items on lifesaving equipment from the provisional agenda of the 49th session of the Subcommittee on Ship Design and Equipment that were assigned to the Subcommittee on Fire Protection because of the Ship Design and Equipment Subcommittee's excessive workload.

The primary fire protection matters to be discussed include:

—Passenger Ship Safety.
—Performance testing & approval standards for fire safety systems.
—Recommendations on evacuation analysis for new and existing passenger ships.
—Development of provisions for gas fueled ships.
—Measures to prevent fires in engine-rooms and cargo pump-rooms.
—Review of the SPS Code.
—Comprehensive review of the fire test procedures code.
—Analysis of fire casualty records.

The primary life saving matters to be discussed include:

—Measures to prevent accidents with lifeboats.
—Compatibility of life-saving appliances.
—Inconsistencies in IMO instruments regarding requirements for life-saving appliances.
—Test standards for extended service intervals of inflatable rafts.
—Amendments to resolution A. 761 (18).

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Chief, Office of Design and Engineering Standards, Commandant (G–MSE–4), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, by calling: Mr. R. Eberly at (202) 267–1861, or by visiting the following World Wide Web site: *http://www.uscg.mil/hq/g-m/mse4/imo.htm.*

Dated: November 10, 2005.

Clay Diamond,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 05–22920 Filed 11–17–05; 8:45 am]

BILLING CODE 4710–09–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Alice D. Witt, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6832.

Comments should be sent to the Agency Clearance Officer no later than January 17, 2006.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Economic Assessment of Waterway Docks and Terminals in the Tennessee Valley and Parts of the Surrounding National Inland Waterway Network.

Frequency of Use: Occasional.

Type of Affected Public: Federal, State and local governments, and private industry.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 450.

Estimated Number of Annual Responses: 1700.

Estimated Total Annual Burden Hours: 3400 hours.

Estimated Average Burden Hours Per Response: 2 hours.

Need For and Use of Information: The information collection is necessary to assess the service capability of waterway docks and terminals located in the Tennessee Valley and surrounding States. The data will be used to help potential industrial clients with decisions regarding transportation information and the handling capabilities of waterway facilities located on various river segments. This is vital information for industry when deciding where the most economical location is for a new plant site or project. In addition the data collection surrounding the waterway terminals located on the Tennessee River is necessary for use in updating TVA's river performance indicator.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations Information Services.

[FR Doc. 05–22870 Filed 11–17–05; 8:45 am]

BILLING CODE 8120–08–P

TRADE AND DEVELOPMENT AGENCY

Notice of Public Information Collection Requirements Submitted to OMB for Review

AGENCY: United States Trade and Development Agency.

ACTION: Request for comments.

SUMMARY: U.S. Trade and Development Agency (USTDA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. USTDA published its first **Federal Register** Notice on this information collection request on August 25, 2005, at 70 FR 49968, at which time a 60-day comment period was announced. The comment period ended October 24, 2005. No comments were received in response to this notice.

Comments are again being solicited on the following proposed information collection concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Comments must be received by OMB by December 19, 2005.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be addressed as follows: Attention: Desk Officer for USTDA, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carolyn Hum, Attn: PRA, 1000 Wilson Boulevard, Suite 1600, Arlington, VA 22209–3901; Tel.: (703) 875–4357, Fax: (703) 875–4009, E-mail: *PRA@ustda.gov*.

SUPPLEMENTARY INFORMATION:

Type of Request: New collection.

Title: Evaluation of USTDA Performance.

Form Number: USTDA 1000E–2005a.

Frequency of Use: Annually for duration of project.

Type of Respondents: Business or other for profit; Not-for-profit institutions; Farms; Federal Government.

Description of Affected Public: U.S. companies and other entities that participate in USTDA-funded activities.

Reporting Hours: 866 hours per year.

Number of Responses: 2600 per year.

Federal Cost: $350,000 per year.

Authority for Information Collection: Government Performance and Results Act of 1993; 103 Pub. L. 62; 107 Stat. 285.

Abstract (Needs and Uses): USTDA and contractors will collect information from various stakeholders on USTDA-funded activities regarding developmental impact and/or commercial objectives as well as evaluate success regarding GPRA and OMB PART objectives.

Dated: November 15, 2005.

Carolyn Hum,

Administrative Officer.

[FR Doc. 05–22876 Filed 11–17–05; 8:45 am]

BILLING CODE 8040–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–22991]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel JADE DRAGON.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22991 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 19, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 22991. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel JADE DRAGON is:

Intended Use: ''I plan to be doing day charters and sightseeing and possible overnites to the different harbors or to Catalina Island.''

Geographic Region: San Diego to San Francisco Bay.

Dated: November 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–22914 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2005 22992]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel KAUHALE KAI.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22992 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 19, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 22992. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001.

You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KAUHALE KAI is:

Intended Use: ''Carrying passengers for hire.''

Geographic Region: State of Hawaii near coastal waters.

Dated: November 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–22907 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–22993]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MELE KAI.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 20005–22993 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 19, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 22993. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MELE KAI is:

Intended Use: ''Sport fishing.''

Geographic Region: Nawiliwili Harbor Lihue, Hawaii and State of Hawaii

Dated: November 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–22913 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2005–22988]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TEVAI.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22988 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 19, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005n 22988. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TEVAI is:

Intended Use: ''Sail charter and instruction.''

Geographic Region: Offshore, Great Lakes, and East Coast of the United States. Including States of Ohio, Michigan, Wisconsin, Illinois, Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Maine, Rhode Island, Massachusetts, New Hampshire, and Connecticut.

Dated: November 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–22905 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 22990]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ZAZU.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22990 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels.

If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 19, 2005.

ADDRESSES: Comments should refer to docket number MARAD 2005 22990. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ZAZU is:

Intended Use: ''Occasional Charter to no more than 12 passengers (6 usual maximum).''

Geographic Region: U.S. East Coast waters primarily Florida (both east and gulf coast), New England, and also the Mississippi River and Great Lakes. Including the states of: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Washington, DC, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Alaska, Illinois, Minnesota, Wisconsin.

Dated: November 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–22912 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22969; Notice 1]

Nissan North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Nissan North America, Inc. (Nissan) has determined that certain vehicles that it produced in 2005 do not comply with S4.2.2 of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft protection.'' Nissan has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Nissan has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Nissan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are a total of approximately 3400 Nissan Maximas produced between March 29, 2005 and May 26, 2005. S4.2.2 of FMVSS No. 114 requires that,

(a) Notwithstanding S4.2.1, provided that steering is prevented upon the key's removal, each vehicle specified therein may permit key removal when electrical failure of this system (including battery discharge) occurs or may have a device which, when activated, permits key removal. The means for activating any such device shall be covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

(b) Notwithstanding S4.2.1, each vehicle specified therein may have a device which, when activated, permits moving the transmission shift lever from ''park'' after the removal of the key. The device shall either be operable:

(1) By the key, as defined in S3; or

(2) By another means, provided that steering is prevented when the key is removed from the ignition, and provided that the means for activating the device is covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

The subject vehicles are equipped with an override device but the steering wheel may not lock under some circumstances when the key is removed.

Nissan believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Nissan states that the vehicles are equipped with an engine control module immobilizer system which prevents forward movement of the vehicle if the key is not present.

Nissan points out that NHTSA recently granted inconsequential noncompliance petitions for similar noncompliances by Bentley (69 FR

67211, 11/16/04), Volkswagen (69 FR 67211, 11/16/04), and Porsche (70 FR 32398, 6/2/05). Nissan also points out that NHTSA recently published a Notice of Proposed Rulemaking (70 FR 48362, 8/17/05), and that under this proposal, the system in the subject Maximas would be allowed.

Nissan further states,

The requirement that the steering be locked when the ignition key is removed through use of an ''override device'' was added to S4.2.2 ''to ensure that Standard No 114's theft protection aspects are not jeopardized.'' See 57 FR 2039, 2040 (January 17, 1992). In the Maxima vehicles at issue here, when the key is removed through use of the ''override device,'' which will occur rarely if at all, the immobilizer will prevent the vehicle from being jump-started without the electronically coded ignition key, because the key-code is recorded in the engine control module and cannot be electrically bypassed.

Interested persons are invited to submit written data, views, and arguments on the petition described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically. Comments may be faxed to 1–202–493–2251, or may be submitted to the Federal eRulemaking Portal: go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 19, 2005.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8.

Issued on: November 15, 2005.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. 05–22919 Filed 11–17–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34722]

Beth A. Blansett, William D. Blansett, and Modoc Railway and Land Company LLC—Continuance in Control Exemption

Beth A. Blansett and William D. Blansett (Blansetts), nonconcarrier individuals, have filed a verified notice of exemption to continue in control of Modoc Railway and Land Company LLC (MR&L) [1] and Modoc Northern Railroad Company (MNRR),[2] upon their becoming Class III rail carriers. The Blansetts currently control Utah Central Railway Company (UCRC), a Class III rail carrier.[3] MR&L also is invoking the class exemption to control MNRR, when both become rail carriers.

The transaction was expected to be consummated on or shortly after November 1, 2005.

This transaction is related to two concurrently filed notices of exemption: (1) STB Finance Docket No. 34769, *Modoc Railway and Land Company LLC—Acquisition Exemption—Union Pacific Railroad Company*, wherein MR&L seeks to acquire by lease, with an option to purchase, approximately 107.15 miles of rail lines from Union Pacific Railroad Company, consisting of the line known as the Modoc Subdivision extending between milepost 552.0 near Texum, OR, and milepost 445.6 at the end of the track near McArthur, CA, and the Lakeview Branch extending between milepost 456.89 and milepost 458.60 at Alturas, CA; and (2) STB Finance Docket No. 34768, *Modoc Northern Railroad Company—Operation Exemption—Union Pacific Railroad Company*, wherein MNRR seeks to operate the rail lines being acquired by lease by MR&L.

The Blansetts state that: (1) The rail lines being operated by UCRC do not connect with the rail lines being acquired by lease by MR&L and operated by MNRR; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the rail lines being acquired by MR&L with any railroad in their corporate family; and (3) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34722, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Dennis C. Farley, Lear & Lear, L.L.P., 229 South Main, Suite 2200, Wells Fargo Center, Salt Lake City, UT 84111.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–22768 Filed 11–17–05; 8:45 am]

BILLING CODE 4915–01–P

[1] Beth A. and William D. Blansett each own one-third interests in MR&L. Cristina C. Blansett, a minor, owns the remaining one-third interest in MR&L.

[2] Beth A. and William D. Blansett each own 50 percent interests in MNRR.

[3] Beth A. and William D. Blansett own 953 shares in UCRC. Also, Stephen M. Richards owns 200 shares, William C. Blansett owns 505 shares and Carl E. Baker owns 48 shares.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34768]

Modoc Northern Railroad Company—Operation Exemption—Union Pacific Railroad Company

Modoc Northern Railroad Company (MNRR), a noncarrier, has filed a verified notice of exemption under 49

CFR 1150.31 to operate approximately 107.15 miles of rail lines to be acquired by lease, with an option to purchase, by Modoc Railway and Land Company LLC (MR&L) from Union Pacific Railroad Company. The rail lines consist of a line known as the Modoc Subdivision extending between milepost 552.0 near Texum, OR, and milepost 445.6 at the end of the track near McArthur, CA, and the Lakeview Branch extending between milepost 456.89 and milepost 458.60 at Alturas, CA.

MNRR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not result in the creation of a Class II or Class I rail carrier.

The transaction was expected to be consummated on or shortly after November 1, 2005.

This transaction is related to two concurrently filed notices of exemption in: (1) STB Finance Docket No. 34769, *Modoc Railway and Land Company LLC—Acquisition Exemption—Union Pacific Railroad Company*, wherein MR&L seeks to acquire by lease, with an option to purchase, the rail lines to be operated by MNRR; and (2) STB Finance Docket No. 34722, *Beth A. Blansett, William D. Blansett, and Modoc Railway and Land Company LLC—Continuance in Control Exemption*, wherein Beth A. Blansett and William D. Blansett seek to continue in control of MNRR and MR&L, upon their becoming Class III rail carriers, and MR&L seeks to control MNRR.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34768, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Dennis C. Farley, Lear & Lear, L.L.P., 229 South Main, Suite 2200, Wells Fargo Center, Salt Lake City, UT 84111.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–22759 Filed 11–17–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34769]

Modoc Railway and Land Company LLC—Acquisition Exemption—Union Pacific Railroad Company

Modoc Railway and Land Company LLC (MR&L), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease, with an option to purchase, approximately 107.15 miles of rail lines from Union Pacific Railroad Company. The rail lines consist of a line known as the Modoc Subdivision extending between milepost 552.0 near Texum, OR, and milepost 445.6 at the end of the track near McArthur, CA, and the Lakeview Branch extending between milepost 456.89 and milepost 458.60 at Alturas, CA.

MR&L certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not result in the creation of a Class II or Class I rail carrier.

The transaction was expected to be consummated on or shortly after November 1, 2005.

This transaction is related to two concurrently filed notices of exemption in: (1) STB Finance Docket No. 34768, *Modoc Northern Railroad Company—Operation Exemption—Union Pacific Railroad Company*, wherein Modoc Northern Railroad Company (MNRR) seeks to operate the rail lines being acquired by lease by MR&L; and (2) STB Finance Docket No. 34722, *Beth A. Blansett, William D. Blansett, and Modoc Railway and Land Company LLC—Continuance in Control Exemption*, wherein Beth A. Blansett and William D. Blansett seek to continue in control of MR&L and MNRR, upon their becoming Class III rail carriers, and MR&L seeks to control MNRR.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34769, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Dennis C. Farley, Lear & Lear, L.L.P., 229 South Main, Suite 2200, Wells Fargo Center, Salt Lake City, UT 84111.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–22760 Filed 11–17–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Chiropractic Care Implementation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Chiropractic Care Implementation will hold its final meeting Tuesday, December 6, 2005, from 8:15 a.m. until 5 p.m. at 810 Vermont Avenue, NW., Room 430, and Wednesday, December 7, 2005 from 8:15 a.m. until 3:30 p.m. at 811 Vermont Avenue, NW., Room 147, Washington, DC. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on the implementation and evaluation of the chiropractic care program. The Committee will focus on monitoring the nationwide program implementation, reviewing and evaluating policy and program issues that affect implementation, recommending actions to improve the chiropractic health program, assisting in long-range planning and development, and such other matters as the Secretary determines to be appropriate.

On December 6, the Committee will receive an update on the status of VA's implementation of the chiropractic care program, briefings on related topics, and conduct a conference call with doctors of chiropractic at VA facilities. On December 7, the Committee will discuss and develop its final report to the Secretary of Veterans Affairs.

Any member of the public wishing to attend the meeting is requested to contact Ms. Sara McVicker, RN, MN, Designated Federal Officer, at (202) 273–8559 not later than 12 noon Eastern time on Thursday, December 1, 2005 in order to facilitate entry to the building.

Oral comments from the public will not be accepted at the meeting. Any comments from interested parties on issues related to chiropractic care may be transmitted electronically to *sara.mcvicker@va.gov* or mailed to:

Advisory Committee on Chiropractic Care Implementation, Patient Care Services (11A), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: November 9, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–22822 Filed 11–17–05; 8:45am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 70, No. 222

Friday, November 18, 2005.

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NATIONAL SCIENCE FOUNDATION

Notice of the Availability of Finding of No Significant Impact for a Low-Energy Marine Seismic Survey by the Scripps Instituion of Oceanography on The Louisville Ridge in the Southwest Pacific Ocean

Correction

In notice document 05–22302 beginning on page 68102 in the issue of Wednesday, November 9, 2005, make the following corrections:

1. On page 68102, in the second column, in the first line ''ashor@msf.gov'' should read ''ashor@nsf.gov.''

2. On the same page, in the same column, in the third and fourth lines, ''*http://www.nsf.gov/geo/oce/pubs/scripps_lousville&_ridge_EA.pdf*'' should read ''*http://www.nsf.gov/geo/oce/pubs/scripps_lousville_ridge_EA.pdf.*''

3. On the same page, in the same column, in the fifth and sixth lines, ''*http://www.nsf.gov/geo/oce/pubs/scripps_lousville&_ridge_FONSI.pdf*'' should read ''*http://www.nsf.gov/geo/oce/pubs/scripps_lousville_ridge_FONSI.pdf.*''

[FR Doc. C5–22302 Filed 11–17–05; 8:45 am]

BILLING CODE 1505–01–D

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H.R. 3057/P.L. 109–102

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