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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3203–AK90

Suspension of Enrollment in the Federal Employees Health Benefits (FEHB) Program for Peace Corps Volunteers

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: The Office of Personnel Management is issuing an interim regulation to allow Peace Corps volunteers who are FEHB Program enrolled annuitants, survivors, and former spouses to suspend their FEHB enrollments and then return to the FEHB Program during the Open Season, or return to FEHB coverage immediately, if they involuntarily lose health benefits coverage under the Peace Corps. The intent of this rule is to allow these beneficiaries to avoid the expense of continuing to pay FEHB Program premiums while they have other health coverage as Peace Corps volunteers, without endangering their ability to return to the FEHB Program in the future.

DATES: *Effective Date:* Effective December 30, 2005.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Policy Analyst, Insurance Policy, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001. Phone number: 202–606–0004. E-mail: *mwkaszy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) allows certain Medicare, Medicaid, CHAMPVA or TRICARE or TRICARE-for-Life eligible FEHB Program annuitants, survivors, and former spouses to suspend their FEHB enrollments and then return to the FEHB Program during the Open Season; or return to FEHB coverage immediately, if they involuntarily lose coverage. This has allowed these beneficiaries to avoid the expense of continuing to pay FEHB Program premiums while they are using certain Medicare, Medicaid, TRICARE or TRICARE-for-Life or CHAMPVA coverage without endangering their ability to return to the FEHB Program in the future. We have determined that individuals eligible for coverage under the Peace Corps should be allowed the same right to suspend FEHB coverage and reenroll in the FEHB Program as we afford these other groups.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation affects only health insurance carriers under the Federal Employees Health Benefits Program.

Executive Order 12866, Regulatory Review

This regulation has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Military Personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Linda M. Springer,

Director.

■ For the reasons set forth in the preamble, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913, sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; sec. 890.102 also issued under secs. 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251; and sec. 721 of Pub. L. 105–261, 112 Stat. 2061, unless otherwise noted.

Subpart C and Subpart H—[Amended]

■ 2. In part 890, subparts C and H, add the phrase ''Peace Corps or'' before the acronym ''CHAMPVA'' each time it appears.

[FR Doc. 05–23429 Filed 11–29–05; 8:45 am]
BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC07

Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Basic Provisions (Basic Provisions) to conform to the requirements of section 780 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (2006 Appropriations Act) regarding written agreements and the use of similar agricultural commodities.

EFFECTIVE DATES: This rule is effective November 25, 2005. Written comments and opinions on this rule will be accepted until the close of business January 30, 2006 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676. Comments titled ''Basic Provisions Interim Rule'' may be sent via the Internet to *DirectorPDD@rm.fcic.usda.gov*, or the Federal eRulemaking Portal: *http://www.regulations.gov/.* Follow the online instructions for submitting comments. A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact Erin Reid, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926–6321.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through November 30, 2007.

Government Paperwork Elimination Act (GPEA) Compliance

FCIC is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. FCIC requires that all reinsured companies be in compliance with the Freedom to E-File Act and section 508 of the Rehabilitation Act.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Written agreement requirements for the Federal crop insurance program are the same for all producers regardless of the size of their operations. For instance, all producers requesting this type of written agreement must submit actual yields for at least the most recent three crops years in which the crop was planted during the base period. Any producer who did not produce the crop for at least three years, for which the written agreement is requested, must submit actual yields for a similar crop, or a combination of actual yields for the crop and a similar crop in the county for which the written agreement is being requested. Whether a producer has 10 acres or 100 acres there is no difference in the kind of information required for requesting a written agreement. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this change helps ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This interim rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

Section 508(a)(4)(B) of the Federal Crop Insurance Act (Act) involves areas in the United States where crop insurance is not available for a particular commodity and authorizes FCIC to offer to enter into a written agreement with producers in such areas if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to FCIC. FCIC interpreted this provision to mean producers would have to provide verifiable records of actual yields of the crop to be insured for the last three years the crop was grown and incorporated this requirement into the Basic Provisions.

Section 780 of the 2006 Appropriations Act amended section 508(a)(4)(B) to allow FCIC to offer to enter into a written agreement with producers in such areas if the producer has actuarially sound data relating to the production by the producer of a similar commodity and the data is acceptable to FCIC. To incorporate this change into the policy, FCIC must revise those provisions of the Basic Provisions that limit records of actual yields to the commodity to be insured to allow records of yields for similar commodities to be used in underwriting written agreements.

Specifically, FCIC is amending section 18(f)(2)(i) of the Basic Provisions to differentiate between when the producer has records of production for the crop to be insured under the written agreement and when the producer has records of a similar crop or a combination of records for a similar crop and records of the same crop that will be insured. FCIC is adding provisions that specify that to be considered a crop that is similar to the crop for which a written agreement is being requested, it must fit into one of a broad grouping of crops the producer has grown in the past (*e.g.* row crops, tree crops, vine crops, bush crops, etc.) and the agronomic and risk factors must be sufficiently similar to allow FCIC to properly determine whether there is a risk that program integrity may be impaired by the use of the records of the

other commodity (for example, could it lead to over insurance of the crop for which a written agreement is sought) and whether an actuarially sound premium rate can be determined that will cover the anticipated losses and a reasonable reserve for the crop for which a written agreement is being sought.

Good cause is shown to make this rule effective upon filing for public inspection at the Office of the Federal Register. Good cause to make the rule effective upon filing at the Office of the Federal Register exists when the 30 day delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The changes in this rule are statutorily mandated.

With respect to the provisions of this rule, it would be contrary to the public interest to delay its implementation. Further, such changes regarding written agreements for producers in areas of the United States where crop insurance is not available for a particular commodity are in the public interest. This is because the changes will allow a producer to submit records of a crop that is similar to the crop for which insurance is being requested, and expand the availability of insurance for a producer who may not have previously qualified.

If FCIC is required to delay the implementation of this rule 30 days after the date it is published, the provisions of this rule could not be implemented until the next crop year for those crops having a contract change date prior to the effective date of this publication. This would mean that the affected producers would be without the benefits described above for an additional year.

For the reasons stated above, good cause exists to make these policy changes effective upon filing with the Office of the Federal Register.

List of Subjects in 7 CFR Part 457

Crop insurance, Reporting and recordkeeping requirements.

Interim Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2006 and succeeding crop years for all crops with a contract change date on or after the effective date of this rule and for the 2007 and succeeding crop years for all crops with a contract change date prior to the effective date of this rule, as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

■ 2. Amend § 457.8, as follows:

■ (a) Revise section 18(f)(2)(i); and

■ (b) Revise section 18(f)(2)(ii).

The revised sections read as follows:

18. Written Agreements

* * * * *

(f) * * *

* * * * *

(2) * * *

(i) A completed APH form (except for policies that do not require APH) based on verifiable records of actual yields for:

(A) The crop and county for which the written agreement is being requested (the actual yields do not necessarily have to be from the same physical acreage for which you are requesting a written agreement) for at least the most recent three crop years in which the crop was planted during the base period; or

(B) A similar crop in the county, or a combination of actual yields for a similar crop in the county and the crop in the county for which the written agreement is being requested if you have not produced the crop for which the written agreement is being requested for at least three crop years.

(*1*) To be considered a similar crop to the crop for which a written agreement is being requested, such crop must:

(*i*) Be included in the same category of crops, e.g., row crops (including, but not limited to, small grains, coarse grains, and oil seed crops), vegetable crops grown in rows, tree crops, vine crops, bush crops, etc., as defined by FCIC;

(*ii*) Have substantially the same growing season (i.e., normally planted around the same dates and harvested around the same dates);

(*iii*) Require comparable agronomic conditions (e.g., comparable water, soil, etc. needs); and

(*iv*) Be subject to substantially the same risks (frequency and severity of loss would be expected to be comparable from the same cause of loss);

(*2*) The actual yields for the similar crop do not necessarily have to be from the same physical acreage for which you are requesting a written agreement;

(ii) Acceptable production records for at least the most recent three crop years in which the crop or a similar crop was planted;

* * * * *

Signed in Washington, DC, on November 22, 2005.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 05–23509 Filed 11–25–05; 4:21 pm]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE234, Special Condition 23–174–SC]

Special Conditions; Garmin AT, Inc. EFIS on the Mooney M20M and M20R; Protection of Systems From 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 Mooney M20M and M20R. These airplanes 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, 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 30, 2005.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE234, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE234. 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. CE234.'' The postcard will be date stamped and returned to the commenter.

Background

On August 13, 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 Mooney M20M and M20R. The Mooney M20M and M20R are currently approved under TC No. 2A3. 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 21.101, Garmin AT, Inc. must show that the Mooney M20M and M20R meet their original certification basis, as listed on Type Data Sheet 2A3, 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 Mooney M20M and M20R 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:

(2) 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

Frequency	Field strength (volts per meter)	
	Peak	Average
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 Mooney M20M and M20R. 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.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

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 Mooney M20M and M20R airplanes 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. 05–23481 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22731; Directorate Identifier 2005–NE–36–AD; Amendment 39–14389; AD 2005–24–09]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems Propeller Assemblies Models 2D34C53/74E–X; D2A34C58/90AT–X; 3AF32C87/82NC–X; D3AF32C87/82NC–X; D3A32C88/82NC–X; D3A32C90/82NC–X; and 3AF34C92/90LF–X.

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for McCauley Propeller Systems propeller assemblies, models 2D34C53/74E–X; D2A34C58/90AT–X; 3AF32C87/82NC–X; D3AF32C87/82NC–X; D3A32C88/82NC–X; D3A32C90/82NC–X; and 3AF34C92/90LF–X. This AD requires, within 10 flight hours or 10 days after the effective date of this AD, whichever occurs first, removing certain serial number propeller hubs from service. This AD results from a report by the manufacturer that they manufactured and released 40 propeller hubs with improperly machined socket retention threads. We are issuing this AD to prevent cracked propeller hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane.

DATES: This AD becomes effective December 15, 2005.

We must receive any comments on this AD by January 30, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 67277–7704, U.S.A.; telephone (800) 621–7767, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Wichita, KS 67209, telephone: (316) 946–4148; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION: In August of 2005, McCauley Propeller Systems reported to the FAA that a repair facility found a single, new, unused propeller hub with improperly machined socket retention threads. Further investigation revealed that McCauley Propeller Systems improperly machined socket retention threads on 40 propeller hubs, manufactured in 2004 and 2005. Using a propeller hub with improperly machined socket retention threads could cause concentrated loading on the threads, resulting in cracking of the hub and blade separation. This condition, if not corrected, could result in failure of the propeller hub, blade separation, and loss of control of the airplane.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other McCauley Propeller Systems propeller assemblies, models 2D34C53/74E–X; D2A34C58/90AT–X; 3AF32C87/82NC–X; D3AF32C87/82NC–X; D3A32C88/82NC–X; D3A32C90/82NC–X; and 3AF34C92/90LF–X of the same type design. For that reason, we are issuing this AD to prevent cracked hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane. This AD requires, within 10 flight hours or 10 days after the effective date of this AD, whichever occurs first, removing affected propeller hubs from service, and sending those propeller hubs to a McCauley Service Center. This AD also requires, before assembly into a replacement propeller hub, visually inspecting the retention nut threads with a 10-power magnifier, and replacing the nut if necessary.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable. Good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. We invite you however, to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. FAA–2005–22731; Directorate Identifier 2005–NE–36–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

2005–24–09 McCauley Propeller Systems: Amendment 39–14389. Docket No. FAA–2005–22731; Directorate Identifier 2005–NE–36–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 15, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McCauley Propeller Systems propeller assemblies, models 2D34C53/74E–X; D2A34C58/90AT–X; 3AF32C87/82NC–X; D3AF32C87/82NC–X; D3A32C88/82NC–X; D3A32C90/82NC–X; and 3AF34C92/90LF–X, with the propeller hubs listed by serial number in the following Table 1:

TABLE 1.—AFFECTED PROPELLER HUBS

Hub model	Hub serial number
C58, C34, C49, C78, C98	030725
	030726
	030727
	030728
	030729
	030730
	030748
	030749
	030750
	030751
	030752
	030753
	030754
	030755
	030756
	030757
	030758
	030759
	030760
	050403
	050407
	050408
	050410
	050475
	050477
C53	050389
C79, C90	042206
	042207
	042208
C77, C88	042201
	042202
C87 blank index, C72, C93	042239
	042524
	042527
	042528

TABLE 1.—AFFECTED PROPELLER HUBS—Continued

Hub model	Hub serial number
	042529
	050071
	050073
C92, C74, C86	050866
C87 D index	050934

(d) Because a propeller hub can be interchanged and re-identified as a different model with the installation of different studs or adapters, any of the affected hubs could have been re-identified as a different model. Each propeller hub model listed in Table 1 of this AD is the original hub configuration when shipped from McCauley.

(e) The propeller hubs listed in Table 1 of this AD are installed on, but not limited to, the airplanes listed in the following Table 2:

TABLE 2.—AIRPLANES INSTALLED ON, BUT NOT LIMITED TO

Airplane	Model
Beagle	B206.
Bellanca	14–19–3A, 17–30, 17–30A.
Cessna	180 series.
	182E thru R.
	185, A, B, C, D, E, F.
	A185, E, F.
	A188, A188A, A188B.
	206 series.
	P206, A, B, C, D, E.
	U206A, B, C, D, E, F, G.
	TP206A, B, C, D, E.
	TU206A, B, C, D, E, F.
	U206, A, B, C, D, E, F, G.
	207, A, T207.
	210–5, 210–5A, 210, A, B, C, D, E, F, G, H, I, J, K, L.
	T210F, G, H, J, K, L.
	310I, 310P, Q, R, T310P, Q, R.
	320, A, B, C, D, E, F.
	335.
	340, A.
	401, A, B.
	402, A, B, C.
	411, A.
	414, A.
	421, A, B.
Fuji	FA–200–180.
Globe	GC–1B.
Hindustan	HA–31.
Meyers	200B, C, D.
Mooney	M20C, D, G.
Navion	A, B, C, D, E, F, G, H.
Procaer	F15/C.
Transavia	PL12.
Windecker	AC–7

Unsafe Condition

(f) This AD results from a report by the manufacturer that they manufactured and released 40 propeller hubs with improperly machined socket retention threads. We are issuing this AD to prevent cracked propeller hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane.

Compliance

(g) You are responsible for having the affected propeller hubs removed from service within 10 flight hours or 10 days after the effective date of this AD, whichever occurs first, unless the actions have already been done.

Propeller Hub Removal

(h) Remove from service propeller assemblies with affected propeller hubs, listed in Table 1 of this AD.

(i) Send propeller assemblies with affected propeller hubs listed in Table 1 of this AD to a McCauley Service Center for disassembly, inspection, and propeller hub replacement with a serviceable propeller hub.

(j) Send uninstalled propeller hubs listed in Table 1 of this AD to a McCauley Service Center for replacement with a serviceable propeller hub.

Replacement Propeller Hub Pre-Installation Requirements

(k) For retention nuts that were removed from an affected propeller hub, visually inspect the retention nut threads with a 10-power magnifier before assembly into a replacement propeller hub. Reject the nut for any signs of galling, heavy localized loading, thread deformation, or chipped threads that may have been caused by thread interference in the propeller hub.

Reporting Requirements

(l) Report within 10 calendar days of finding affected propeller hubs to:

(1) The FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, KS 67209, Attention: Jeff Janusz, telephone (316) 946–4148; e-mail: *jeff.janusz@faa.gov;* and

(2) McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 97277–7704.

(3) Reporting requirements have been approved by the Office of Management (OMB) and assigned OMB control number 2120–0056.

McCauley Credit Program

(m) McCauley Alert Service Bulletin No. ASB251A, dated September 28, 2005 contains information on a credit program for affected hubs.

Alternative Methods of Compliance

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

Special Flight Permits

(o) Under 39.23, we are limiting the special flight permits for this AD by the following conditions:

(1) The propeller must have an oil-filled propeller hub and have no history of hub oil leakage.

(2) You must visually examine the propeller hub, and it must have no evidence of existing cracks.

(3) You are allowed a single-occupant (pilot only), non-revenue flight to a base of maintenance or FAA-approved propeller repair facility only.

(4) Your total flight time must not exceed 10 hours.

Related Information

(p) McCauley Propeller Systems Alert Service Bulletin No. ASB251A, dated September 28, 2005, pertains to the subject of this AD.

Issued in Burlington, Massachusetts, on November 22, 2005.

Peter A. White,

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

[FR Doc. 05–23430 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22690; Directorate Identifier 2005–NE–35–AD; Amendment 39–14388; AD 2005–24–08]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems Five-Blade Propeller Assemblies

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain McCauley Propeller Systems propeller assemblies installed on BAE Systems (Operations) Limited Jetstream model 4100 series airplanes. This AD requires removing certain propeller hubs from service at new reduced life limits and eddy current inspections (ECIs) of the propeller hub. This AD results from three reports of cracked propeller hubs. We are issuing this AD to prevent cracked propeller hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane.

DATES: This AD becomes effective December 15, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 15, 2005.

We must receive any comments on this AD by January 30, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 97277–7704, for the service information referenced in this AD.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Wichita, KS 67209, telephone: (316) 946–4148; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION: In August 2003, we issued AD 2003–17–10 which requires initial and repetitive fluorescent penetrant inspection or ultrasonic inspection of propeller blade retention areas for cracks, replacement of high time propeller blades, and a onetime inspection of propeller hubs. That AD resulted from four earlier reports of cracks in propeller blade shanks. Since we issued AD 2003–17–10, we received three more reports of cracked hubs. In November 2004, we issued AD 2004–23–16 which requires a onetime ECI of the propeller hub for cracks, and if necessary, replacing the propeller assembly. That AD also captured inspection results for the propeller hubs installed on the Jetstream model 4100 fleet.

We received field reports that during taxi and ground maneuvering, certain airplane operators might be violating the published and placarded propeller ground revolutions-per-minute (rpm) restrictions. Operating in the restricted rpm range during ground operation can excite a natural propeller blade frequency that creates damaging stress loadings on the propeller blades and hub. The stress loadings can cause cracks, leading to propeller structural failure.

Additionally, some operators use a water-methanol assist system to provide more engine power during certain operating conditions. The operating procedures for the water-methanol assist system define an airplane brakes-locked condition. Testing has shown that using the water-methanol assist system with airplane brakes locked creates propeller loadings exceeding structural fatigue limits of the propeller hub. This condition, if not corrected, could result in cracked hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane.

Relevant Service Information

We reviewed and approved the technical contents of McCauley Alert Service Bulletin (ASB) No. ASB250, dated September 12, 2005. This ASB introduces new lower life limits for the propeller hubs identified in this AD, and describes ECI procedures for them.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other McCauley propeller assemblies, P/Ns B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0, installed on BAE Systems (Operations) Limited Jetstream model 4100 series airplanes. We are issuing this AD to prevent cracked hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane. This AD requires:

- Removing any propeller hub from service that is currently, or ever was, operated on an engine with a water-methanol assist system, not later than 6,000 hours time-in-service (TIS).
- Removing any other propeller hub from service not later than 18,000 hours TIS.
- Removing any propeller hub from service that exceeds its life limit on the effective date of this AD, within 50 hours TIS after the effective date of this AD.
- That any propeller hub removed from service after exceeding its life limit must not be returned to service on any installation.
- For all installed propeller hubs, performing an ECI within 200 hours TIS or 60 days after the effective date of this AD, whichever occurs first.
- Thereafter, for all installed propeller hubs with 12,000 or more hours TIS, performing repetitive ECIs within 1,800 hours TIS or 12 months, whichever occurs first.

You must use the service information described previously to perform the actions required by this AD. This AD does not require repetitive inspections for propeller hubs that ever operated on, or are currently operating on, engines with a water-methanol assist system,

due to the 6,000 hours TIS hub reduced life limit.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we found that notice and opportunity for public comment before issuing this AD are impracticable. Good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. FAA–2005–22690; Directorate Identifier 2005–NE–35–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

2005–24–08 McCauley Propeller Systems: Amendment 39–14388. Docket No. FAA–2005–22690; Directorate Identifier 2005–NE–35–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 15, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McCauley Propeller Systems propeller assemblies, part numbers (P/Ns) B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0. These propeller assemblies are installed on BAE Systems (Operations) Limited Jetstream Model 4100 series airplanes.

Unsafe Condition

(d) This AD results from three reports of cracked propeller hubs. We are issuing this AD to prevent cracked propeller hubs, which could cause failure of the propeller hub, blade separation, and loss of control of the airplane.

Compliance

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

Propeller Hub Reduced Life Limits

(f) Remove any propeller hub from service that is currently, or ever was, operated on an engine with a water-methanol assist system, not later than 6,000 hours time-in-service (TIS).

(g) Remove any other propeller hub from service not later than 18,000 hours TIS.

(h) Remove any propeller hub from service that exceeds its life limit on the effective date of this AD, within 50 hours TIS after the effective date of this AD.

Prohibition of Hubs Exceeding Life Limit

(i) Any propeller hub removed from service after exceeding its life limit must not be returned to service on any installation.

Propeller Hub Initial Inspection

(j) For all installed propeller hubs, perform an eddy current inspection (ECI) within 200 hours TIS or 60 days after the effective date of this AD, whichever occurs first. Use the Accomplishment Instructions of McCauley Alert Service Bulletin (ASB) No. ASB250, dated September 12, 2005, to do the inspection.

Propeller Hub Repetitive Inspections

(k) Thereafter, for all installed propeller hubs with 12,000 or more hours TIS:

(1) Perform repetitive ECIs within 1,800 hours TIS or 12 months, whichever occurs first.

(2) Use the Accomplishment Instructions of McCauley ASB No. ASB250, dated September 12, 2005, to do the inspections.

(l) This AD does not require repetitive inspections for propeller hubs that ever operated on, or are currently operating on, engines with a water-methanol assist system, due to the 6,000 hours TIS hub reduced life limit.

Reporting Requirements

(m) Report within 10 calendar days of the inspection, the results that equal or exceed the reject criteria to:

(1) The FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, KS 67209, Attention: Jeff Janusz, telephone (316) 946–4148; e-mail: *jeff.janusz@faa.gov;* and

(2) McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 97277–7704.

(3) Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

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

Related Information

(o) None.

Material Incorporated by Reference

(p) You must use McCauley Alert Service Bulletin No. ASB250, dated September 12, 2005, to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 97277–7704, for a copy of this service information. You may review copies at the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001, on the Internet at *http://dms.dot.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 21, 2005.

Peter A. White,

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

[FR Doc. 05–23431 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30468; Amdt. No. 458]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, December 22, 2005.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on November 21, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, December 22, 2005.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 458 effective date, December 22, 2005]

From	To	MEA
§ 95.1001 DIRECT ROUTES—U.S. COLOR ROUTES		
§ 95.10 AMBER FEDERAL AIRWAY A5 IS ADDED TO READ		
AMBLER, AK NDB/DME *6600–MOCA	EVANSVILLE, AK NDB	*7500
§ 95.60 BLUE FEDERAL AIRWAY B1 IS ADDED TO READ		
WOODY ISLAND, AK NDB *9100–MOCA	ILIAMNA, AK NDB/DME	*10000

From	To	MEA	MAA
§ 95.4000 HIGH ALTITUDE RNAV ROUTES **§ 95.4002 RNAV ROUTE Q2 IS ADDED TO READ**			
BOILE, CA FIX *18000–GNSS MEA #DME/DME/IRU MEA	ITUCO, AZ FIX	#*24000	45000
ITUCO, AZ FIX *18000–GNSS MEA #DME/DME/IRU MEA	NEWMAN, TX VORTAC	#*26000	45000
§ 95.4004 RNAV ROUTE Q4 IS ADDED TO READ			
BOILE, CA FIX *18000–GNSS MEA #DME/DME/IRU MEA	SKTTR, AZ FIX	#*24000	45000
SKTTR, AZ FIX *18000–GNSS MEA #DME/DME/IRU MEA	EL PASO, TX VORTAC	#*26000	45000
§ 95.4013 RNAV ROUTE Q13 IS AMENDED BY ADDING			
PRFUM, AZ FIX *GNSS MEA	LEAHI, NV FIX	*18000	45000
LEAHI, NV FIX *GNSS MEA	PAWLI, OR FIX	*18000	45000
§ 95.4015 RNAV ROUTE Q15 IS ADDED TO READ			
CHILY, AZ FIX *GNSS MEA	LOMIA, NV FIX	*18000	45000
§ 95.4204 RNAV ROUTE T204 IS ADDED TO READ			
TAYLOR, FL VORTAC	BRUNSWICK, GA VORTAC	2100	15000
§ 95.4205 RNAV ROUTE T205 IS ADDED TO READ			
OCALA, FL VORTAC *2500–MOCA	VALDOSTA, GA VOR/DME	*3000	15000
§ 95.4207 RNAV ROUTE T207 IS ADDED TO READ			
ORMOND BEACH, FL VORTAC	CARRA, FL FIX	2300	15000
CARRA, FL FIX	MONIA, FL FIX	1900	15000
MONIA, FL FIX	WAYCROSS, GA VORTAC	2300	15000
§ 95.4208 RNAV ROUTE T208 IS ADDED TO READ			
GATORS, FL VORTAC	CARRA, FL FIX	2100	15000
CARRA, FL FIX	ORMOND BEACH, FL VORTAC	2300	15000
§ 95.4211 RNAV ROUTE T211 IS ADDED TO READ			
OCALA, FL VORTAC	JUTTS, FL FIX	2500	15000
JUTTS, FL FIX	CARRA, FL FIX	1900	15000
CARRA, FL FIX	CRAIG, FL VORTAC	2100	15000

From	To	MEA	MAA
§ 95.4213 RNAV ROUTE T213 IS ADDED TO READ			
LOUISVILLE, KY VORTAC #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	GAMKE, IN FIX	#3600	8000
GAMKE, IN FIX #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	RICHMOND, IN VORTAC	#2800	8000
§ 95.4215 RNAV ROUTE T215 IS ADDED TO READ			
LEXINGTON, KY VORTAC #NORTHBOUND EXPECT 6000 #SOUTHBOUND EXPECT 5000	GAMKE, IN FIX	#3000	8000
§ 95.4217 RNAV ROUTE T217 IS ADDED TO READ			
LEXINGTON, KY VORTAC #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	BOSTR, OH FIX	#3000	8000
BOSTR, OH FIX #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	HEDEN, OH FIX	#2700	8000
HEDEN, OH FIX #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	SPRINGFIELD, OH VOR/DME	#2800	8000
SPRINGFIELD, OH VOR/DME #NORTHBOUND EXPECT 7000 #SOUTHBOUND EXPECT 6000	BONEE, OH FIX	#2900	8000

From	To	MEA
§ 95.6001 VICTOR ROUTES—U.S. § 95.6019 VOR FEDERAL AIRWAY V19 IS ADDED TO READ		
CINCINNATI, KY VORTAC *2800–MOCA	APPLETON, OH VORTAC	*4000
§ 95.6343 VOR FEDERAL AIRWAY V343 IS AMENDED BY ADDING		
BOZEMAN, MT VOR/DME	THESE, MT FIX	8000
THESE, MT FIX	SUZZY, MT FIX	.....
E BND	.....	8300
W BND	.....	10800
SUZZY, MT FIX	EVVER, MT FIX	11000
§ 95.6536 VOR FEDERAL AIRWAY V536 IS AMENDED TO READ IN PART		
SWEDD, MT FIX *9200–MCA MENAR, MT FIX, NW BND **9100–MOCA	*MENAR, MT FIX	**9700

[FR Doc. 05–23479 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM02–12–001; Order No. 2006–A]

Standardization of Small Generator Interconnection Agreements and Procedures; Order on Rehearing

Issued November 22, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) grants rehearing in part, denies rehearing in part, and clarifies certain determinations in Order No. 2006. Order No. 2006 requires all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to file revised open access transmission tariffs containing standard small generator interconnection procedures and a standard small generator interconnection agreement, and to provide interconnection service under them to small generating facilities of no more than 20 megawatts.

EFFECTIVE DATE: December 30, 2005.

FOR FURTHER INFORMATION CONTACT:

Kumar Agarwal (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8923.

Kirk F. Randall (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8092.

Patrick Rooney (Technical Information), Office of Market, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6205.

Cordelia M. Shepherd (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8898.

Abraham Silverman (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6444.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly.

I. Introduction

1. Under Federal Power Act (FPA) sections 205 and 206,[1] on May 12, 2005, the Commission issued a Final Rule, Order No. 2006,[2] requiring all public utilities that own, control, or operate facilities used for transmitting electric energy in interstate commerce[3] to have on file standard procedures and a standard agreement for interconnecting Small Generating Facilities capable of producing no more than 20 megawatts (MW) of power (Small Generators) with their Transmission Systems.[4] Order No. 2006 requires that all public utilities subject to it modify their open access transmission tariffs (OATTs) to include the SGIP and SGIA.[5]

2. In this order, we grant rehearing in part, deny rehearing in part, and clarify certain determinations in Order No. 2006. As the Commission noted in that order, adoption of the SGIP and SGIA will reduce interconnection time and costs for Interconnection Customers and Transmission Providers, preserve reliability, increase energy supply where needed, lower wholesale prices for customers by increasing the number and types of new generation that will compete in the wholesale electricity market, facilitate development of non-polluting alternative energy sources, and help remedy undue discrimination, as FPA sections 205 and 206 require.[6] At its core, Order No. 2006 ensures that generators independent of Transmission Providers and generators affiliated with Transmission Providers are offered interconnection service on comparable terms.

II. Procedural Issues

3. The Commission received nine timely requests for rehearing or for clarification of Order No. 2006. SoCal Edison also submitted a letter to the Commission noting typographical errors it had identified in the SGIP and SGIA. Certain of those errors are included in Appendix B. AWEA[7] filed a request for rehearing on October 25, 2005. Under FPA section 313(a),[8] requests for rehearing of a Commission order were due within thirty days after issuance of Order No. 2006, *i.e.*, no later than June 13, 2005. Because the 30-day rehearing deadline is statutorily based, it cannot be extended. Therefore, we reject all requests for rehearing filed after June 13, 2005 as a matter of law.

4. Since Order No. 2006 was issued on May 12, 2005, the Commission has received a number of compliance filings by various Transmission Providers. In the course of evaluating those filings and review of the SGIP and SGIA, we have noted a number of typographical errors and minor clarifications.[9] These revisions, and those to the SGIP and SGIA ordered herein, are enumerated in Appendix B. The revised SGIP and the SGIA, containing these revisions in Microsoft Word format, will be available on the Commission's Web site, *http://www.ferc.gov.*

III. Discussion

5. In Order No. 2006, the Commission adopted the Small Generator Interconnection Procedures document (SGIP), which describes how the Interconnection Customer's Interconnection Request (*i.e.*, application) is to be evaluated. The SGIP includes three alternative procedures for evaluating a proposed Interconnection Request, based on the size of the Small Generating Facility. One is the four-step Study Process. The

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[1] 16 U.S.C. 824d and 824e (2000). Section 205(b) states that ''[n]o public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue preference or disadvantage. * * *'' In addition, section 206(a) states that ''[w]henever the Commission * * * shall find that any rate, charge, or classification demanded, observed, charged or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice or contract to be thereafter observed and in force, and shall fix the same by order.''

[2] Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, 70 FR 34190 (Jun. 13, 2005), FERC Stats. & Regs., Regulations Preambles, Vol. III, ¶ 31,180, at 31,406–31,551 (2005).

[3] A public utility is a utility that owns, controls, or operates facilities used for transmitting electric energy in interstate commerce, as defined by the FPA. 16 U.S.C. 824(e) (2000). A non-public utility that seeks voluntary compliance with the reciprocity condition of an open access transmission tariff may satisfy that condition by adopting these procedures and agreement.

The Energy Policy Act of 2005 establishes new FPA section 211A, which gives the Commission the option to require an unregulated transmitting utility to provide transmission service. Energy Policy Act of 2005, Pub. L. 109–58, § 1231, 119 Stat. 594, 955 (2005). The Commission has not yet taken action under section 211A, but it is seeking comment on this new authority in Docket No. RM05–25–000, Preventing Undue Discrimination and Preference in Transmission Services, Notice of Inquiry, 70 FR 55796 (Sep. 23, 2005), FERC Stats. & Regs. ¶ 35,553 at P 34–36 (2005).

[4] Capitalized terms used in this order have the meanings specified in the Glossaries of Terms or the text of the *pro forma* Small Generator Interconnection Procedures (SGIP) or the *pro forma* Small Generator Interconnection Agreement (SGIA). Small Generating Facility means the device for which the Interconnection Customer (the owner or operator of the Small Generating Facility) has requested interconnection. The utility with which the Small Generating Facility is interconnecting is the Transmission Provider. A Small Generating Facility is a device used for the production of electricity having a capacity of no more than 20 MW. The interconnection process begins when the Interconnection Customer submits an application for interconnection (Interconnection Request) to the Transmission Provider.

[5] The documents adopted in Order No. 2006 for inclusion in a Transmission Provider's OATT are called the SGIP and SGIA. Provisions of the SGIP are referred to as ''sections'' and those of the SGIA are referred to as ''articles.'' Comparable documents for generators larger than 20 MW in size were developed in Order No. 2003 (*see* fn. 13) and are referred to as the LGIP and LGIA.

[6] 16 U.S.C. 824d and 824e (2000).

[7] See Appendix A for a listing of petitioner acronyms.

[8] 16 U.S.C. 8251(a) (2003).

[9] In addition to typographical errors and errata, we are adding a statement in the Interconnection Request that documentation of site control must accompany the Interconnection Request, per SGIP section 1.5. We also: (1) Clarify in various SGIA articles that use the term ''Affected System'' that there may be more than one Affected System, or none; (2) clarify in SGIA article 1.3 that the purchase or delivery of power and other services that the Interconnection Customer may require will be covered under separate agreements, if any; (3) clarify in SGIA articles 1.6, 5.2.1.1, and 5.3 that there may be more than one system operator for the Transmission Provider's Transmission System; and (4) clarify in SGIA article 12.2 that the SGIA may also be amended pursuant to article 12.12. Finally, the term Good Utility Practice is used and defined in the SGIA. It is also used in the SGIP, but the definition of this term was inadvertently omitted from the Glossary of Terms in that document. We are amending the SGIP to include that definition.

four steps are the scoping meeting, the feasibility study, the system impact study, and the facilities study. The SGIP also includes a Fast Track Process that uses technical screens to evaluate a certified Small Generating Facility no larger than 2 MW and a 10 kW Inverter Process that uses the same technical screens to evaluate a certified inverter-based Small Generating Facility no larger than 10 kW.[10] These procedures are described in more detail below and are depicted in flow chart form in Appendices B, C, and D to Order No. 2006.

6. In Order No. 2006, the Commission also adopted the Small Generator Interconnection Agreement (SGIA), which is executed after the Interconnection Request has been successfully reviewed under the provisions in the SGIP. The SGIA (sometimes called the interconnection agreement or Agreement) describes the legal relationships of the Parties,[11] including who pays for equipment modifications to the Transmission Provider's electric system to accommodate the interconnection.[12]

A. Issues Related to Both the Small Generator Interconnection Procedures and the Small Generator Interconnection Agreement

7. *Disputes (SGIP Section 4.2 and SGIA Article 10)*—Order No. 2006 requires the Parties to attempt in good faith to resolve all disputes and invites them to contact the Commission's Dispute Resolution Service for assistance in mediating disputes. The provision also requires the Parties to share the cost of any neutral third parties retained to help resolve the dispute.

Rehearing Request

8. Small Generator Coalition contends that requiring the Parties to split the costs of any dispute resolution disadvantages the Interconnection Customer because the Transmission Provider is likely to have significantly more resources than does the Interconnection Customer. Instead, the neutral party providing the dispute resolution service should be permitted to assign costs to each Party and to apportion greater cost responsibilities to a Party presenting frivolous or non-substantive arguments.

Commission Conclusion

9. We are sensitive to concerns about the costs of resolving disputes, and Order No. 2006 does not mandate that the Parties use a particular process to settle their disputes. Instead, it provides alternative sources of dispute resolution services that are available to the Parties at little cost, such as the Commission's own Dispute Resolution Service, and encourages the Parties to use any state regulatory resources that may be available. By broadening the Commission's approach to dispute resolution and giving the Parties the flexibility to choose alternative dispute resolution services, Order No. 2006 gives the Parties the ability to limit costs and the problems Small Generator Coalition describes. Regarding frivolous or non-substantive arguments, the SGIA already requires the Parties to operate in good faith. Should one Party operate in bad faith by advancing frivolous arguments, the other Party may raise the issue with the Commission.

10. *Definition of Transmission Provider*—The SGIP and SGIA define ''Transmission Provider'' to include both the Transmission Provider and the Transmission Owner where they are different entities. This often occurs in RTOs or ISOs where the entity operating the Transmission System is independent of the entities that actually own the Transmission System. This is consistent with the approach taken for Large Generating Facilities in Order No. 2003.[13]

Request for Rehearing

11. MSAT asks the Commission to distinguish more clearly the roles of the Transmission Provider and the Transmission Owner. It argues that the lack of clarity is confusing and could slow down the interconnection process.

Commission Conclusion

12. The definition of the term ''Transmission Provider'' in Order No. 2006 is the same as in Order No. 2003.[14] Further defining the relationship between the Transmission Provider and the Transmission Owner would restrict unnecessarily the flexibility that independent Transmission Providers and their stakeholders now have to apportion responsibilities between the Transmission Provider and the Transmission Owner. Allowing flexibility permits the entities in each region to customize the SGIP and SGIA, under the variations permitted to independent entities, to best meet their unique needs. Thus, we deny MSAT's request for rehearing and encourage it to work with the Midwest ISO during the compliance process on apportioning responsibilities between the various entities.[15]

B. Issues Related to the Small Generator Interconnection Procedures

13. *Fast Track Process and 10 kW Inverter Process Screens (SGIP Section 2.2.1)*—SGIP section 2.2.1 specifies technical screens that are used to evaluate proposed interconnections of certified [16] Small Generating Facilities under the Fast Track Process and the 10 kW Inverter Process.[17] Section 2.2.1.2 provides that, to successfully pass the screen, the aggregated generation, including the proposed Small Generating Facility, on a radial distribution circuit shall not exceed 15 percent of the line section [18] annual peak load as most recently measured at the substation.

Rehearing Request

14. Southern Company proposes revising section 2.2.1.2 to permit measurement at the substation ''or applicable automatic sectionalizing device.'' It claims this is simply a ministerial change that permits the peak load to be measured at the automatic sectionalizing device, which may not be located at the substation.

[10] Order No. 2006 at P 5.

[11] The Parties are the Transmission Provider, Transmission Owner, Interconnection Customer or any combination of the above. SGIP Attachment 1.

[12] Order No. 2006 at P 5.

[13] Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 FR 49845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003) (Order No. 2003), *order on reh'g*, Order No. 2003-A, 69 FR 15932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004) (Order No. 2003-A), *order on reh'g*, Order No. 2003-B, 70 FR 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005) (Order No. 2003-B), *order on reh'g*, Order No. 2003-C, 70 FR 37661 (Jun. 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005) (Order No. 2003-C). *See also* Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

[14] *See* Order No. 2003 at P 909.

[15] MSAT points out that P 349 of Order No. 2006 inadvertently refers to ''Transmission Operators'' instead of ''Transmission Owners.'' MSAT is correct.

[16] Under Order No. 2006, a Small Generating Facility equipment package is considered certified if it has been submitted, tested, and listed by a nationally recognized testing and certification laboratory. SGIP Attachments 3 and 4.

[17] The Fast Track Process for evaluating an Interconnection Request for a certified Small Generating Facility no larger than 2 MW includes technical screens, a customer options meeting, and an optional supplemental review. Order No. 2006 at P 45. The 10 kW Inverter Process is available to evaluate the interconnection of a certified inverter-based generator no larger than 10 kW. The all-in-one 10 kW Inverter Process document includes a simplified application form, interconnection procedures, and a brief set of terms and conditions (akin to an interconnection agreement). Order No. 2006 at P 46 and P 394–405, Appendix D, and SGIP Attachment 5.

[18] A line section is that portion of a Transmission Provider's electric system connected to a customer bounded by automatic sectionalizing devices or the end of the distribution line. SGIP section 2.2.1.2.

Commission Conclusion

15. SGIP section 2.2.1.2 is a critical component of the screens, which were debated at great length in the stakeholder process.[19] Southern Company's proposed revision, raised here for the first time on rehearing, could lead to case-by-case disputes as to where the measurement should be made. The resulting delays in the interconnection process could adversely affect both the Transmission Provider and the Interconnection Customer. Accordingly, we deny Southern Company's request for rehearing.

16. *Scoping Meeting (SGIP Section 3.2)*—The first step of the four-step SGIP Study Process for evaluating a proposed interconnection is the scoping meeting. SGIP section 3.2 requires the Transmission Provider and the Interconnection Customer to hold the scoping meeting within ten Business Days after the Interconnection Request is deemed complete. At the scoping meeting, the Parties discuss the proposed interconnection and review any existing studies that could aid in its evaluation. Order No. 2006 also requires that any scoping meeting between the Transmission Provider and an affiliate be announced publicly and transcribed, with the transcripts made available for a period of three years.[20]

Rehearing Request

17. Southern Company argues that the special treatment afforded an affiliate of the Transmission Provider is discriminatory because it does not apply to other competitors. This puts the affiliate at a competitive disadvantage. The Commission is treating similarly situated entities differently, according to Southern Company, and the requirement should therefore be eliminated.

Commission Conclusion

18. The treatment of affiliates in Order No. 2006 is identical to the requirement for Large Generating Facilities, which the Commission addressed in Order No. 2003–B.[21] The Commission there explained, among other things, that an affiliated Interconnection Customer and one that is not an affiliate of the Transmission Provider are not similarly situated. There is no need to address this issue further here. We deny Southern Company's request for rehearing.

19. *Study Deadlines, Study Cost Responsibility, and Restudies (SGIP Sections 3.3, 3.4, and 3.5)*—The SGIP Study Process includes three standard engineering analyses that evaluate the proposed interconnection: The feasibility study, the system impact study, and the facilities study.[22] The interconnection study agreements (SGIP Attachments 6, 7, and 8) require the Transmission Provider to complete the feasibility study within 30 Business Days of signing the feasibility study agreement, the distribution system impact study within 30 Business Days and the transmission system impact study within 45 Business Days of signing the system impact study agreement, and the facilities study within 30 Business Days of signing the facilities study agreement. The Interconnection Customer is responsible for paying the Transmission Provider's actual costs for performing these studies. The SGIP does not contain a provision for restudy should system conditions change after a study is complete.

Rehearing Requests

20. Southern Company asserts that the SGIP does not give the Transmission Provider enough time to perform the interconnection studies, especially if it must evaluate Interconnection Requests for numerous generators at one time.

21. Small Generator Coalition argues that the Interconnection Customer should pay for the feasibility study only if the study shows harm to the Transmission Provider's electric system; otherwise, the Transmission Provider should pay for the study. Without this allocation of cost responsibility, the Interconnection Customer could be subject to unneeded feasibility studies and excessive cost responsibility.

22. SoCal Edison seeks clarification that the Transmission Provider may restudy when a higher-queued Interconnection Customer drops out of the queue[23] or when system conditions change. Southern Company argues that the SGIP should allow restudy when the size of the generator or the generator's queue position changes. It notes that the LGIP permits restudy for Large Generating Facilities, and argues that the Commission has not provided a strong rationale for permitting a restudy for a 21 MW generator under the LGIP, but not for a similarly situated 19 MW generator under the SGIP. It asserts that a restudy could benefit the Interconnection Customer at times and, in any event, that the Transmission Provider should be able to perform a restudy when necessary to accurately reflect the system conditions and to maintain the safety and reliability of the electric system.

Commission Conclusion

23. Southern Company repeats the same arguments the Commission rejected in Order No. 2006. There, the Commission stated that the SGIP deadlines strike a balance between giving the Transmission Provider enough time to complete the studies and ensuring that the Small Generating Facility can be interconnected within a reasonable time.[24] We see no reason to change that position here. We also note that the deadlines were developed with both Interconnection Customer and Transmission Provider stakeholder input, and thus represent a balancing of their diverse interests. Furthermore, if a far greater than normal number of Interconnection Requests temporarily overwhelms the Transmission Provider's resources for processing Interconnection Requests, the Parties can work under SGIP section 4.1 to set a new deadline and log the reasons for the change in the records the Transmission Provider maintains under SGIP section 4.7.

24. Small Generator Coalition repeats its earlier argument that the Transmission Provider should pay for the feasibility study only if the study shows no adverse impact, and the Interconnection Customer should pay if it does. The Commission rejected this argument in Order No. 2006 and we deny this request for those same reasons.[25] To repeat, the

[19] In the Advance Notice of Proposed Rulemaking (ANOPR) issued in this proceeding, and published in the **Federal Register** on August 26, 2002 (67 FR 54749), the Commission initiated a collaborative process where members of the public, electric industry participants, and federal and state agencies (collectively, stakeholders) were invited to draft proposed generator interconnection procedures and agreement documents. The stakeholders, called Joint Commenters in Order No. 2006, filed consensus documents in response to the ANOPR and also in response to a Commission invitation for supplemental comments. See Order No. 2006 at P 16–25 for a narrative history of this proceeding.

[20] Order No. 2006 at P 184.

[21] Order No. 2003–B at P 137.

[22] The feasibility study is a preliminary technical assessment of the proposed interconnection. The system impact study is a more detailed assessment of the effect the interconnection would have on the Transmission Provider's electric system and Affected Systems. The facilities study determines what modifications to the Transmission Provider's electric system are needed, including the detailed costs and scheduled completion dates for these modifications. Order No. 2006 at P 44.

[23] Each Interconnection Request is assigned a Queue Position that is based upon the date and time of receipt of the valid Interconnection Request by the Transmission Provider. The Queue Position determines the order of performing interconnection studies, if required, and the Interconnection Customer's cost responsibility for any Upgrades to the Transmission Provider's electric system. Order No. 2006 at P 176.

[24] Order No. 2006 at P 192.

[25] *Id.* at P 187.

Interconnection Customer should pay for all interconnection studies, regardless of the conclusions reached.

25. Finally, there is no reason to reverse the prohibition in Order No. 2006 against the restudy of Small Generating Facility interconnections.[26] The very purpose of the SGIP and SGIA is to expedite interconnections of Small Generating Facilities by removing unnecessary delays wherever possible. If the SGIP timelines are respected and Small Generators are interconnected promptly, there should be no need for restudy.

26. *System Impact Study (SGIP Section 3.4)*—In Order No. 2006, the Commission ruled that the Interconnection Request should be evaluated in the system impact study based on the Small Generating Facility's maximum rated capacity because using anything less than the maximum rated capacity would not ensure that proper protective equipment is designed and installed, and the safety and reliability of the Transmission Provider's electric system could be jeopardized.

Rehearing Request

27. Small Generator Coalition argues that using the maximum rated capacity of the Small Generating Facility is appropriate for the fault study, but not for the power flow analysis.[27] This is because the Small Generating Facility usually has a dedicated load that it will serve, and it will never send the full amount of power that it is capable of generating to the Transmission Provider's electric system.

Commission Conclusion

28. The Commission examined the issue of evaluating the Small Generating Facility using less than its maximum rated capacity at great length in Order No. 2006.[28] The Commission rejected arguments made by commenters that the evaluation should be based on less that the Small Generating Facility's maximum rated capacity, including Small Generator Coalition's proposed set of tests that could be used to determine whether these kinds of configurations jeopardize safety and reliability. Small Generator Coalition does not convince us to change that decision here and we, accordingly, deny rehearing.

29. *Tender of the Interconnection Agreement (SGIP Sections 3.5 and 4.8)*—SGIP section 3.5.7 directs the Transmission Provider to present the Interconnection Customer with an executable SGIA no later than five Business Days after the facilities study is complete and the Interconnection Customer agrees to pay for the Interconnection Facilities and Upgrades[29] identified in the facilities study. Under SGIP section 4.8, the Interconnection Customer has 30 Business Days to execute and return the SGIA to the Transmission Provider.

Rehearing Request

30. SoCal Edison complains that five Business Days to prepare, review, and transmit an executable interconnection agreement to the Interconnection Customer is not enough time. According to SoCal Edison, there is no rationale for giving the Interconnection Customer six times as much time to sign and return the agreement as the Transmission Provider has to prepare it. It proposes that the Transmission Provider be given 20 Business Days to tender the executable SGIA to the Interconnection Customer.

31. SoCal Edison also complains that SGIP section 3.5.7 has no deadline for the Interconnection Customer to agree to pay for the Interconnection Facilities and Network Upgrades. It notes that the Transmission Provider may not tender the executable SGIA to the Interconnection Customer until the latter so agrees. According to SoCal Edison, the Interconnection Customer could withhold agreeing to pay for the Interconnection Facilities and Network Upgrades and keep its place in the queue indefinitely at the expense of lower-queued generators. SoCal Edison suggests that the Interconnection Customer be given 15 Business Days to (1) agree to pay for the Interconnection Facilities and Upgrades, (2) withdraw the Interconnection Request, or (3) ask the Transmission Provider to tender an unexecuted interconnection agreement with the Commission. In the alternative, the Commission should clarify that the Transmission Provider may develop consistent and nondiscriminatory internal policies to prevent stalling on the part of the Interconnection Customer.

Commission Conclusion

32. We deny SoCal Edison's request to give the Transmission Provider additional time to tender an executable SGIA to the Interconnection Customer. It offers no explanation why a Transmission Provider cannot meet the deadline. In addition, the SGIA is a standardized document that only requires Attachments 2 through 6 to be completed before it is tendered to the Interconnection Customer. The information required in those attachments is readily available, being contained in the Interconnection Request and the recently-completed interconnection studies.

33. We also decline to establish a deadline for the Interconnection Customer to agree to pay for the Interconnection Facilities and Network Upgrades, withdraw its Interconnection Request, or ask that the unexecuted SGIA be filed with the Commission. While the Interconnection Customer could purposefully withhold its agreement to pay for the facilities as SoCal Edison hypothesizes, it is in the Interconnection Customer's best interests to get its project up and running as soon as possible. However, more importantly, once the facilities study is complete and the costs of the Interconnection Facilities and Upgrades are known, the Interconnection Customer needs time to evaluate the study results and finalize any necessary financing arrangements. Nonetheless, we expect the Parties to act in good faith during this phase of the interconnection process. If either Party believes that the interconnection process is not moving forward within a reasonable time during this waiting period, it may initiate dispute resolution or file a complaint with the Commission. In addition, the Transmission Provider may file the interconnection agreement in unexecuted form with the Commission, explaining that it was unable to obtain the Interconnection Customer's agreement to pay for the Interconnection Facilities and Upgrades.

C. Issues Related to the Small Generator Interconnection Agreement

34. *Reactive Power (SGIA Article 1.8)*—SGIA article 1.8.1 requires that, unless the Transmission Provider has established different requirements that apply to all similarly situated generators in the control area on a comparable basis, the Small Generating Facility shall be designed to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging.

[26] *Id.* at P 193.

[27] The fault study (also called a short circuit analysis) and power flow analysis are performed in the course of the system impact study. SGIP Attachment 7.

[28] Order No. 2006 at P 79–86.

[29] Interconnection Facilities include all facilities and equipment between the Small Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Generating Facility with the Transmission Provider's Transmission System. Upgrades are the required additions and modifications to the Transmission Provider's Transmission System at or beyond the Point of Interconnection. SGIP Attachment 1.

The requirement that Small Generating Facilities be designed to meet this reactive power requirement does not apply to wind generators.

Rehearing Requests

35. NRECA states that exempting wind generators from the SGIA's reactive power requirement inappropriately shifts the burden of preserving the reliability of the electric system to the Transmission Provider. It notes that Order No. 661 [30] imposes the same reactive power requirements on wind powered Large Generating Facilities as conventional Large Generating Facilities, if the Transmission Provider demonstrates that reactive power capability is necessary. NRECA argues that the provisions of Order No. 661 should also apply to Small Generating Facilities. Unless the SGIA is so revised, the reactive power requirement does not apply to a 19 MW wind generator subject to the SGIA, whereas a slightly larger 21 MW wind generator subject to the Order No. 661 does have such a requirement.

36. SoCal Edison also argues that wind powered Small Generating Facilities should have to supply reactive power. It argues that the Commission failed to consider (1) the aggregate reactive power effects of many wind-powered Small Generating Facilities interconnected in one area (*e.g.*, a ''wind farm'') and (2) the effect a wind powered Small Generating Facility may have on a distribution system, which consists of low voltage lines.

Commission Conclusion

37. SGIA article 1.8.1 does not endanger reliability or shift the burden of preserving the reliability of the electric system from the Interconnection Customer to the Transmission Provider. This provision only addresses whether the Small Generating Facility itself must be designed to provide reactive power within a certain band. As noted in Order No. 661, ''conventional generators inherently provide reactive power, whereas most induction-type generators used by wind plants currently can only provide reactive power through the addition of external devices.'' [31] Since conventional generators can normally provide reactive power as a matter of course, article 1.8.1 does not impose any additional requirements on them. However, since wind-powered Small Generating Facilities usually cannot provide reactive power, article 1.8.1 does not impose this additional burden on them. This is consistent with the approach taken by the Commission in Order No. 661 for Large Generating Facilities.[32]

38. The provisions of SGIA article 1.8.1 notwithstanding, the SGIP still requires the Interconnection Customer to mitigate any adverse safety and reliability effects its Small Generating Facility may have on the Transmission Provider's Transmission System. The Small Generating Facility (whether wind-powered or not) must still pass either the SGIP's Study Process or technical screens before interconnecting. If additional facilities are needed to safely interconnect the Small Generating Facility with the Transmission Provider's electric system, whether due to safety or reliability (including reactive power) reasons, the Transmission Provider shall identify them and assign costs as specified in SGIA articles 4 and 5. This clarification responds to SoCal Edison's and NRECA's concerns.

39. *Equipment Testing and Inspection (SGIA Article 2.1)*—Under SGIA article 2.1, the Interconnection Customer shall test its Small Generating Facility and Interconnection Facilities before interconnection. The Transmission Provider may, at its own expense, send qualified personnel to observe the testing.

Rehearing Request

40. Southern Company claims that the Transmission Provider must be allowed to witness the testing of the Generating Facility and Interconnection Facilities, and argues that the Interconnection Customer should reimburse the Transmission Provider for its cost of witnessing testing; otherwise, those expenses will be subsidized by the Transmission Provider's other customers.

Commission Conclusion

41. The SGIA provides that the Transmission Provider and the Interconnection Customer shall each be responsible for their own staff, equipment, and other costs associated with testing. The witnessing of testing is at the option of the Transmission Provider. While Southern Company may routinely witness such tests in its system, other Transmission Providers may review test reports at minimal cost without being actually present for the testing itself. We conclude that the witnessing of testing, if deemed necessary, is a routine responsibility of the Transmission Provider, and as such is an appropriate cost to be borne by all users of the Transmission System.[33] We deny Southern Company's request for rehearing.

42. *Authorization Required Prior to Parallel Operation (SGIA Article 2.2)*—SGIA article 2.2 requires the Interconnection Customer to follow all applicable parallel operation requirements before operating its Small Generating Facility in parallel with the Transmission Provider's Transmission System. The Transmission Provider is to list all parallel operating requirements in SGIA Attachment 5 and notify the Interconnection Customer of any changes to those requirements as soon as they are known. This provision also requires the Transmission Provider to give the Interconnection Customer written approval before the Small Generating Facility may begin parallel operations.

Rehearing Request

43. Southern Company argues that the standards for parallel operation should be contained in the SGIA. Also, the Transmission Provider should not have to authorize the Small Generating Facility to begin operations without assurance that the Interconnection Customer has actually met those requirements. Southern Company notes that SGIA article 2.2.2 requires only that the Interconnection Customer notify the Transmission Provider that it has complied with the parallel operation requirements. It argues that the Transmission Provider should be allowed to reasonably confirm for itself that all the requirements have been met before it has to authorize operations.

Commission Conclusion

44. We agree with Southern Company that all parallel operation requirements should be listed in the SGIA when practicable, and article 2.2.1 already states that the Transmission Provider ''shall use Reasonable Efforts to list applicable parallel operation requirements in Attachment 5 of this Agreement.'' Moreover, SGIA Attachment 5 specifies that the Transmission Provider ''shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the Transmission Provider's Transmission System.'' We believe that the SGIA already addresses Southern Company's concerns.

45. Southern Company also argues that having the Interconnection Customer notify the Transmission

[30] Interconnection for Wind Energy, Order No. 661, 70 FR 34993 (Jun. 16, 2005), FERC Stats. & Regs. ¶ 31,186 (2005) (Order No. 661), *reh'g pending*.

[31] Order No. 661 at n. 27.

[32] *Id.* at P 50–52.

[33] *See also* Order No. 2003–A at P 291.

Provider that its Small Generating Facility complies with the parallel operation requirements is inadequate; Southern Company wants to be able to independently confirm that the requirements have been met. We do not find that necessary. If the Transmission Provider has complied with the SGIA, Attachment 5 should contain the applicable parallel operation requirements, and they are thus clearly known to all Parties. The Interconnection Customer's statement that it has complied is sufficient. Once notified, the Transmission Provider shall not unreasonably withhold, condition, or delay authorization for the Small Generating Facility to operate in parallel.

46. *Termination (SGIA Article 3.3)*—SGIA article 3.3.3 provides that upon termination of the SGIA, the Small Generating Facility shall be disconnected from the Transmission Provider's Transmission System. It also provides that neither Party is relieved of its liabilities and obligations, owed or continuing at the time of the termination.

Rehearing Request

47. Southern Company argues that the SGIA should allow the Transmission Provider to permanently disconnect the Small Generating Facility if there is a termination. The Interconnection Customer should also be held responsible for all reasonable expenses the Transmission Provider incurs when permanently disconnecting the Small Generating Facility.

Commission Conclusion

48. SGIA article 3.3.3 already allows the Transmission Provider to permanently disconnect the Small Generating Facility upon termination. This provision also states that termination does not relieve either Party of liabilities and obligations upon termination. However, Southern Company's petition highlights an oversight in the drafting of article 3.3. Accordingly, we are including a provision, consistent with article 2.5 of the LGIA, that provides that all disconnection costs are to be borne by the terminating Party, unless the termination results from the non-terminating Party's Default of the SGIA, or the non-terminating Party otherwise is responsible for the disconnection costs under the SGIA. This provision precludes cost recovery when the Transmission Provider causes the agreement to be terminated, because in those instances it may be appropriate for the Transmission Provider to bear some or all of the costs of disconnection. This responds to Southern Company's concern.

49. *Temporary Disconnection—Reconnection (SGIA Article 3.4.6)*—SGIA article 3.4.6 requires the Parties to cooperate with one another to restore the Small Generating Facility, the Interconnection Facilities, and the Transmission Provider's Transmission System to normal operation as soon as reasonably practicable following a temporary disconnection.

Rehearing Request

50. Southern Company argues that this provision should state that the Small Generating Facility only has to be reconnected once the problem causing the disconnection has been fixed.

Commission Conclusion

51. The SGIA requires the Parties to cooperate to restore the Small Generating Facility, as well as other facilities, to normal operation as soon as reasonably practicable. We do not see the provision as ambiguous. To clarify, however, the Transmission Provider is required to reconnect the Small Generating Facility after a temporary disconnection as soon as it can be reconnected safely and reliably consistent with system conditions and Good Utility Practice.[34]

52. *Cost Responsibility (SGIA Articles 4 and 5)*—Order No. 2006 adopts the same cost responsibility policy for Small Generator interconnections as the Commission did for Large Generator interconnections in Order No. 2003. Under that policy, the costs of Interconnection Facilities and Distribution Upgrades are directly assigned to the Interconnection Customer. In addition, if the Transmission Provider is a non-independent entity, such as a vertically integrated utility, the Interconnection Customer initially funds the cost of any required Network Upgrades (*i.e.*, Upgrades to the Transmission System at or beyond the Point of Interconnection) and it is then reimbursed for this upfront payment by the Transmission Provider. However, we expect that, for most interconnections of Small Generating Facilities, there will be no Network Upgrades. This policy grants greater flexibility in assigning cost responsibility if the Transmission Provider is an independent entity such as an RTO or ISO.

Rehearing Requests

53. North Carolina Commission states that the Commission erred by requiring a non-independent Transmission Provider to ''socialize'' Network Upgrades while allowing an RTO or ISO to use participant funding. The Commission should adopt a ''but for'' policy for both independent and non-independent Transmission Providers to ensure that the costs of Upgrades and expansions that are necessary to support new loads or demands on the Transmission Provider's Transmission System are borne by those causing the Upgrade or expansion to be undertaken. It asks that participant funding, including the use of a ''but for'' approach, not be limited to only RTOs or ISOs. North Carolina Commission states that, if the Commission is concerned that the cost allocation decisions of a non-independent entity could be unfair or subjective, any unfairness or subjectivity can be cured by the opportunity for review of the allocation process and its results by an independent third party, such as the Commission, without the involvement of an RTO or ISO.

54. Southern Company raises a number of issues that the Commission has addressed in other proceedings. Specifically, Southern Company states as follows: the ''at or beyond'' test has been vacated by the D.C. Circuit Court of Appeals[35] and the Commission has failed to justify its change in policy; the Commission's cost responsibility policy results in cost socialization and thus violates the system-wide benefit test, cost causation principles and the Energy Policy Act of 1992, and it will cause inefficiencies in generator siting and transmission system expansion, contrary to Commission precedent and the Energy Policy Act of 1992; unused transmission credits should not be subject to refund after twenty years; the Interconnection Customer should receive transmission credits only when transmission service is taken from the Small Generating Facility itself; the Interconnection Customer should not receive transmission credits for tax gross-up or other tax-related payments; the Interconnection Customer should not be entitled to receive interest on the costs of Network Upgrades; the Commission's ''higher of'' policy does not prevent native load customers from subsidizing the Interconnection Customer; an Affected System[36] should

[34] SGIA article 1.5.3 already requires the Transmission Provider to construct, operate, and maintain its Transmission System and Interconnection Facilities in accordance with the SGIA and with Good Utility Practice.

[35] *Entergy Services, Inc.* v. *FERC*, 391 F.3d 1240, 1252 (D.C. Cir. 2004).

[36] An Affected System is an electric system other than the Transmission Provider's Transmission

not have to provide credits when there is no system benefit; and Order No. 2006 unlawfully discriminates against Transmission Providers and their customers that are not part of an RTO or ISO. Also, Southern Company argues that, to protect other customers and to place the Interconnection Customer appropriately at risk if the Small Generating Facility does not achieve commercial operation or retires early, the Interconnection Customer should be responsible for all operation, maintenance, and other expenses associated with the facilities that are required to accommodate the interconnection. At a minimum, the Interconnection Customer should pay the operation and maintenance expenses associated with these facilities until their costs of construction are reflected in transmission rates.

55. Small Generator Coalition asks the Commission to provide that an Interconnection Customer willing to interconnect its Small Generating Facility ahead of a higher-queued applicant may do so without paying system upgrade costs until the higher-queued applicant's interconnection actually makes the system upgrades necessary. The Final Rule should not let the Transmission Provider demand system upgrade costs from the Interconnection Customer when the interconnection is made based on a prior claim to system transfer capacity by a generator that is higher in the queue. Small Generator Coalition also asks the Commission to provide that when the facilities study identifies the Upgrades needed to interconnect the Small Generating Facility, the Transmission Provider must agree to a not-to-exceed estimate of those costs, subject if necessary to an inflation adjustment, so that the Interconnection Customer will have financial certainty for its project. This keeps the Transmission Provider from using its leverage to extract unreasonable payments when the Upgrades are not constructed until years after the actual interconnection.

56. Small Generator Coalition also says that an Interconnection Customer interconnecting its Small Generating Facility with the Transmission Provider's Distribution System should have the same protection against paying for Upgrades that benefit others that it would have if it interconnected with the Transmission System. The costs of Upgrades should be assigned based on the benefits from those Upgrades, regardless of whether the portion of the system on which the Upgrades are made is deemed to be transmission or distribution. Small Generator Coalition argues that, as with Network Upgrades, Distribution Upgrades may offer benefits to other customers or to the Transmission Provider's electric system.

57. SoCal Edison notes that, in Order No. 2003–B, the Commission held: ''In the case of an Affected System that is jointly owned, it is the responsibility of the Affected System Operator to provide the credits and seek reimbursement for any amounts that it believes it is owed by the other owners.'' [37] SoCal Edison states that it sought rehearing on this point in the Large Generator Interconnection proceeding. Although the Commission did not directly address this issue in Order No. 2006, SoCal Edison seeks clarification that the Commission did not intend that the operator of a jointly-owned Affected System must pay transmission credits for the portions of the facilities that it does not own.

Commission Conclusion

58. The Commission addressed North Carolina Commission's arguments in Order Nos. 2003 and 2003–A.[38] In the latter order, the Commission explained that it is not unduly discriminatory to let an independent Transmission Provider propose innovative cost recovery methods while requiring a non-independent Transmission Provider to continue to adhere to the Commission's traditional cost responsibility policy. This different treatment is fair because the two types of Transmission Provider are not similarly situated. As the Commission explained, when implemented by an independent Transmission Provider that does not have an incentive to discourage new generation by competitors, new cost recovery methods such as participant funding can yield efficient competitive results. However, because of their inherent subjectivity, new approaches such as participant funding could allow a non-independent Transmission Provider to frustrate the development of new generating facilities that could compete with its own.

59. The Commission addressed all of the issues raised by Southern Company in the Large Generator Interconnection proceeding and will not repeat those conclusions here.[39] We also note that the Commission recently clarified its policy on using the ''at or beyond'' test to determine cost responsibility for Interconnection Facilities and Network Upgrades.[40] Finally, the Commission addressed the recovery of operation and maintenance (O&M) and related expenses in Order Nos. 2003–A and 2006.[41] In the latter order, the Commission noted that the Transmission Provider may propose, under FPA section 205,[42] a rate to recover from the Interconnection Customer an appropriate share of O&M costs associated with Interconnection Facilities and Distribution Upgrades. However, it has long been the Commission's policy that O&M costs associated with Network Upgrades shall not be directly assigned to the Interconnection Customer, because Network Upgrades are part of the integrated transmission system from which all transmission users benefit.[43] Although Southern Company describes scenarios where native load and other transmission customers could be placed at risk for the recovery of these costs, such scenarios are unlikely. And, even if they do occur, the cost to native load and other transmission customers would be *de minimis*.

60. North Carolina Commission also contends that the Interconnection Customer is protected from unfair conduct because it has recourse to the Commission. However, as the Commission stated in Order No. 2003–A,[44] the availability of evidentiary proceedings, case-by-case adjudication of Interconnection Requests, or other procedures does not ensure that interconnections are completed in a timely manner by non-independent Transmission Providers. Administrative review of complex technical matters is costly and time-consuming. In today's competitive power market environment, allowing a Transmission Provider that is also a competitor in the wholesale power market to use the administrative process to delay competitive entry, or to propose subjective and potentially discriminatory policies, is unacceptable.

61. Small Generator Coalition seeks assurance that an Interconnection Customer willing to interconnect its Small Generating Facility ahead of a higher-queued applicant may do so without paying system upgrade costs until the higher-queued applicant's interconnection actually makes the

System that may be affected by the proposed interconnection. SGIP Attachment 1.

[37] Order No. 2003–B at P 42.

[38] Order No. 2003 at P 695–703 and Order No. 2003–A at P 587 and 691–697.

[39] *See, in general*, Order No. 2003 at P 683–750, Order No. 2003–A at P 341 and P 566–697, Order No. 2003–B at P 15–57 and P 103–105, and Order No. 2003–C at P 6–27.

[40] Nevada Power Company, Order on Rehearing, 113 FERC ¶ 61,007 (2005).

[41] *See* Order No. 2003–A at P 424 and Order No. 2006 at P 453–454.

[42] 16 U.S.C. 824d (2000); *see also* 18 CFR 35.12 (2005).

[43] Order No. 2006 at P 453.

[44] Order No. 2003–A at P 694.

system upgrades necessary. The Commission addressed this issue in Order No. 2003–A.[45] Consistent with that ruling, the procedure will operate as follows. If the lower-queued Interconnection Customer chooses an in-service date for its Small Generating Facility that is earlier than that of the higher-queued Interconnection Customer, the former must be allowed to proceed using the capacity earmarked for the latter, when possible. When the higher-queued Interconnection Customer is ready to proceed, required Network Upgrades would have to be built, and at that time the lower-queued Interconnection Customer would have to pay its share of the costs. The period during which the lower-queued Interconnection Customer receives transmission credits from the Transmission Provider also begins at the same time. However, if the higher-queued Interconnection Customer ultimately drops out of the queue, then some of the Network Upgrades would not have to be built. This would eliminate, at least in part, the need for funding by the lower-queued Interconnection Customer and for subsequent payment of transmission credits.

62. Small Generator Coalition also proposes that the Transmission Provider commit to a not-to-exceed estimate of Upgrade costs. We deny this request. A basic tenet of the Commission's policy for the recovery of interconnection costs is that the Interconnection Customer pays the actual costs of Interconnection Facilities and Distribution Upgrades and initially funds the cost of Network Upgrades. However, we recognize that postponing the construction of Upgrades, and the possibility that a generator higher in the queue could drop out, can create uncertainty for the Interconnection Customer. Therefore, as in the Large Generator Interconnection proceeding,[46] we are directing the Transmission Provider to tell the Interconnection Customer its maximum possible funding exposure when the Transmission Provider tenders the SGIA. That estimate shall include the costs of Upgrades that are reasonably allocable to the Interconnection Customer at the time the estimate is made, and the costs of any Upgrades not yet constructed that were assumed in the interconnection studies for the Interconnection Customer but are, at the time of the estimate, an obligation of an entity other than the Interconnection Customer.

63. Small Generator Coalition argues that Distribution Upgrades may offer benefits to other customers or to the Transmission Provider's electric system that should be reflected by a contribution from other customers or the Transmission Provider toward the costs of the Upgrades. We disagree for several reasons. First, as stated in Order No. 2003, distribution facilities typically deliver electricity to particular localities, and do not serve a bulk delivery service for the entire system, as is the case for transmission facilities.[47] Second, implementing a more complicated cost allocation policy for Distribution Upgrades would only slow interconnection while providing little financial benefit to the Interconnection Customer. Third, commenters suggest no reason why Small Generating Facilities and Large Generating Facilities should be treated differently on this issue.

64. In response to SoCal Edison's request, we clarify that the operator of a jointly-owned Affected System does not have to pay credits for the portion of the facilities that it does not own. The Commission addressed this issue in Order No. 2003–C,[48] where it stated that the operator's responsibility for flowing through transmission credits and reimbursing the Interconnection Customer for its upfront payment does not extend beyond the Affected System operator's normal duties as a tariff administrator. We note, of course, that this responsibility extends only to the operator and owners of a jointly-owned system that (1) are subject to the Commission's jurisdiction and (2) have financial responsibility under their own Commission-regulated tariffs to provide transmission credits and final reimbursement to the Interconnection Customer for the upfront payments they have received.

65. *Billing and Payment Procedures and Final Accounting (SGIA Article 6.1)*—SGIA article 6.1.2 requires the Transmission Provider to give the Interconnection Customer a final accounting report of the actual construction costs of the Interconnection Facilities and Upgrades within three months of their completion.

Rehearing Request

66. SoCal Edison argues that the Transmission Provider should have at least six months (and preferably 12 months) to prepare the final accounting report because some vendors do not supply invoices until several months after the work is completed. LGIA article 12.2, in contrast, gives the Transmission Provider six months to prepare a final cost accounting for a Large Generating Facility. SoCal Edison contends that the final accounting deadline for all size projects should be the same.

Commission Conclusion

67. SGIA article 6.1 requires the Transmission Provider to bill the Interconnection Customer on a monthly basis as costs are incurred, or as otherwise agreed to by the Parties, and the Interconnection Customer has 30 calendar days to pay the bill. SoCal Edison does not claim that it cannot process vendor invoices on a monthly basis, and we see no reason why the final accounting should be especially difficult. However, we do recognize that a vendor may, infrequently, cause the final accounting report to be delayed. As with all other actions under the SGIA, we expect the Transmission Provider to use Reasonable Efforts to obtain timely invoices from its vendors. When the delay is outside the Transmission Provider's control, however, the Parties may develop a revised schedule for that portion of the final accounting that is still outstanding. Thus, there is no need to extend the deadline for submitting all final accounting reports to accommodate the occasional delay.

68. *Financial Security Arrangements (SGIA Article 6.3)*—SGIA article 6.3 requires the Interconnection Customer to provide the Transmission Provider with appropriate financial security before the Transmission Provider begins construction. Such security for payment shall be in an amount sufficient to cover the costs of constructing, designing, procuring, and installing the applicable portion of the Transmission Provider's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Transmission Provider under the SGIA during its term.

Rehearing Request

69. Southern Company requests that SGIA article 6.3 specify that the Interconnection Customer not just provide security, but maintain it for the duration of the Interconnection Agreement. Additionally, the SGIA should not require the Transmission Provider to reduce the required security until 90 days after the Transmission Provider receives payment. This, Southern Company argues, ''is necessary to reflect the commercial reality that payments have not really been 'made' to the transmission provider * * * until such time as such

[45] *Id.* at P 621–622.

[46] *Id.* at P 320.

[47] Order No. 2003 at P 697.

[48] Order No. 2003–C at P 18.

payments are no longer subject to being set aside under the Bankruptcy Code.'' [49]

Commission Conclusion

70. SGIA article 6.3.2 states that any letter of credit or surety bond provided by the Interconnection Customer ''specify a reasonable expiration date.'' Thus, Southern Company's concern that the Interconnection Customer would not have to maintain the security is misplaced, as the article requires that ''sufficient'' security be maintained for a ''reasonable'' period of time.[50] Article 6.3 requires that the security provided by the Interconnection Customer be reduced on a dollar-for-dollar basis for payment made to the Transmission Provider. The Interconnection Customer does not have to provide security over the life of the SGIA (which automatically renews itself indefinitely); instead, the Interconnection Customer need only provide security until it pays off its obligations to the Transmission Provider.[51]

71. We are also not convinced that the Transmission Provider should be able to delay reducing the Interconnection Customer's security to avoid the risk posed by a bankruptcy court deciding that a payment to the Transmission Provider was ''preferential'' or otherwise improper. The risk to the Transmission Provider is outweighed by the additional burden placed on the Interconnection Customer.

72. *Assignment (SGIA Article 7.1)*—SGIA article 7.1 allows either Party to assign the SGIA to a third party after giving the non-assigning Party notice and opportunity to object. Additionally, article 7.1.1 allows assignment without the consent of the non-assigning Party if the assignee has a higher credit rating and the legal authority and operational ability to carry out the interconnection.

Request for Rehearing

73. Southern Company proposes that the Interconnection Customer be allowed to assign the SGIA as collateral only with the written consent of the Transmission Provider. Otherwise, an assignee or purchaser in foreclosure could assume the rights under the agreement without also assuming the obligations. Southern Company also argues that without approval by the Transmission Provider, the assignee would not have to cure any existing defaults. It urges limiting assignment to ''eligible customers'' who can carry out the Interconnection Customer's obligations under the SGIA.

74. Southern Company argues that the Transmission Provider should be indemnified by the Interconnection Customer and the Interconnection Customer's assignee for any costs or expenses associated with the assignment.

75. Southern Company also requests clarification of the conditions under which the Transmission Provider must recognize foreclosure rights and assignments, including the possibility of multiple assignments. It notes that the Uniform Commercial Code does not cover such a situation. The SGIA should specify that the Transmission Provider ''not hav[e] received a contrary court order or notice of an unresolved contrary claim'' before being required to accept an assignment. It also asks that the Transmission Provider be able to stop cooperating with the assignee if the Transmission Provider receives a contrary court order or notice of unresolved claim.

76. Finally, Southern Company proposes that the SGIA require the Interconnection Customer to promptly notify the Transmission Provider of any assignment.

Commission Conclusion

77. Southern Company argues that the Interconnection Customer should obtain the Transmission Provider's consent before assigning its rights under the SGIA as security. As explained in Order No. 2003–A for Large Generating Facilities, such assignments are permitted to allow the Interconnection Customer to better secure financing because the Transmission Provider faces little to no risk from an assignment to an affiliate having an equal or superior credit rating.[52] And, Southern Company has not convinced us that the rules governing assignments of interconnection agreements should be stricter for Small Generating Facilities than for Large Generating Facilities. In addition, SGIA article 7.1 states that the assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. We reject Southern Company's request that assignments be limited to ''eligible customers'' because SGIA article 7.1 already requires that an assignee have the ''legal authority and operational ability'' to carry out the interconnection agreement.

78. As to Southern Company's issue of competing assignments or court orders regarding the assignment, the SGIA specifies that the laws of the state in which the Point of Interconnection is located govern, so any contractual dispute regarding foreclosure or assignment is to be settled under state contract law.[53]

79. Finally, Southern Company notes that SGIA article 7.1 does not require the assigning Party to notify the other Party of an assignment under certain circumstances. We agree that the assigning Party should notify the other Party of any assignment and are so revising SGIA article 7.1.1. This provision is also consistent with LGIA article 19.1.

80. *Insurance (SGIA Article 8)*—SGIA article 8.1 requires the Interconnection Customer to obtain and maintain enough general liability insurance to insure against all reasonably foreseeable direct liabilities, given the type of equipment being used.

Rehearing Requests

81. Southern Company argues that the Interconnection Customer should have to maintain reasonable amounts of general liability, hazard, employer's liability, and worker's compensation insurance. It notes that several states where it operates do not require that businesses maintain such types of insurance.

82. Small Generator Coalition points out that section 7.0 of the 10 kW Inverter-Based Terms and Conditions Document,[54] which requires the Parties to maintain commercially reasonable amounts of insurance, is inconsistent with Order No. 2006.[55] That order states that the Parties will follow all applicable insurance requirements imposed by the state where the Point of Interconnection is located.

Commission Conclusion

83. The SGIA's insurance requirements are sufficient to protect the interests of the Transmission Provider. General liability insurance is the broadest type of insurance and supplements any insurance that may be mandated by state law. Additionally, not all types of insurance are required for all Small Generating Facilities. For instance, some facilities may not have any employees and, thus, not require certain types of insurance such as worker's compensation. Finally, we agree that section 7.0 of the 10 kW Inverter-Based Interconnection Agreement is inconsistent with Order No. 2006, and are amending that provision accordingly.

[49] Southern Company at 56–57.

[50] *See also* Order No. 2003–B at P 125.

[51] *See* Order No. 2003 at P 592–600.

[52] *See* Order No. 2003–A at P 672–675.

[53] *See* SGIA article 12.1.

[54] The agreement is contained in Attachment 5 to the SGIP.

[55] Order No. 2006 at P 334.

84. *Generator Balancing Requirements*—The SGIA does not include a separate generator balancing service provision.

Comment

85. Southern Company argues that the SGIA should contain a generating balancing service provision. In the alternative, the Commission should clarify that the Transmission Provider may require the Interconnection Customer to enter into a generator balancing service agreement that is separate from the SGIA.

Commission Conclusion

86. We are not including a generator balancing provision in the SGIA for the reasons set forth in Order Nos. 2003–B and 2006.[56] There is no need to repeat those conclusions here. However, the Transmission Provider may include a provision for generator balancing service arrangements in individual interconnection agreements. Such provisions should be tailored to the Parties' specific standards and circumstances, and are subject to Commission approval. Regarding Southern Company's alternative request, we clarify that the Transmission Provider may incorporate an Interconnection Customer's balancing service arrangement in a separate agreement.

D. Other Significant Issues

87. *Commission Jurisdiction under the Federal Power Act*—The Commission's assertion of jurisdiction in Order No. 2006 is identical to the jurisdiction asserted in Order Nos. 2003 and 888.[57] Order No. 2006 applies to interconnections with a Transmission Provider's facilities that are subject to the Transmission Provider's OATT at the time the interconnection is requested and that are for the purpose of facilitating a jurisdictional wholesale sale of electricity.

Requests for Rehearing

88. Several petitioners[58] argue that the Commission is improperly asserting jurisdiction over ''local distribution'' facilities in violation of the FPA. They point to both *Detroit Edison*[59] and FPA section 201 for support. Con Edison and CT DPUC argue that since their states have rules for interconnecting small generators with distribution systems, there is no need for federal standards.

89. NARUC argues that it is not always clear whether a particular facility is covered by an OATT and that a Transmission Provider's accounting system may not so indicate. NARUC notes that costs for distribution facilities are generally recovered under the OATT on a rolled-in basis. It fears that this may lead the Commission to find that all of a Transmission Provider's distribution facilities are covered by the OATT. NARUC claims that merely including a facility in an OATT does not give the Commission jurisdiction over that facility.[60]

90. Con Edison asserts that Order No. 2006 impermissibly bases jurisdiction on the ''intent'' of a generator, rather than its actions. Because jurisdiction can change based on the use of a facility or the generator's intent, the Parties would not know whether Order No. 2006 applies until after the fact. Con Edison poses a hypothetical case where a generator intending to sell at wholesale interconnects with a previously state jurisdictional line under state rules. A second generator interconnecting with the same line, but not seeking to sell power at wholesale, would be obliged to interconnect under the Commission's rules. Thus, Con Edison contends, the generator seeking to sell at wholesale interconnects under state law, while the generator seeking to sell at retail would be forced to interconnect under federal law. Similarly, if the first generator decides not to sell at wholesale, the second generator would have to interconnect under state rules, even if it intends to sell at wholesale.

91. Con Edison, NARUC, NRECA, and Southern Company also assert that Order No. 2006 contradicts the ''seven factor test'' laid out in Order No. 888 for distinguishing transmission facilities from local distribution facilities. NRECA argues that jurisdiction over a wholesale transaction does not confer jurisdiction over the local distribution facility itself or over an interconnection with such a facility.

92. Southern Company argues that section FPA 201(a) limits the Commission's jurisdiction to matters ''which are not subject to regulation by the States.''[61] Since several states have promulgated rules governing interconnection with local distribution facilities, Southern Company argues that the Commission cannot do likewise.

93. Conversely, Small Generator Coalition and SoCal Edison argue that the Commission should exercise jurisdiction over all interconnections for selling power at wholesale and should not limit application of this rule to facilities covered by an OATT at the time interconnection service is requested. Small Generator Coalition argues that the Commission's jurisdiction over a wholesale sale includes jurisdiction over the interconnection necessary to facilitate the sale. It proposes that the Commission clarify that if the Transmission Provider has an OATT, all interconnections made to sell power at wholesale are subject to Commission jurisdiction, whether or not the specific facility being interconnected with is jurisdictional or not. Otherwise, Small Generator Coalition argues, the Transmission Provider has unfettered discretion to determine which distribution facilities are covered by its OATT at the time interconnection service is requested.

Commission Conclusion

94. The Commission's assertion of jurisdiction in Order No. 2006 is identical to the jurisdiction asserted in Order Nos. 2003 and 888.

There is no intent to expand the jurisdiction of the Commission in any way; if a facility is not already subject to Commission jurisdiction at the time interconnection is requested, the Final Rule will not apply. Thus, only facilities that already are subject to the Transmission Provider's OATT are covered by this rule.[62]

95. Since the Commission issued Order No. 2006 in May 2005, the third rehearing of the Large Generator Interconnection final rule, Order No. 2003–C, was issued. That order further discussed the Commission's jurisdiction over generator interconnections.[63] Because the Commission has addressed

[56] Order No. 2003–B at P 74–75 and Order No. 2006 at P 390.

[57] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities: Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. & 31,048 (1997), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in part sub nom. Transmission Access Policy Study Group* v. *FERC*, 225 F.3d 667 (D.C. Cir. 2000) (*TAPS* v. *FERC*), *aff'd sub nom. New York* v. *FERC*, 535 U.S. 1 (2002).

[58] *E.g.*, Con Edison, CT DPUC, NARUC, North Carolina Commission, NRECA, and Southern Company.

[59] *Detroit Edison* v. *FERC*, 343 F.3d 48 (D.C. Cir. 2003) (*Detroit Edison*).

[60] NARUC cites *Columbia Gas Transmission Corp. v. FERC*, 404 F.3d 459, 461 (D.C. Cir. 2005) (*Columbia*), where the court held that voluntarily including a particular facility in a tariff does not automatically give the Commission jurisdiction over that facility that it would not otherwise have.

[61] 16 U.S.C. 824(a) (2000).

[62] Order No. 2006 at P 481 (quoting Order No. 2003–A at P 700).

[63] *See* Order No. 2003–C at P 51–53.

the scope of its jurisdiction in several orders addressing interconnection, we need not repeat that discussion here. However, petitioners raise other issues for the first time that we do address here.

96. Several petitioners suggest that the Commission's exercise of jurisdiction is contrary to the seven factor test laid out in Order No. 888 to differentiate transmission facilities from local distribution facilities. Petitioners misapply the seven factor test. As the Commission has explained, ''[t]he discussion of transmission and [local] distribution classification (and the use of the seven factor test) in Order No. 888 was in the context of unbundled retail transmission service [and] determining which facilities were for the local distribution segment of unbundled retail services.'' [64] Contrary to what petitioners suggest, the seven factor test does not apply to circumstances in which the wholesale sale may trigger Commission jurisdiction over an interconnection, or is intended for application in every dispute involving the scope of federal and state jurisdiction.[65]

97. NARUC also argues that it may be unclear whether a particular facility is covered by an OATT. In addressing a similar comment in Order No. 2003–A, the Commission noted that ''in most cases, there will be no controversy about whether a facility is under the OATT [and] the Transmission Provider [shall] make this information available to the Interconnection Customer during the Scoping Meeting or earlier.'' [66] Should a disagreement arise over the proper classification of a facility, the Parties may bring the matter to the Commission's attention.[67]

98. NARUC cites *Columbia* to support its argument that a facility is not subject to Commission jurisdiction simply because it is covered by an OATT. While we agree that *Columbia* concludes that a tariff cannot confer jurisdiction that is not granted by statute,[68] this holding does not require a different conclusion on the applicability of Order No. 2006. The Commission presumes that a facility available for open access service under an OATT serves a Commission-jurisdictional transmission or delivery function. If the Interconnection Customer seeks to interconnect with a facility that is available for service under an OATT but that is not required to be under the OATT at the time the Interconnection Request is submitted, Order No. 2006 does not apply. We expect that such circumstances will be rare and leave it to the Parties to bring disagreements about the status of a particular facility to the Commission for resolution.

99. Con Edison is correct that an Interconnection Customer interconnecting its generator with an electric facility used exclusively to make retail sales, but not currently available for transmission service under an OATT, will do so under state interconnection rules. It does not matter whether the Interconnection Customer intends to sell power at wholesale or retail. However, Con Edison appears to misunderstand what would happen if the Interconnection Customer seeks to interconnect with a facility carrying both energy sold at wholesale and energy sold at retail and plans to sell power only at retail. In that case, because there is no wholesale sale involved, the interconnection would be subject to the state's rules.

100. *Qualifying Facilities*—In Order No. 2006, the Commission stated that it would exercise jurisdiction over all qualifying facilities (QFs) [69] in the same manner, regardless of size, as discussed in Order No. 2003.[70]

Requests for Rehearing

101. NARUC, supported by Con Edison, argues that the Commission's assertion of jurisdiction over a QF selling power to an entity other than the host utility is overly broad in that it extends jurisdiction over QFs selling power, at wholesale *or* retail, to someone other than the host utility. Instead, the Commission should clarify that a QF not selling at wholesale (other than to the host utility) should interconnect under state law.

Commission Conclusion

102. NARUC is correct that a QF selling at retail is not eligible to interconnect under either Order No. 2003 or Order No. 2006. Under the Public Utility Regulatory Policies Act of 1978,[71] such interconnections are governed by state law.[72]

103. *Relationship of Order No. 2006 to State Interconnection Programs*—While Order No. 2006 attempted to harmonize its provisions with existing state programs, the Commission declined to formally recognize these programs in Order No. 2006.

Rehearing Requests

104. CT DPUC, NARUC, and North Carolina Commission ask the Commission to grandfather both existing and future state-run interconnection rules. CT DPUC points to the extensive efforts in several states to develop and encourage the interconnection of small generators. It argues that Order No. 2006 could be read as superseding Connecticut's own small generator interconnection rules. NARUC and the North Carolina Commission express similar concerns and argue that Order No. 2006 will encourage forum-shopping and inefficient siting decisions. They also ask the Commission to clarify that existing interconnections accomplished under state rules are grandfathered. Finally, the Commission should grant deference to future state interconnection rules.

Commission Conclusion

105. Order No. 2006 in no way affects rules adopted by the states for the interconnection of generators with state-jurisdictional facilities. We expect that the vast majority of small generator interconnections will be with state jurisdictional facilities. The Commission encourages development of state interconnection programs, and interconnections with state jurisdictional facilities continue to be governed by state law. However, if an Interconnection Customer seeks to interconnection with a facility under federal jurisdiction, a state program cannot displace federal rules for interconnections. Furthermore, the Commission has attempted to minimize the inconstancies between federal and state interconnection rules by adopting many of the provisions suggested by NARUC and other state bodies, and encouraging the states to consider using the streamlined SGIP and SGIA for their own use. Finally, we emphasize that Order No. 2006 and this order do not affect any existing interconnection agreements, whether they were entered into under state or federal law.

106. *Creation of a Safe Harbor for Non-jurisdictional Utilities*—In Order No. 2006, the Commission did not

[64] *Ameren Services Co.*, 103 FERC ¶ 61,121 at P 26 (2003); see also Order No. 888 at 31,771, 31,783–85 and Order No. 888–A at 30,342.

[65] *TAPS* v. *FERC*, 225 F.3d at 695. (''[U]nder Order 888, when a public utility is engaged in wholesale transmission, FERC has jurisdiction regardless of the nature of the facility; but when the public utility is engaged in unbundled retail transmission, the facts and circumstances [*i.e.*, the seven factor test] will determine whether the facilities are subject to FERC or state jurisdiction.'')

[66] *See* Order No. 2003–A at P 712.

[67] *Id.*

[68] 404 F.3d at 461.

[69] A QF may be either a qualifying small power production facility or a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 (PURPA). 16 U.S.C. 824a–3 (2000).

[70] *See* Order No. 2003 at P 813–15.

[71] 16 U.S.C. 2601 *et seq.* (2000).

[72] *See* Order No. 2003 at P 813–14.

create a safe harbor for non-jurisdictional utilities that wish to interconnect new generation without jeopardizing their non-jurisdictional status.

Request for Rehearing

107. NRECA repeats here the same request it made in the Large Generator Interconnection proceeding that the Commission create a safe harbor to allow non-jurisdictional utilities to avoid the sometimes cumbersome process of interconnecting new generators under FPA sections 210, 211, and 212. NRECA also points out that many cooperatives are not ''transmitting utilities'' as defined in the FPA and that section 211 only applies to interconnections with ''transmitting utilities.'' Specifically, NRECA asks the Commission to clarify that a cooperative may settle a section 211 case and agree to provide wheeling services without that settlement being considered a ''voluntary'' service offering.

Commission Conclusion

108. As the Commission stated in Order No. 2006, FPA section 211 already allows a non-public utility to safeguard its non-jurisdictional status. We see no need to create a second method of doing the same thing. NRECA also asks whether a cooperative may settle a section 211 case and agree to provide wheeling services without that settlement being considered a ''voluntary'' service offering. That issue is outside the scope of this rulemaking. In this rulemaking proceeding, the Commission is acting under its FPA section 205 authority, and does not address obligations under sections 210, 211, or 212.

IV. Information Collection Statement

109. Order No. 2006 contains information collection requirements for which the Commission obtained approval from the Office of Management and Budget (OMB). The OMB Control Number for this collection of information is 1902–0203. This order denies most rehearing requests, clarifies the provisions of Order No. 2006, and grants rehearing on only three minor issues. This order does not make substantive modifications to the Commission's information collection requirements and, accordingly, OMB approval for this order is not necessary. However, the Commission will send a copy of this order to OMB for informational purposes.

V. Document Availability

110. In addition to publishing the full text of this document in the **Federal Register**, interested persons may obtain this document from the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern Time) at 888 First Street, NE., Room 2A, Washington, DC. This document is also available electronically from the Commission's eLibrary system (*http://www.ferc.gov/docs-filing/elibrary.asp*) in PDF and Microsoft Word format. To access this document in eLibrary, type ''RM02–12–'' in the docket number field and specify a date range that includes this document's issuance date. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Help Line at 202–502–8222 or the Public Reference Room at 202–502–8371 Press 0, TTY 202–502–8659. E-Mail the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date

111. Changes to Order No. 2006 made in this Order on Rehearing will become effective on December 30, 2005.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

The Appendices will not be published in the **Federal Register** or the Code of Federal Regulations.

[FR Doc. 05–23461 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AJ28

Medical: Advance Health Care Planning

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA medical regulations to codify VA policy regarding advance health care planning. The final rule sets forth a mechanism for the use of written advance directives, i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The final rule also sets forth a mechanism for honoring verbal or non-verbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent *and* the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

DATES: Effective Date: December 30, 2005.

FOR FURTHER INFORMATION CONTACT: Ruth Cecire, Ph.D., Policy Analyst, Ethics Policy Service, National Center for Ethics in Health Care (10E), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; 202–501–0364 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on November 2, 1998 (63 FR 58677), the Department of Veterans Affairs (VA) proposed to amend its medical regulations (38 CFR part 17) to codify VA policy concerning advance health care planning. Advance health care planning provides an opportunity for patients to give guidance to their caregivers regarding their treatment preferences for the future should they become incapable of participating fully in the decision-making process. We requested comments for a 60-day period that ended January 4, 1999. We received three comments. Based on the rationale set forth in the proposed rule and this document, we are adopting the proposed rule as a final rule with the changes indicated below.

This final rule sets forth a mechanism for the use of written advance directives, i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The rule also sets forth a mechanism for honoring verbal or non-verbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent *and* the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. The advance health care planning discussion and completion of a written advance directive ideally would take place prior to a patient being admitted to care in a crisis situation. However, we recognize that this is not always the case. The mechanism for honoring the verbal and non-verbal instructions of patients in this circumstance enables such patients to communicate their preferences regarding their future health care and ensures this information will be carefully documented in the patient's health record and available to guide caregivers should the patient lose capacity. The final rule also states that

a patient who has decision-making capacity may revoke an advance directive or instructions in a critical situation at any time by using any means expressing the intent to revoke. In addition, the final rule emphasizes the obligation of any surrogate, including a health care agent named in the advance directive, making decisions on behalf of a patient who lacks decision-making capacity, to act in compliance with the patient's clearly expressed wishes. The term *surrogate* is defined in 38 CFR 17.32(a). Those authorized to act as surrogates under VA policy are identified in 38 CFR 17.32(e).

One commenter requested clarification regarding proposed § 17.32(h)(2), which describes ''Instructions in Critical Situations,'' particularly with respect to the meaning of ''non-verbal instructions.'' The commenter suggests that ''specific guidelines must be established'' to define what would constitute acceptable instructions. We agree with the commenter's point that this paragraph could be more explicit, but do not believe it would be possible, for example, to specify all of the possible variety and appearances in the way that a patient who is unable to speak or write might use to communicate. In the final rule we are modifying this paragraph to state more clearly the circumstances and types of instructions to which this paragraph would apply. Those changes include adding that the patient must have decision-making capacity and the patient's verbal or non-verbal instructions must be unambiguous.

A second commenter suggested that the language in proposed § 17.32(h)(1), which describes ''Witnesses,'' was overly restrictive, and could be interpreted to prevent appropriate individuals from serving as a witness. The commenter stated: ''Since a witness'' sole function is to attest to the fact that the witness saw the patient sign the VA Living Will or VA Durable Power of Attorney for Health Care, the general rule should be that a witness' potential conflict of interest in making that attestation may be raised by any person seeking to challenge the validity and enforceability of the VA Living Will or VA Durable Power of Attorney for Health Care, as part of an attempt to discredit the truth of the witness' attestation.'' We agree and in the final rule are modifying this paragraph to make the requirements less restrictive. However, we continue to think it best, in order to avoid even the appearance of a conflict of interest, that persons named in the patient's will, or as health care agent in the advance directive, or financially responsible for the patient's care, should not sign as witnesses on the advance directive form. In the final rule we are removing the proposed rule's requirement that the witness not be ''entitled to, or a claimant against, any portion of the patient's estate; or be financially responsible for the patient's care'' and replacing it with the requirement that the witness not ''to the witnesses'' knowledge be named in the patient's will, appointed as health care agent in the advance directive, or financially responsible for the patient's care.'' The VA Advance Directive: Living Will and Durable Power of Attorney for Health Care form expressly provides that by signing the form, the witness attests to the fact that he or she lacks such knowledge. In the final rule, we are also removing, because we have concluded that it is unnecessarily restrictive, the proposed rule's requirement that VA employees of the Chaplain Service, Psychology Service, Social Work Service, or nonclinical employees (e.g., Medical Administration Service, Voluntary Service or Environmental Management Service) may serve as witnesses only ''when other witnesses are not reasonably available.''

The third commenter expressed concern that the proposed rule ''is supposed to address VA employees' responsibilities in following patient's expressed desires in end-of-life decisions,'' but did not go far enough to clarify the weight carried by the patient's expressed desires, e.g., when there is a dispute about the legitimacy of a State-authorized advance directive. Such a dispute might occur, for example, if the veteran completed the State-authorized advance directive while living in one State and later relocated to another jurisdiction. It is our intention that the reference to ''applicable State law'' in the definition of State-authorized advance directive be broadly interpreted for the convenience and benefit of VA patients. Indeed, the chief purpose of the rule is to assure that VA employees and surrogates comply with patients' clearly expressed wishes to the greatest extent possible. We are therefore in the final rule specifying that, ''[f]or the purposes of this paragraph and paragraph (h) of this section, 'applicable State law' means the law of the State where the advance directive was signed, the State where the patient resided when the advance directive was signed, the State where the patient now resides, or the State where the patient is receiving treatment. VA will resolve any conflict between those State laws regarding the validity of the advance directive by following the law of the State that gives effect to the expressed wishes in the advance directive.'' We also are making changes in the opening paragraph of § 17.32(h) to clarify that ''[a]n advance directive that is valid in one or more States under applicable State law, as defined in paragraph (a) of this section, will be recognized throughout the VA health care system.''

We are also adding in the final rule nonsubstantive changes for purposes of clarification. These include adding a revision of the authority citation for § 17.32 to reflect that this rule is issued under the authority of 38 U.S.C. 7331 through 7334.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act of 1995

Two collection of information requirements that are related to 38 CFR 17.32 are currently approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521). OMB has approved collection of information requirements for § 17.32 under OMB control number 2900–0583. In addition, OMB has approved the information collection requirements in VA Form 10–0137, VA Advance Directive: Living Will and Durable Power of Attorney for Health Care, under OMB control number 2900–0556. The references in the final rule to a VA Living Will or to a VA Durable Power of Attorney for Health Care are to that form. No new collections of information are associated with this final rule.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect only individuals and will not directly affect any small entities.

Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: July 15, 2005.

R. James Nicholson,

Secretary of Veterans Affairs.

■ For the reasons set out above, 38 CFR part 17 is amended to read as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, 1721, and as stated in specific sections.

■ 2. Section 17.32 is amended by:

■ a. Revising the section heading and authority citation.

■ b. In paragraph (a), adding a new definition in alphabetical order.

■ c. Adding paragraph (h) immediately following paragraph (g)(4).

The revisions and additions read as follows:

§ 17.32 Informed consent and advance health care planning.

(a) * * *

Advance Directive. Specific written statements made by a patient who has decision-making capacity regarding future health care decisions in any of the following:

(i) *VA Living Will.* A written statement made by a patient on an authorized VA form which sets forth the patient's wishes regarding the patient's health care treatment preferences including the withholding and withdrawal of life-sustaining treatment.

(ii) *VA Durable Power of Attorney for Health Care.* A written instruction on a VA form which designates the patient's choice of health care agent.

(iii) *State-Authorized Advance Directive.* A non-VA living will, durable power of attorney for health care, or other advance health care planning document, the validity of which is determined pursuant to applicable State law. For the purposes of this paragraph and paragraph (h) of this section, ''applicable State law'' means the law of the State where the advance directive was signed, the State where the patient resided when the advance directive was signed, the State where the patient now resides, or the State where the patient is receiving treatment. VA will resolve any conflict between those State laws regarding the validity of the advance directive by following the law of the State that gives effect to the expressed wishes in the advance directive.

* * * * *

(h) *Advance health care planning.* Subject to the provisions of paragraphs (h)(1) through (h)(4) of this section, VA will follow the wishes of a patient expressed in an Advance Directive when the attending physician determines and documents in the patient's medical record that the patient lacks decision-making capacity and is not expected to regain it. An advance directive that is valid in one or more States under applicable State law, as defined in paragraph (a) of this section, will be recognized throughout the VA health care system.

(1) *Witnesses.* A VA Advance Directive: Living Will and Durable Power of Attorney for Health Care must be signed by the patient in the presence of two witnesses. Neither witness may to the witness' knowledge be named in the patient's will, appointed as health care agent in the advance directive, or financially responsible for the patient's care. VA employees of the Chaplain Service, Psychology Service, Social Work Service, or nonclinical employees (e.g., Medical Administration Service, Voluntary Service, or Environmental Management Service) may serve as witnesses. Other individuals employed by the VA facility in which the patient is being treated may not sign as witnesses to the advance directive. Witnesses are attesting only to the fact that they saw the patient sign the form.

(2) *Instructions in critical situations.* VA will follow the unambiguous verbal or non-verbal instructions regarding future health care decisions of a patient who has decision-making capacity when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. The patient's instructions must have been expressed to at least two members of the health care team. The substance of the patient's instructions must be recorded in a progress note in the patient's medical record and must be co-signed by at least two members of the health care team who were present and can attest to the wishes expressed by the patient. These instructions will be given effect only if the patient loses decision-making capacity during the presenting situation.

(3) *Revocation.* A patient who has decision-making capacity may revoke an advance directive or instructions in a critical situation at any time by using any means expressing the intent to revoke.

(4) *VA policy and disputes.* Neither the treatment team nor surrogate may override a patient's clear instructions in an Advance Directive or in instructions in critical situations, except that those portions of an Advance Directive or instructions given in a critical situation that are not consistent with VA policy will not be given effect.

* * * * *

(Authority: 38 U.S.C. 7331 through 7334)

[FR Doc. 05–23505 Filed 11–29–05; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. R02–OAR–2005–NJ–0002, FRL–7999–8]

Approval and Promulgation of Implementation Plans; New Jersey Architectural Coatings Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to Subchapter 23 ''Prevention of Air Pollution From Architectural Coatings'' of 7:27 of the New Jersey Administrative Code, which are needed to meet the shortfall in emissions reduction identified by EPA in New Jersey's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve a control strategy required by the Clean Air Act, which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: *Effective Date*: This rule will be effective December 30, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID Number R02–OAR–2005–NJ–0002. All documents in the docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/,* once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Publicly available docket materials are available either electronically in Regional Material in EDocket or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B–108, 1301 Constitution Avenue, NW., Washington, DC; and the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3711.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

EPA is approving a revision to New Jersey's ozone State Implementation Plan (SIP) submitted on July 28, 2004. This SIP incorporates adopted rule amendments to Title 7, Chapter 27, Subchapter 23 ''Prevention of Air Pollution from Architectural Coatings'' which was adopted on May 21, 2004. This adoption was published in the New Jersey Register on June 21, 2004 and became effective on July 20, 2004. The Subchapter 23 amendments are applicable to the entire State of New Jersey. The reader is referred to the proposed rulemaking (July 21, 2005, 70 FR 42019) for additional details.

Subchapter 23 contains provisions allowing for limited exemptions and variances where such exemptions and variances have been approved by other states with equivalent regulations. While these provisions are acceptable, each specific application of those provisions will only be recognized as meeting Federal requirements after the specific exemption or variance is approved by EPA as a SIP revision. Therefore, EPA is approving the regulation as part of the New Jersey SIP with the exception that any specific application of provisions associated with variances or exemptions, must be submitted as SIP revisions.

II. What Comments Were Received and How Has EPA Responded to Them?

EPA received no comments on the proposal.

III. What Role Does This Rule Play in the Ozone SIP?

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the State's two severe nonattainment areas in order for the State to attain the 1-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). EPA provided that the states in the Ozone Transport Region could achieve these emission reductions through local or regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort which developed six model control measures. This rulemaking incorporates one of the OTC model control measures into the New Jersey ozone SIP: architectural coatings. The emission reductions from this control measure will provide a portion of the additional emission reductions needed to attain the 1-hour ozone standard. The emission reductions from this measure will also help to attain the 8-hour ozone standard.

IV. What Are EPA's Conclusions?

EPA has evaluated the submitted Subchapter 23 submission for consistency with EPA regulations, policy and guidance. Consistent with EPA policy and guidance, EPA is approving the rule submitted as part of the New Jersey SIP with the exception that any specific application of provisions associated with variances or exemptions, must be submitted as SIP revisions for EPA approval. This rule will strengthen the SIP by providing for additional VOC reductions. Accordingly, EPA is approving the Subchapter 23 revisions as adopted on May 21, 2004 and effective on July 20, 2004 with the limitation identified above.

V. Statutory and Executive Order Reviews

Statutory and Executive Order Reviews Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology

Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 30, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 8, 2005.

Alan J. Steinberg,

Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(78) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

* * * * *

(78) Revisions to the State Implementation Plan submitted on July 28, 2004 by the State of New Jersey Department of Environmental Protection that establishes an expanded control program for architectural coatings.

(i) Incorporation by reference:

(A) Regulation Subchapter 23 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled ''Prevention of Air Pollution From Architectural Coatings,'' adopted on May 21, 2004 and effective on July 20, 2004.

(ii) Additional material:

(A) Letter from State of New Jersey Department of Environmental Protection dated July 28, 2004, requesting EPA approval of a revision to the Ozone SIP which contains amendments to the Subchapter 23 ''Prevention of Air Pollution From Architectural Coatings.''

* * * * *

■ 3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 23 in the table to read as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* *	*	*	* *
Title 7, Chapter 27.			
* *	*	*	* *
Subchapter 23, Prevention of Air Pollution From Architectural Coatings.	July 20, 2004	November 30, 2005	Variances or exemptions approved by the State pursuant to Subchapter 23.3(j) become applicable only if approved by EPA as a SIP revision.
* *	*	*	* *

[FR Doc. 05–23418 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R09–OAR–2005–CA–0010; FRL–8002–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; California; Carbon Monoxide Maintenance Plan Update for Ten Planning Areas; Motor Vehicle Emissions Budgets; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve a State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas*. This revision will provide a ten-year update to the carbon monoxide maintenance plan, as well as replace existing and establish new carbon monoxide motor vehicle emissions budgets for the purposes of determining transportation conformity, for the following ten areas: Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake

Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the agency to take action on submittals of revisions to State implementation plans. The intended effect of this action is to fulfill the requirement under the Clean Air Act for a State to submit a subsequent maintenance plan that provides for continued maintenance of a National Ambient Air Quality Standard within former nonattainment areas within eight years of redesignation of those areas to attainment. In connection with the motor vehicle emissions budgets, we are denying a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets.

Also, in this action, EPA is notifying the public that we have found that the carbon monoxide motor vehicle emissions budgets contained in the submitted maintenance plan are adequate for conformity purposes. As a result of this finding, the various metropolitan planning organizations in the ten planning areas and the U.S. Department of Transportation must use the CO motor vehicle emissions budgets from the submitted maintenance plan for future conformity determinations.

Lastly, EPA is correcting certain errors made in our 1998 final rule approving California's redesignation request for these ten planning areas.

DATES: This rule is effective on January 30, 2006 without further notice, unless EPA receives adverse comments by December 30, 2005. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number R09-OAR–2005-CA–0010, by one of the following methods:

1. Agency Web site: *http://docket.epa.gov/rmepub/*. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.

2. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions.

3. E-mail: *tiktinsky.toby@epa.gov*.

4. Mail or deliver: Toby Tiktinsky (Air–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal or e-mail. The agency Web site and eRulemaking portal are ''anonymous access'' systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

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

FOR FURTHER INFORMATION CONTACT: Toby Tiktinsky, EPA Region IX, (415) 947–4223, *tiktinsky.toby@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to U.S. EPA.

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I. Background

A. What Action Is EPA Taking?

Under section 110(k)(3) of the Clean Air Act (CAA or ''Act''), we are approving a State Implementation Plan (SIP) revision submitted by the California Air Resources Board (ARB) on November 8, 2004. This SIP revision consists of the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas* (''2004 CO Maintenance Plan''), ARB Board Resolution 04–20 adopting the 2004 CO Maintenance Plan, and related public process documentation. The 2004 CO Maintenance Plan will provide a ten-year update to the carbon monoxide (CO) maintenance plan, as well as replace existing and establish new motor vehicle emissions budgets (MVEBs), for the following ten areas, referred to herein collectively as the ''ten planning areas'': Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. ARB's November 8, 2004 SIP submittal was deemed complete by operation of law six months after receipt under section 110(k)(1)(B).

In connection with the MVEBs, we are denying a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets. Also, in this notice, EPA is notifying the public that we have found that the MVEBs contained in the submitted maintenance plan are adequate for transportation conformity purposes.

Lastly, we are also correcting, pursuant to section 110(k)(6) of the Act, certain errors that we made in our 1998 final rule approving California's redesignation request for these ten planning areas.

B. Why Is California Submitting This SIP Revision?

All ten planning areas that are the subject of this rulemaking were originally designated as nonattainment areas for the CO National Ambient Air Quality Standards (NAAQS) in 1978. *See* 43 FR 8962 (March 3, 1978). Because all of the ten planning areas remained ''nonattainment'' for the CO NAAQS at the time of enactment of the Clean Air Act Amendments of 1990, their nonattainment designations were carried forward by operation of law

under section 107(d)(1)(C) of the Act, as amended in 1990. Based on their design values in 1990, eight of the ten areas were further classified as ''moderate'' nonattainment. The air quality in two of the areas (Lake Tahoe North Shore Area and Bakersfield Metropolitan Area), however, was near the standard, but not below it. Thus, these two areas were not further classified, but retained their ''nonattainment'' designations. [*See* 56 FR 56694, at 56723–56726 (November 6, 1991).]

Once an area achieves the NAAQS, and the area demonstrates in a maintenance plan that it can continue to meet the air quality standards, the State can request that EPA redesignate the area to attainment. Before an area can be redesignated to attainment, EPA must ensure the maintenance plan meets the criteria established in section 175A of the CAA. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment.

In 1996, California submitted the *Final Carbon Monoxide Redesignation Request and Maintenance Plan for Ten Federal Planning Areas* (''1996 CO Maintenance Plan''). The 1996 CO Maintenance Plan demonstrated continued maintenance of the CO NAAQS in the ten planning areas through 2010. On March 31, 1998, EPA approved the 1996 CO Maintenance Plan as a revision to the California SIP and redesignated the ten areas to attainment effective June 1, 1998 (63 FR 15305).

One of the control measures that the 1996 CO Maintenance Plan relies upon is the State's wintertime oxygenated gasoline requirement. Due to concerns over the effects of the predominant oxygenate used to comply with the wintertime gasoline requirements, methyl tertiary butyl ether (MTBE), on water quality, the ARB rescinded the wintertime oxygenated gasoline requirement as it relates to the ten planning areas covered by the 1996 CO Maintenance Plan. In November 1998, ARB amended the 1996 CO Maintenance Plan to remove the CO emissions reductions benefits associated with the wintertime oxygenated gasoline requirement, and submitted the revised maintenance plan, *Revision to 1996 Carbon Monoxide Maintenance Plan for 10 Federal Planning Areas* (''1998 CO Maintenance Plan''), as a SIP revision to EPA in December 1998. In the 1998 CO Maintenance Plan, ARB estimates that repeal of the wintertime oxygenated gasoline requirement results in an increase in CO emissions in the ten planning areas of approximately 9% but concludes that the CO NAAQS would still be maintained through 2010. We have taken no action on the 1998 CO Maintenance Plan SIP revision and consider the more recent submittal, *i.e.*, the 2004 CO Maintenance Plan SIP submittal, to supersede this earlier submittal.

Section 175A(b) of the Act requires the State to submit, eight years after redesignation of any area to attainment, an additional revision of the SIP that provides for maintenance of the applicable NAAQS for the 10-year period following the initial maintenance period. ARB's current submission updates the maintenance plan to cover the remainder of the twenty year maintenance period (1998 to 2018) required by the CAA and is intended to satisfy the section 175A(b) requirement for a subsequent maintenance plan.

C. What Process Did California Use To Develop This Plan?

ARB held a public hearing on the 2004 CO Maintenance Plan on July 22, 2004 and adopted the plan on the same day. Thirty days prior to that date, ARB arranged for publication of notices of the July 22, 2004 public hearing in major newspapers that circulate in each of the ten planning areas. By letter dated November 8, 2004, ARB submitted the 2004 CO Maintenance Plan for approval by EPA as a revision to the California SIP. As enclosures to the November 8, 2004 letter, ARB provided evidence of adoption (ARB resolution 04–20), the necessary legal authority under State law to adopt and implement the plan, copies of public hearing notices in which ARB was to address the contents of the plan revision, and minutes from the July 22, 2004 public hearing produced by a certified court reporting service. ARB is the Governor's designee for submitting SIP revisions.

D. Ambient Carbon Monoxide Concentrations

The 2004 CO Maintenance Plan provides a summary of ambient CO concentration data collected within the ten planning areas since the areas attained the CO NAAQS. The data, which is summarized in Table 1 below, indicate that the CO NAAQS has been maintained in the ten planning areas since the mid-1990s, that design values are currently well below the CO NAAQS, and that, with one exception, there is a continuing downward trend in the CO design values in these areas.

TABLE 1.—DESIGN VALUES FOR THE 8-HOUR CO NAAQS IN CALIFORNIA

[Parts per million or ppm]

CO maintenance area	Attainment period	1995	2000	2003
Bakersfield	1992–1994—6.1	6.1	5.2	2.5
Chico	1993–1995—5.4	5.0	4.0	3.4
Fresno	1993–1995—9.1	8.5	7.6	4.3
Lake Tahoe North Shore	1993–1994—3.8	3.2	0.9	N/A
Lake Tahoe South Shore	1993–1994—7.4	6.8	4.3	6.5
Modesto	1993–1994—6.6	6.3	6.3	3.7
Sacramento	1993–1995—9.1	8.0	6.2	4.2
San Diego	1993–1994—7.0	7.4	4.9	4.1
San Francisco-Oakland-San Jose	1993–1994—7.2	7.5	6.9	4.9
Stockton	1993–1994—7.5	7.5	6.3	3.2

Source: ARB, 2004 CO Maintenance Plan, page 5.

NOTE: The 8-hour CO design value is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at each monitoring site for each year of a given two-year period. Then the higher of the two ''second high'' values is used as the design value for a given monitoring site, and the highest design value among the various CO monitoring sites represents the CO design value for the given area.

N/A = Not Available.

E. What Are Motor Vehicle Emissions Budgets (MVEBs)?

In developing plans for improving or maintaining air quality under the CAA, regions must estimate the total emissions from motor vehicles. These estimates act as a budget or ceiling for emissions from motor vehicles. EPA evaluates these budgets to ensure that current and future motor vehicle emissions will not prevent a region from attaining or maintaining the NAAQS. Metropolitan Planning Organizations (MPOs) must ensure that transportation plans and programs do not lead to increases in motor vehicle emissions that would exceed the established budgets and, consequently, hinder a region from attaining or maintaining the NAAQS.

II. How Are We Evaluating This Submittal?

We are evaluating this SIP revision submittal under sections 110 and 175A of the Act.

Section 110(k) of the Act requires EPA to approve, disapprove, or conditionally approve all SIP submittals found or deemed to be complete. As noted above, ARB's SIP submittal containing the 2004 CO Maintenance Plan was deemed complete by operation of law.

Section 110(l) of the Act requires that each SIP revision submitted by a State be adopted by such State after reasonable notice and public hearing. As noted above, ARB adopted the 2004 CO Maintenance Plan on July 22, 2004 after having provided for reasonable notice and a public hearing. We find the public process ARB used to develop and adopt this SIP revision to be acceptable under section 110(l) of the Act.

Section 110(l) also states that EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. We evaluate the potential for this SIP revision to interfere with continued maintenance in Section III.B (''Maintenance Demonstration'') of this notice in the context of approving the wintertime oxygenated gasoline requirement as a contingency measure.

Section 175A(b) of the Act requires the State to submit, eight years after redesignation of any area to attainment, an additional revision of the SIP that provides for maintenance of the applicable NAAQS for the 10-year period following the initial maintenance period. Section 175A(d) requires that plan revisions submitted under section 175A contain such contingency provisions as EPA deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such contingency provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation of the area as an attainment area.

Maintenance plans submitted under section 175A of the Act should include the following core provisions: An attainment inventory, a maintenance demonstration, commitment to continue operating an appropriate monitoring network, commitment to verify continued attainment, and a contingency plan. *See* EPA Policy Memorandum, ''Procedures for Processing Requests to Redesignate Ares to Attainment,'' John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards, to Regional Air Division Directors, September 4, 1992 (''Calcagni memo''). Our evaluation of the 2004 CO Maintenance Plan is provided in the following section of this notice.

III. EPA's Evaluation of 2004 CO Maintenance Plan

A. Attainment Inventory

For maintenance plans, a State should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A State should develop these inventories consistent with EPA's most recent guidance on emissions inventory development.

The 1996 CO Maintenance Plan included attainment inventories for each of the ten planning areas. As part of the 2004 CO Maintenance Plan, ARB updated the emissions inventories for year 1993, which was the common attainment year for all ten planning areas in the 1996 CO Maintenance Plan, to reflect better calculation methods and emissions factors. ARB also developed a CO emissions inventory for a more recent attainment year, 2003. Table 2 presents a summary of the 2004 CO Maintenance Plan's emissions estimates for these two attainment years (1993 and 2003) as well as the plan's updated projections of emissions for 2010 (the horizon or out-year of the 1996 CO Maintenance Plan) and a projection of emissions for 2018 (the out-year of the 2004 CO Maintenance Plan). Table 2 shows wintertime seasonal CO emissions decreasing steadily over the next thirteen years. ARB attributes the continuing decline in emissions, despite growth in population and vehicle miles traveled (VMT), to the benefits of increasingly tighter emissions standards for new engines, fuel requirements, and turnover of the vehicle fleet to lower-emitting models.

TABLE 2.—TOTAL CO EMISSIONS IN EACH MAINTENANCE AREA

[Winter seasonal emissions in tons per day]

CO maintenance area	1993	2003	2010	2018
Bakersfield	478	298	234	191
Chico	232	164	134	113
Fresno	627	400	302	244
Lake Tahoe North Shore Area	25	19	16	14
Lake Tahoe South Shore Area	61	49	45	43
Modesto	331	206	151	120
Sacramento	1,125	658	487	388
San Diego	1,889	1,101	829	643
San Francisco-Oakland-San Jose	4,254	2,645	1,716	1,322
Stockton	433	258	188	153

Source: ARB, 2004 CO Maintenance Plan, page 8.

Appendix B of the 2004 CO Maintenance Plan shows emission inventories by major source category. ARB prepared the motor-vehicle portion of the emissions inventories by using the current version of California's motor

vehicle emission factor model EMFAC2002, version 2.2. EPA approved the use of EMFAC2002 to estimate motor vehicle emissions on April 1, 2003 (*see* 68 FR 15720). The emissions estimates in table 2 above for inventory years 2003, 2010, and 2018 do not include the emissions benefit from the (now rescinded) wintertime oxygenated gasoline requirement but do include the emissions benefit from the measures that ARB adopted as contingency measures in the 1996 CO Maintenance Plan. These measures, which are listed on page 12 of the 2004 CO Maintenance Plan, include improvements to the vehicle inspection and maintenance (I/M) program, on-board diagnostics systems testing for newer vehicles, California cleaner burning gasoline, off-highway recreational vehicle standards, tighter lawn and garden equipment standards, and tighter low-emission vehicle and clean fuel regulations.

EPA has reviewed the emissions inventories included in the 2004 CO Maintenance Plan and the related emissions inventory preparation documentation and concludes that the inventories are comprehensive and reflect acceptable methods and emissions factors and that the inventories present reasonably accurate estimates of actual and projected CO emissions in the ten planning areas.

B. Maintenance Demonstration

Generally, a State may demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emissions rates will not cause a violation of the NAAQS. For areas that are required under the Act to submit modeled attainment demonstrations, the maintenance demonstration should use the same type of modeling. In areas where modeling is not required, the State may rely on the attainment inventory approach. For subsequent maintenance plans, to comply with section 175A(b) of the Act, the State's maintenance demonstration must extend 10 years after the expiration of the 10-year maintenance period covered by the initial maintenance plan.

In the 1996 CO Maintenance Plan, ARB provided maintenance demonstrations (through 2010) for nine of the 10 areas based on the attainment inventory approach and provided a maintenance demonstration (through 2010) based on modeling (rollback method) for the one area (Fresno) for which modeling had been required for attainment demonstration purposes under the Act.

In the 2004 CO Maintenance Plan, ARB updated the emissions inventories for all ten areas (*see* Table 2, above). For the nine areas for which maintenance demonstrations are based on the inventory approach, the updated estimates of total CO emissions in each area show a continuing downward trend through 2018 (*i.e.*, 20 years after redesignation) and thus demonstrate maintenance of the CO NAAQS through the required period. ARB also updated the maintenance demonstration for the Fresno area, once again relying on the rollback method to show that the CO NAAQS would be maintained in that area through 2018. Table 3 summarizes the updated rollback analysis for Fresno and shows that the design values for Fresno are anticipated to continue to fall well below those achieved in the 1993–1995 attainment period.

We find the maintenance demonstrations for the ten planning areas in the 2004 CO Maintenance Plan to be acceptable for the purposes of CAA section 175A(b). Further, we find that, based on the maintenance demonstrations contained in the 2004 CO Maintenance Plan, the revision in the status of one of the principal control measures relied upon in the 1996 CO Maintenance Plan, the wintertime oxygenated gasoline requirement, from ''active'' status to ''contingent'' status is approvable under section 110(l) because it will not interfere with continued maintenance of the CO NAAQS in the ten planning areas.

TABLE 3.—CO ROLLBACK ANALYSIS FOR FRESNO AREA

[Winter seasonal emissions]

Fresno urbanized area	1993	2003	2010	2018
All Sources of CO in the Emission Inventory (tons per day)	627	400	302	244
Projected Design Value for All Sources in the Inventory (in ppm)	9.1	5.8	4.4	3.5
On-Road Motor Vehicle Portion of the CO Emission Inventory (tons per day)	450	236	141	77
Projected Design Value for On-Road Motor Vehicle Portion of the Inventory (in ppm)	9.1	4.8	2.9	1.6
Vehicle Miles Traveled (in thousands)	15,987	20,624	24,895	29,487

Source: ARB, 2004 CO Maintenance Plan, page 11.

C. Monitoring Network and Verification of Continued Attainment

Once an area has been redesignated, the State should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. The maintenance plan should also indicate how the State will track the progress of the maintenance plan, such as by periodically updating the emissions inventory.

In the 1996 CO Maintenance Plan, ARB indicates that it intends to continue to comply with the monitoring criteria set forth in 40 CFR part 58, and that it will annually review data from the two most recent, consecutive years in order to verify continued attainment of the CO NAAQS. In the 2004 CO Maintenance Plan, ARB reiterates its intent to continue to collect air quality data and to review data on an annual basis from the two most recent consecutive years to verify continued attainment of the CO NAAQS.

Based on the compilation of information in appendix A of the 2004 CO Maintenance Plan, we note that, in the aggregate, ten CO monitoring sites in the ten planning areas have closed since redesignation of these areas to attainment for the CO NAAQS, but 33 sites remain open with at least one CO monitoring site continuing to operate in each planning area, except for the Lake Tahoe North Shore Area. The reduction in the number of CO monitoring sites is acceptable in light of the sharp decline in maximum CO concentrations in each of the ten planning areas and the need to shift resources to address other air quality priorities. We also believe that the lack of a CO monitoring site in the Lake Tahoe North Shore Area is acceptable given the very low CO concentrations measured there. In addition, audits of a number of the

ambient monitoring networks in the ten planning areas since redesignation have found no significant problems with any of the networks.

Under EPA's Consolidated Emissions Reporting Rule, published in the **Federal Register** on June 10, 2002 (*see* 67 FR 39602), states are required to prepare comprehensive statewide inventories every three years. In addition, under State law (California Health and Safety Code Section 39607.3), ARB is required to update emissions inventories for all areas of California for CO as well as the other criteria pollutants on an on-going basis. Although not cited in the 2004 Maintenance Plan, the Federal and State inventory update requirements suffice to track progress of the 2004 CO Maintenance Plan.

We find ARB's stated intention to continue to collect air quality data and to verify continued attainment of the CO NAAQS to be acceptable for the purposes of CAA section 175A(b) based on our conclusion that ARB has consistently operated its monitoring networks in compliance with 40 CFR part 58 and continues to operate an appropriate number of CO monitoring sites in the planning areas covered by the 2004 CO Maintenance Plan.

D. Contingency Provisions

CAA section 175A(d) requires that ''Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area.'' The following sections discuss the contingency provisions included in the 2004 CO Maintenance Plan.

The EPA-approved 1996 CO Maintenance Plan included seven contingency measures: improved basic I/M program requirements (Chico, Lake Tahoe North Shore, Lake Tahoe South Shore, and San Francisco-Oakland-San Jose Areas); enhanced I/M program requirements (Bakersfield, Fresno, Modesto, and Sacramento Areas); on-board diagnostics systems testing requirements in I/M programs (Statewide); California Cleaner-Burning Gasoline regulations (Statewide); Off-Highway Recreational Vehicles standards (Statewide); lawn and garden equipment—tier II requirements (Statewide); and low-emission vehicles and clean fuels (post-1995) standards (Statewide). At the time of ARB's adoption of the 1996 CO Maintenance Plan, these measures had already been adopted and were anticipated to be implemented during the 1996 through 2001 period regardless of any triggering event associated with high CO concentrations. The CO emissions reductions associated with these seven contingency measures were not included in the maintenance demonstrations for the ten planning areas and thus were surplus to the CO emissions reductions assumed in the 1996 CO Maintenance Plan.

CAA section 211(m) establishes particular requirements for adopting provisions requiring the use of oxygenated fuels in areas designated nonattainment for the CO NAAQS and registering design values above 9.5 ppm.

Pursuant to this section of the CAA, ARB submitted its motor vehicle fuels regulations, including its requirements for wintertime oxygen content, to EPA for approval on November 15, 1994. Eight areas in California were required to provide for the sale of oxygenated gasoline during winter months under section 211(m): Chico, Fresno, Modesto, Sacramento, San Diego and Sacramento MSAs, and the Los Angeles-Anaheim-Riverside and San Francisco-Oakland-San Jose CSMAs. Because of the number of carbon monoxide nonattainment areas, however, ARB required the use of wintertime oxygenates for the entire State. EPA approved the State's wintertime oxygenated gasoline regulations on August 21, 1995 (60 FR 43379).

California succeeded in reducing significantly CO emissions, prompting ARB to request that EPA redesignate the ten planning areas to attainment and to submit a maintenance plan (adopted by ARB April 25, 1996) and referred to herein as the 1996 CO Maintenance Plan that demonstrates how the State will continue to meet NAAQS for CO. The 1996 CO Maintenance Plan (which EPA approved March 31, 1998 [63 FR 15305]) identified the wintertime oxygenated gasoline requirement as one of the principal control measures and relied on the associated emissions reductions to demonstrate continued attainment.

On November 19, 1998, ARB approved an amendment to California's CO maintenance plan rescinding in most areas the wintertime oxygenated gasoline requirement (*see* ARB Resolution 98–52, November 19, 1998 included as Appendix C of the 2004 CO Maintenance Plan). Because the State had achieved significant reductions in CO emissions from other control measures, the wintertime oxygenated gasoline requirement was no longer necessary to maintain the CO NAAQS in the ten planning areas. The growing concern about the risks of the widely used oxygenate MTBE (methyl tertiary butyl ether) also influenced ARB's decision to rescind the wintertime oxygenated gasoline requirement. Because it is highly soluble in water and transfers to groundwater faster, farther and more easily than other gasoline constituents, ARB concluded that MTBE poses a significant threat to groundwater, surface water, and drinking water systems. The following year (March 26, 1999), Governor Gray Davis signed Executive Order D–5–99 ordering the phase-out of MTBE. The Executive Order also directed ARB to develop new gasoline requirements that eliminated the use of MTBE, which ARB adopted in December 1999 (known as Phase 3 Reformulated Gasoline Regulations). In July 2002, ARB amended the Phase 3 gasoline regulations to postpone the prohibition of the use of MTBE for one year, as directed by a second Executive Order issued by the Governor in March 2002. The final deadline for eliminating MTBE from gasoline in California was December 31, 2003.

Because certain areas of the State needed to rely on the benefits of oxygenated fuels to ensure attainment and maintenance of the CO NAAQS, ARB retained the wintertime oxygenated gasoline requirement in the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial, but not in the ten planning areas.

Additionally, in adopting the 1998 CO Maintenance Plan, which revised the 1996 CO Maintenance Plan, ARB committed to the following: ''* * * the Board directs ARB staff to review carbon monoxide air quality data in the areas no longer subject to the wintertime oxygen requirement; if violations are monitored in any of the areas, staff will propose that appropriate action be taken regarding reinstatement of the minimum wintertime oxygen content in gasoline previously contained in section 2262.5, title 13, CCR, in the area at the beginning of the following winter season * * *'' (ARB Resolution 98–52, November 19, 1998; *see* page C–4 of the 2004 CO Maintenance Plan). ARB revised the 1996 CO Maintenance Plan to demonstrate California's ability to continue meeting the CO NAAQS without the wintertime oxygenated gasoline program and submitted the amended plan (the ''1998 CO

Maintenance Plan'') to EPA for approval on December 10, 1998. EPA has not taken action on this submittal. The current SIP revision submittal to EPA supersedes the 1998 CO Maintenance Plan SIP revision submittal, but includes a resubmission of ARB Resolution 98–52 and thereby continues the State's commitment in the 1998 submittal to reintroduce the wintertime oxygenated gasoline requirement if violations are monitored. This prior commitment is referenced and reiterated in the ARB resolution adopting the 2004 revisions to the CO maintenance plans: ''* * * in Resolution 98–52, the Board directed that '* * * if violations are monitored in any of the areas, staff will propose that appropriate action be taken regarding reinstatement of the minimum wintertime oxygen content in gasoline previously contained in section 2262.5, title 13, CCR, in the area at the beginning of the following winter season. * * *' '' (ARB Resolution 04–20, July 22, 2004, page 3.)

In the 2004 CO Maintenance Plan, ARB brings forward the seven contingency measures included in the 1996 Maintenance Plan, identifies several additional regulatory measures that have already been adopted and implemented as contingency measures (tighter emission standards for cars, truck, buses, off-road equipment), and, as noted above, brings forward the commitment from the 1998 Maintenance Plan SIP revision submittal to reinstate the wintertime oxygenated gasoline requirement. The CO emissions reductions associated with the seven contingency measures adopted as part of the 1996 CO Maintenance Plan and the additional contingency measures described in the 2004 CO Maintenance Plan are accounted for in the inventories that provide the basis for the maintenance demonstrations for the ten planning areas. Although we find early implementation of contingency measures to be acceptable (*see* EPA policy memorandum ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' from G.T. Helms to Air Branch Chiefs, August 13, 1993), we find that the inclusion of the CO emissions reductions benefits from the various contingency measures in the maintenance demonstrations for the ten planning areas disqualifies them from serving as contingency measures for the purposes of CAA section 175A(d).

However, we find that the commitment to reinstate the wintertime oxygenated gasoline requirement, originally made in Resolution 98–52 and reaffirmed in Resolution 04–20, in the event that CO violations are monitored provides a sufficient basis for us to determine that the 2004 CO Maintenance Plan meets the minimum contingency requirements under section 175A(d) given the extent to which California's motor vehicle control program will continue to provide CO emissions reductions in the ten planning areas over and above those necessary for continued attainment of the CO NAAQS.

E. Motor Vehicle Emissions Budgets

Maintenance plan submittals must specify the maximum emissions of transportation-related CO emissions allowed in the last year of the maintenance period. The submittal must also demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for us to find these emissions levels or ''budgets'' adequate and approvable, the submittal must meet the conformity adequacy provisions of 40 CFR 93.118(e)(4) and (5), and be approvable under all pertinent SIP requirements.

The existing CO motor vehicle emissions budgets (MVEBs) for the areas addressed in this notice derive from California's first maintenance plan (*i.e.*, the 1996 CO Maintenance Plan), which EPA approved March 31, 1998 (63 FR 15305). The CAA requires that the first installment of the maintenance plan cover at least ten years; California's CO maintenance plan covered twelve years: 1998 to 2010. The 1996 CO Maintenance Plan did not specifically identify a particular year in which the MVEBs apply for transportation conformity purposes. Applicable transportation conformity regulations (40 CFR 93.118(b)(2)(i)), however, require that ''Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan * * *.'' This compels EPA to interpret California's first CO maintenance plan as establishing MVEBs for the final year of the first maintenance period, which is 2010. This interpretation, however, does not preclude the State from revising the 2010 budgets.

In addition to establishing new MVEBs for the final year of the second maintenance period (2018), the 2004 CO Maintenance Plan also revises the current CO MVEBs. Page 14 of the 2004 CO Maintenance Plan identifies 2003 and 2018 as budget years and states that ''These emission budgets will apply to all subsequent analysis years * * * including: Any interim year conformity analyses, the 2018 horizon year, and years beyond 2018.'' EPA requested clarification from ARB because the Agency was unsure whether the State had intended to set budgets for every year after 2003. ARB submitted a letter on December 23, 2004 confirming ARB's intent to remove and entirely replace the emissions budgets established by the first ten year plan with new budgets for 2003 and 2018.

Because the transportation conformity regulations (described above) require States to demonstrate conformity to the last year of the maintenance plan, EPA requested further clarification from ARB concerning the MVEBs in the submitted 2004 CO Maintenance Plan for year 2010. On May 23, 2005, ARB submitted a letter to EPA clarifying their intent to update the MVEBs from the first maintenance plan by setting new, more stringent MVEBs starting in 2003. These MVEBs would also apply for 2010 and 2018. The letter included a table showing the MVEBs and applicable budget years (*see* Table 4).

TABLE 4.—PROPOSED ON-ROAD MOTOR VEHICLE CO EMISSION BUDGETS

[Winter seasonal emissions in tons per day]

CO maintenance area	Area included in inventory	Emission budget		
		2003	2010	2018
Bakersfield	Western Kern County	180	180	180
Chico	Butte County	80	80	80
Fresno	Fresno County	240	240	240
Lake Tahoe North Shore	Eastern Placer County	11	11	11
Lake Tahoe South Shore	Eastern El Dorado County	19	19	19
Modesto	Stanislaus County	130	130	130

TABLE 4.—PROPOSED ON-ROAD MOTOR VEHICLE CO EMISSION BUDGETS—Continued

[Winter seasonal emissions in tons per day]

CO maintenance area	Area included in inventory	Emission budget		
		2003	2010	2018
Sacramento	Sacramento County, Yolo County, Western Placer County.	420	420	420
San Diego	San Diego County	730	730	730
San Francisco-Oakland-San Jose	San Francisco Bay Area Air Basin	1850	1850	1850
Stockton	San Joaquin County	170	170	170

In setting MVEBs, States generally use motor vehicle emission inventories. California took this approach, for example, in the 1996 CO Maintenance Plan. As Table 5 illustrates, motor vehicle emissions are expected to fall to comparatively low levels by 2018. California need not, however, cap MVEBs at projected motor vehicle emissions levels. Because overall projected levels of emissions from all sources (as demonstrated in Table 2) are expected to be less than the levels necessary to maintain the CO NAAQS, California has a ''safety margin'' that the State may use to set MVEBs at a higher level. As long as emissions from all sources are lower than needed to provide for continued maintenance, the State may allocate additional emissions to the MVEBs (*see* 40 CFR 93.124).

TABLE 5.—ON-ROAD MOTOR VEHICLE CO EMISSION INVENTORY

[Winter seasonal emissions in tons per day]

CO maintenance area	Area included in inventory	1993	2003	2010	2018
Bakersfield	Western Kern County	347	177	112	66
Chico	Butte County	138	75	46	23
Fresno	Fresno County	450	236	141	77
Lake Tahoe North Shore Lake	Eastern Placer County	18	10	7	4
Tahoe South Shore	Eastern El Dorado County	32	18	13	7
Modesto	Stanislaus County	246	126	74	42
Sacramento	Sacramento County, Yolo County, Western Placer County.	857	410	244	96
San Diego	San Diego County	1,472	728	457	249
San Francisco-Oakland-San Jose	San Francisco Bay Area Air Basin	3,314	1,840	979	563
Stockton	San Joaquin County	326	162	97	55

Source: ARB, 2004 CO Maintenance Plan, page 13.

In the 2004 CO Maintenance Plan, ARB's proposed MVEBs (Table 4, above) meet the safety margin test. Take, for example, Fresno, which attained the CO NAAQS in 1993 with a CO wintertime emissions level of 627 tons per day. By 2018, ARB predicts that Fresno's emissions will be 244 tons per day of CO (77 from motor vehicles, 167 from all other sources) [*see* Table 6]. This provides a safety margin of 383 tons per day. By setting the MVEB for Fresno at 240 tons per day, ARB allocates some of the safety margin (163 tons per day) to the MVEB, while still leaving a large margin between emissions levels from all sources, including motor vehicles and related safety margin (*i.e.*, 220 tons per day), and the emissions level that allows for continued maintenance of the NAAQS (627 tons per day).

TABLE 6.—EXAMPLE OF HOW ARB CAN ALLOCATE EMISSIONS TO MVEBS FOR FRESNO AREA

Fresno urbanized area	2018 emissions
Projected Motor Vehicle Emissions Inventory	77
Projected Emissions from Other Sources	167
Total Projected Emissions	244
Allowable emissions[1]	627
Emissions available to allocate to MVEB	383
Proposed MVEB (See Table 4, above)	240
Difference b/w MVEB and Projected MV emissions	163
Remaining Unallocated Safety Margin	220

[1] Based on the revised inventory for year in which Fresno attained the standard (1993).

Our detailed evaluation of the 2004 CO Maintenance Plan and related MVEBs under 40 CFR 93.118(e)(4) and (5) is provided in section IV of this notice. Based on that evaluation and the discussion provided above, we approve the CO MVEBs for each of the ten planning areas as set forth in the 2004 CO Maintenance Plan and clarified by ARB in its letter dated May 23, 2005 because the plan and budgets meet the requirements under 40 CFR 93.118(e)(4) and (5) and because we find that ARB has met all statutory requirements for submittals of maintenance plans under sections 110 and part D of the Act.

In the submittal letter dated November 8, 2004, ARB requested that EPA limit the duration of our approval of the MVEBs in the 2004 CO Maintenance Plan to last only until the

effective date of future EPA adequacy findings for replacement budgets. This would mean that if ARB decided to amend the CO MVEBs sometime in the future, then the new MVEBs would become effective as soon as EPA determined adequacy, rather than after comprehensive rulemaking (which is a longer process). ARB had made a similar request, and EPA granted it, in connection with the MVEBs in the 1996 CO Maintenance Plan (*see* 67 FR 46618, at 46620, November 15, 2002). That request, however, was accompanied with significant documentation that demonstrated why limiting the duration of our approval provided an advantage to air quality and public health protection. With the current request, however, ARB has not provided any supporting documentation. We note that ARB's request to limit the duration of the approvals of the MVEBs was contained only in the submittal letter and is not, therefore, considered a part of the maintenance plan itself. Therefore, our denial of ARB's request does not affect our approval of the plan or the budgets contained therein.

IV. Adequacy Finding for Motor Vehicle Emissions Budgets

In this notice, we announce our finding that the motor vehicle emissions budgets (MVEBs) in the submitted *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas* (adopted by ARB on July 22, 2004) (''2004 CO Maintenance Plan'') are adequate for transportation conformity purposes. As a result of this finding, the various metropolitan planning organizations (MPOs) with jurisdictions in the ten planning areas and the U.S. Department of Transportation must use the CO MVEBs from the 2004 CO Maintenance Plan for future conformity determinations. We are also announcing this finding on our conformity Web site: *http://www.epa.gov/otaq/trasp/conform/adequate.htm* (once there, click on the ''What SIP submissions has EPA already found adequate or inadequate?'' button).

Transportation conformity is required by section 176(c) of the CAA. Our transportation conformity rule (codified in 40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

On March 2, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* v. *Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted MVEBs contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the court decision, we are making any submitted SIP revision containing a control strategy or maintenance plan available for public comment and responding to those comments before announcing our adequacy determination. The conformity rule was recently changed to reflect the procedures we have been using since the court decision. *See* 69 FR 40004 (July 1, 2004) and related correction notice at 69 FR 43325 (July 20, 2004).

ARB submitted the 2004 CO Maintenance Plan to EPA by letter dated November 8, 2004, and we received this plan on November 12, 2004. The plan identifies CO MVEBs (calculated as winter seasonal emissions in tons per day) for each of the ten planning areas for years 2003 and 2018.

We announced receipt of the plan on the Internet and requested public comment by December 27, 2004. We requested clarification from ARB because we were unsure whether ARB had intended to set budgets for every year after 2003. ARB submitted a letter on December 23, 2004 explaining ARB's intent to replace the 1996 CO Maintenance Plan budgets with new budgets for 2003 and 2018. Subsequently, we extended the comment period until February 10, 2004, although we had not received any comments in response to our Internet posting on December 27, 2004. We did not receive any comments during the extended comment period either.

Because the transportation conformity regulations require States to demonstrate conformity to the last year of the maintenance plan, EPA requested further clarification from ARB on the status of the MVEBs for 2010 (the last year of the EPA-approved 1996 CO Maintenance Plan). On May 23, 2005, ARB submitted a letter to EPA indicating that their intent was to update the MVEBs from the 1996 CO Maintenance Plan by setting new, more stringent MVEBs starting in 2003. These new MVEBs would apply to 2003, 2010 and 2018. Table 4, above, shows the 2004 CO Maintenance Plan MVEBs for 2003, 2010 (the last year of the 1996 CO Maintenance Plan), and 2018 (the last year of the 2004 CO Maintenance Plan).

The criteria by which we determine whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4) and (5). The following paragraphs provide our review of ARB's 2004 CO Maintenance Plan SIP submittal against our adequacy criteria and, based on that review, we conclude that all of the criteria have been met and that the MVEBs in the submitted 2004 CO Maintenance Plan are adequate for transportation conformity purposes.

Under 40 CFR 93.118(e)(4)(i), we review a submitted plan to determine whether the plan was endorsed by the Governor (or designee) and was subject to a public hearing. The transmittal letter for the submitted 2004 CO Maintenance Plan was signed by Catherine Witherspoon, Executive Officer, ARB, the Governor's designee for CAA SIP purposes. ARB Resolution 04–20, included as enclosure 2 of the SIP submittal, provides evidence of adoption and legal authority. Enclosure 3 of the SIP submittal contains documentation of a public hearing on the 2004 CO Maintenance Plan that was held on July 22, 2004. As such, the submitted plan meets the criterion under 40 CFR 93.118(e)(4)(i).

Under 40 CFR 93.118(e)(4)(ii), we review a submitted plan to determine whether the plan was developed through consultation with Federal, State and local agencies and whether full implementation plan documentation was provided to EPA and EPA's stated concerns, if any, were addressed. Consultation for development of this plan largely consisted of public hearing notices that were published in newspapers of general circulation in each of the ten planning areas. Given the nature of this subsequent maintenance plan submittal, which includes no new control measures but simply shifts one control measure (the wintertime oxygenated gasoline requirement) from active to contingent status, and updates a previous plan to reflect better emission estimates (based on improved calculation methods and updated source type and activity data) and to extend the maintenance demonstrations further into the future, such limited consultation is sufficient for the purposes of 40 CFR 93.118(e)(4)(ii).

Under 40 CFR 93.118(e)(4)(iii), we review a submitted plan to determine whether the MVEBs are clearly identified and precisely quantified. The 2004 CO Maintenance Plan clearly identifies and precisely quantifies the CO MVEBs for each of the ten planning

area on pages 13 through 17 of the plan, thereby meeting the adequacy criterion under 40 CFR 93.118(e)(4)(iii).

Under 40 CFR 93.118(e)(4)(iv), we review a submitted plan to determine whether the MVEBs, when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to a given SIP submission). The 2004 CO Maintenance Plan shows how the CO MVEBs and related safety margins are consistent with continued maintenance of the CO NAAQS in each of the ten planning areas through 2018 (see pages 13 through 17 of the plan). In particular, Table 12 on page 17 of the maintenance plan shows the extent to which maximum potential 2018 emissions (*i.e.*, including the budget safety margins) fall below emissions calculated for the 1993 attainment year. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(4)(v), we review a submitted plan to determine whether the MVEBs are consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy plan or maintenance plan. The 2004 CO Maintenance Plan contains no new measures but the budgets appropriately reflect the State's adopted emissions standards, fuel regulations (including repeal of the wintertime oxygenated gasoline requirements), and the vehicle inspection and maintenance program, as applicable in each of the ten planning areas. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(4)(vi), we review a submitted plan to determine whether revisions to previously submitted plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins; and reasons for the changes (including the basis for any changes related to emissions factors or estimates of vehicle miles traveled). The 2004 CO Maintenance Plan explains and documents the various changes that have been made to the CO emissions inventories, motor vehicle emissions budgets, safety margins, and control measures, including updates to the emissions factor model (EMFAC2002 for the 2004 CO Maintenance Plan versus EMFAC7F for the 1996 CO Maintenance Plan), updates to the travel activity data from the local transportation agencies, and the shift of the wintertime oxygenated gasoline requirements from active to contingent status. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(5), we review the State's compilation of public comments and response to comments that are required to be submitted with any SIP revision. Enclosure 4 of the SIP submittal contains one comment letter that was received on the proposed 2004 CO Maintenance Plan. This comment letter supported ARB approval of the proposed plan. Enclosure 6 of the SIP submittal contains minutes from the July 22, 2004 public hearing. No further comments on the plan were submitted on the proposed plan at the public hearing. Thus, the submitted plan meets this criterion for adequacy.

Therefore, we find the CO MVEBs contained in the submitted 2004 CO Maintenance Plan to be adequate for transportation conformity purposes. Under 40 CFR 93.118(e)(1), motor vehicle emissions budgets in submitted plans do not supersede the motor vehicle emissions budgets in approved plans for the same CAA requirement and the period of years addressed by the previously approved implementation plan, unless EPA specifies otherwise in its approval of a SIP. See 69 FR 40004, at 40078 (July 1, 2004). In this instance, the submitted plan (the 2004 CO Maintenance Plan) is a maintenance plan that establishes MVEBs that are intended to supersede previously approved budgets from an earlier maintenance plan (the 1996 CO Maintenance Plan) for year 2010, the out year of the 1996 plan. However, in a final rule published on November 15, 2002, we limited the duration of our approvals of the MVEBs in the 1996 CO Maintenance Plan to last only until the effective date of our adequacy finding for new budgets that replace the existing approved budgets for the same pollutant, CAA requirement, and year. *See* 67 FR 69139 (November 15, 2002). Thus, upon the effective date of this adequacy finding, the MVEBs in the 2004 CO Maintenance Plan will supersede the previously-approved CO MVEBs from the 1996 CO Maintenance Plan.

The effective date for our adequacy finding will coincide with the effective date for our approval of the budgets as part of our overall approval of the 2004 CO Maintenance Plan as a SIP revision if we do not withdraw this direct final rule in response to receipt of adverse comments. If we receive adverse comments on this direct final action, we will withdraw the final rule as it relates to the approval of the 2004 CO Maintenance Plan (and budgets), but the adequacy determination will remain in effect until we either make a subsequent inadequacy determination or take subsequent final action to approve or disapprove the plan.

V. Technical Correction

In 1996, ARB submitted the 1996 CO Maintenance Plan covering the ten planning areas and requested they be redesignated to attainment for the CO NAAQS. On March 31, 1998, EPA approved the 1996 Plan as a revision to the California SIP and redesignated the ten planning areas to attainment effective June 1, 1998 (63 FR 15305). To codify this rulemaking, we amended the table in 40 CFR part 81, section 305 (40 CFR 81.305), that lists the designations for air quality planning areas in California, but in doing so, we incorrectly identified April 30, 1998 as the effective date for redesignation of the ten planning areas to attainment for CO. The correct date is June 1, 1998. In addition, in our March 31, 1998 final rule, we inadvertently deleted from the California-Carbon Monoxide table the detailed descriptions of three of the ten planning areas: the Lake Tahoe North Shore Area, the Lake Tahoe South Shore Area, and the San Diego Area.

Section 110(k)(6) of the Clean Air Act provides, ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.'' Under the authority vested in EPA under section 110(k)(6) of the Act, we are taking direct final action to amend the California-Carbon Monoxide table in 40 CFR 81.305 by changing the effective date for redesignation from April 30, 1998 to June 1, 1998 for each of the ten areas addressed in this notice and by re-codifying the previous detailed descriptions of the Lake Tahoe North Shore, Lake Tahoe South Shore, and San Diego Areas.

VI. EPA's Final Action

Under section 110(k)(3) of the CAA, EPA is approving as a revision to the California SIP the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas* (''2004 CO Maintenance Plan''), as adopted by ARB on July 22, 2004 and submitted by ARB to EPA on November 8, 2004.

In so doing, EPA has determined that this submittal meets the CAA requirement under section 175A(b) to prepare and submit a SIP revision that provides for continued maintenance of the CO NAAQS for a period of 10 years following the initial 10-year maintenance period that began with redesignation of the following ten planning areas from nonattainment to attainment: Bakersfield, Chico, Fresno, Lake Tahoe North Shore, Lake Tahoe South Shore, Modesto, Sacramento, San Diego, San Francisco-Oakland-San Jose, and Stockton.

As part of our overall approval of the 2004 CO Maintenance Plan, we approve the following specific plan elements:

- Emission inventory updates and projections, as well as the maintenance demonstrations through 2018, for the ten planning areas covered by the plan;
- Commitment to continue monitoring for the purpose of verifying continued attainment;
- Contingency provisions under CAA section 175A(d), specifically, the State's commitment related to the wintertime oxygenated gasoline requirements contained in ARB Resolution 98–52 and included as Appendix C of the 2004 CO Maintenance Plan; and
- CO motor vehicle emissions budgets (in terms of winter seasonal emissions in tons per day) for the years 2003, 2010, and 2018, for each of the ten planning areas as follows:

	2003	2010	2018
Bakersfield	180	180	180
Chico	80	80	80
Fresno	240	240	240
Lake Tahoe North Shore	11	11	11
Lake Tahoe South Shore	19	19	19
Modesto	130	130	130
Sacramento	420	420	420
San Diego	730	730	730
San Francisco-Oakland-San Jose	1,850	1,850	1,850
Stockton	170	170	170

In connection with the motor vehicle emissions budgets, we are denying ARB's request to limit our approval of the above budgets to last only until the effective date of future EPA adequacy findings for replacement budgets, but our denial of ARB's request does not affect our approval of the plan itself or the budgets contained therein.

Also, in connection with the motor vehicle emissions budgets, we are finding them adequate for the purposes of transportation conformity. As a result of this finding, the various metropolitan planning organizations in the ten planning areas and the U.S. Department of Transportation must use the CO motor vehicle emissions budgets from the submitted maintenance plan for future conformity determinations.

Lastly, under CAA section 110(k)(6), we are correcting our 1998 final rule in which we approved ARB's submittal of the 1996 CO Maintenance Plan and redesignated the ten planning areas to attainment for the CO NAAQS by fixing the erroneous effective date listed in the table entitled ''California—Carbon Monoxide'' in 40 CFR part 81.305 and by re-codifying in that same table detailed descriptions of the Lake Tahoe North Shore, Lake Tahoe South Shore, and San Diego areas that had inadvertently been deleted in that same 1998 rulemaking.

We do not anticipate any objections to this action, so we are finalizing the correction action without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing this same action. If we receive adverse comments by December 30, 2005, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. Such a withdrawal of this direct final rule will not, however, affect the adequacy finding related to the motor vehicle emissions budgets. The adequacy finding will become effective January 30, 2006 and remain in effect unless and until EPA makes an inadequacy finding, or takes final action to approve or disapprove the plan. If we do not receive timely adverse comments, the direct final action will be effective without further notice on January 30, 2006 and our approval of the motor vehicle emissions budgets will be effective on the same date as our adequacy finding related to those budgets.

VII. Statutory and Executive Order Reviews

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

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

Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this rule present a disproportionate risk to children.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 30, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: November 15, 2005.

Jane Diamond,

Acting Regional Administrator, Region IX.

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(341) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(341) The 2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Carbon Monoxide Maintenance Plan for the Ten Federal Planning Areas, submitted on November 8, 2004 by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(1) 2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas, adopted by the California Air Resources Board on July 22, 2004. The ten Federal planning areas include Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area.

PART 81—[AMENDED]

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

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

Subpart C—[Amended]

■ 2. In § 81.305, the table entitled ''California—Carbon Monoxide'' is amended by revising the entry for Bakersfield Area, Chico Area, Fresno Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Area, Sacramento Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Area to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date	Type
Bakersfield Area:				
Kern County (part)	June 1, 1998	Attainment		
Bakersfield Metropolitan Area (Urbanized part)				
Chico Area:				
Butte County (part)	June 1, 1998	Attainment		
Chico Urbanized Area (Census Bureau Urbanized part)				
Fresno Area:				
Fresno County (part)	June 1, 1998	Attainment		
Fresno Urbanized Area				

CALIFORNIA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date	Type
Lake Tahoe North Shore Area:				
Placer County (part)	June 1, 1998	Attainment		
That portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base, and Meridian (M.D.B. & M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B. & M., thence south along the west line of Sections 3 and 10, Township 15 north, Range 16 East, M.D.B. & M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.				
Lake Tahoe South Shore Area:				
El Dorado County (part)	June 1, 1998	Attainment		
That portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake, as described under 40 CFR 81.275.				
* * * *	*		*	*
Modesto Area:				
Stanislaus County (part)	June 1, 1998	Attainment		
Modesto Urbanized Area (Census Bureau Urbanized Area)				
Sacramento Area:				
Census Bureau Urbanized Area)	June 1, 1998	Attainment		
Placer County (part).				
Sacramento County (part).				
Yolo County (part).				
San Diego Area:				
San Diego County (part)	June 1, 1998	Attainment		
The Western Section of Air Pollution Control District of San Diego County is defined as all that portion of San Diego County, State of California, lying westerly of the following described line:.				
1. Beginning at the Northwest of Township 9 South, Range 1 West, San Bernardino Base and Meridian;				
2. thence running Southerly along the West line of said township to the south line therof;				
3. thence Easterly along said South line to the range line between Range 1 West and Range 1 East;				
4. thence Southerly along said range line to the township line between Township 11 South and 12 South;				
5. thence Easterly along said township line to the range line between Range 1 East and Range 2 East;				
6. thence Southerly along said range line to the international boundary between the United States of America and Mexico.				
San Francisco-Oakland-San Jose Area:				
Urbanized Areas	June 1, 1998	Attainment		
Alameda County (part)				
Contra Costa County (part)				
Marin County (part)				
Napa County (part)				
San Francisco County				
San Mateo County (part)				
Santa Clara County (part)				
Solano County (part)				
Sonoma County (part)				
Stockton Area:				
San Joaquin County (part)	June 1, 1998	Attainment		
Stockton Urbanized Area				
* * * *	*		*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 05–23502 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[OPP–2005–0075; FRL–7744–8]

RIN–2070 AC61

TSCA Inventory Update Reporting Partially Exempted Chemicals List;Addition of 1,2,3-Propanetriol; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a direct final rule in the**Federal Register** of October 17, 2005, to amend the Toxic Substances Control Act (TSCA) section 8(a) Inventory Update Reporting (IUR) regulations by adding 1,2,3-propanetriol (CASRN 56–81–5) to the list of chemical substances in 40 CFR 710.46(b)(2)(iv) which are exempt from reporting processing and use information required by 40 CFR 710.52(c)(4). The document incorrectly listed the section heading for § 710.46 in the regulatory text. This document is being issued to correct that error.

DATES: This final rule is effective on November 30, 2005.

ADDRESSES: Follow the detailed instructions as provided under the **ADDRESSES** unit in the **Federal Register** document of October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Sharkey, Project Manager, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8789; e-mail address: *sharkey.susanepa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the direct final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET at *http://www.epa.gov/edocket/*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 710 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. What Does this Correction Do?

In FR Doc. 05–20771 appearing on page 60217, the following correction is made:

§ 710.46 [Corrected]

On page 60221 in the second column, the section heading for § 710.46 is corrected to read: ''§ 710.46 Chemical substances for which information is not required.''

III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because the use of notice and comment procedures are unnecessary to effectuate this correction. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This action only corrects an inadvertent error in the section heading of the regulatory text for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Orders for the underlying rule is discussed in Unit V. of the October 17, 2005, direct final rule (70 FR 60217).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Hazardous materials, 1,2,3-Propanetriol, Reporting and recordkeeping requirements.

Dated: November 7, 2005.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 05–23436 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–2942; MB Docket No. 05–188; RM–11240]

Radio Broadcasting Services; Bass River Township and Ocean City, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 70 FR 31409 (June 1, 2005), this *Report and Order* substitutes Channel 293A for Channel 292A, Station WKOE(FM), Ocean City, New Jersey; reallots Channel 293A, from Ocean City to Bass River Township; and modifies Station WKOE's license accordingly. The coordinates for Channel 293A at Bass River Township, New Jersey, are 39–39–00 NL and 74–21–20 WL, with a site restriction of 10.4 kilometers (6.4 miles) northeast of Bass River Township.

DATES: Effective December 27, 2005.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–188, adopted November 9, 2005, and released November 10, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor,

Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under New Jersey, is amended by removing Channel 292A at Ocean City, and adding Bass River Township, Channel 293A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05–23356 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–2941, MB Docket No. 05–106, RM–11196]

Radio Broadcasting Services; Ellaville, Milner, and Plains, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a petition filed by Linda A. Davidson by allotting Channel 290A at Milner, Georgia, as its first local service and Channel 290A at Plains, Georgia, as its first local service. *See* 70 FR 17042, published April 4, 2005. To accommodate the Milner allotment, this document also substituted Channel 232A for vacant Channel 290A at Ellaville, Georgia. Vacant Channel 290A at Ellaville, Georgia is listed as construction permit number FM030 in Auction 62 scheduled for November 1, 2005. Accordingly, the auctioned winner must file for a construction permit for Channel 232A in lieu Channel 290A at Ellaville. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Effective December 27, 2005.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MB Docket No. 05–106, adopted November 8, 2005, and released November 10, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Channel 290A can be allotted to Milner in compliance with the Commission's rules provided there is a site restriction of 11.9 kilometers (7.4 miles) northeast at coordinates 33–09–44 NL and 84–04–51 WL. Channel 290A can be allotted to Plains in compliance with the Commission's rules provided there is a site restriction of 14.7 kilometers (9.1 miles) northeast at coordinates 32–06–51 NL and 84–16–10 WL. Channel 232A can be allotted to Ellaville in compliance with the Commission's rules provided there is a site restriction of 14.5 kilometers (9.0 miles) east at coordinates 32–16–53 NL and 84–09–52 WL.

This document also dismissed a counterproposal filed jointly by Radio Georgia, Inc., licensee of Station WTGA–FM, Channel 266A, Thomaston, Georgia and Southern Broadcasting Companies, Inc., requesting the reallotment of Channel 266A from Thomaston to Milner, Georgia, as its first local service and modification of the Station WTGA–FM license accordingly; the allotment of Channel 295A at Plains, Georgia, as its first local service; the allotment of Channel 290A at Oglethorpe, Georgia, as it first local service; and the substitution of Channel 232A for vacant Channel 290A at Ellaville, Georgia.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 290A and by adding Channel 232A at Ellaville, by adding Milner, Channel 290A and by adding Plains, Channel 290A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05–23355 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–2944; MB Docket No. 04–161; RM–10961, RM–11111]

Radio Broadcasting Services; Baltimore, Mount Sterling, Wilmington, and Zanesville, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 69 FR 29255 (May 21, 2004), this *Report and Order* downgrades Channel 273B, Station WHIZ–FM, Zanesville, Ohio, to Channel 273B1, reallots that channel to Baltimore, Ohio, and modifies the license of Station WHIZ–FM accordingly. The coordinates for Channel 273B1 at Baltimore, Ohio, are 39–47–51 NL and 82–36–07 WL, with a site restriction of 5.3 kilometers (3.3 miles) south of Baltimore. This allotment is made contingent upon concurrence by the Canadian government. These changes in the FM Table of Allotments were made pursuant to a settlement agreement in this rulemaking proceeding, by which the licensee of Station WKLN(FM), Channel 272A, Wilmington, Ohio, withdrew its Petition for Rule Making which sought to reallot Channel 272A to Mount Sterling, Ohio. Station WKLN(FM)'s proposal was mutually exclusive with the proposal of Station WHIZ–FM.

DATES: Effective December 27, 2005.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 04–161, adopted November 9, 2005, and released November 10, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Zanesville, Channel 273B, and by adding Baltimore, Channel 273B1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05–23354 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 70, No. 229
Wednesday, November 30, 2005

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

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. FHWA–2005–22476]

RIN 2125–AF06

Design Standards for Highways; Interstate System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on a proposed amendment to the design standards that apply to highway construction and reconstruction projects on the Interstate System. A 2005 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Design Standards Interstate System, January 2005,* has replaced the previous version of this policy published in 1991. If adopted by the FHWA, the new AASHTO publication would constitute the FHWA's policy on geometric design standards for all construction and reconstruction projects on the Interstate System.

DATES: Comments must be received on or before January 30, 2006.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* Alternatively, comments may be submitted via the eRulemaking Portal at: *http://www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form on all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Jon Obenberger, Office of Program Administration (HIPA–20), (202) 366–2221. For legal information: Mr. Robert Black, Office of the Chief Counsel (HCC–32), (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625 (Design Standards for Highways). For the Interstate System, the current document specified in § 625.4(a)(2) is the 1991 edition of *A Policy on Design Standards—Interstate System* [1] (Interstate Standards). The AASHTO recently revised the Interstate Standards and issued the January 2005 edition.[2] The primary reason for revising the Interstate Standards was to reflect the latest design criteria and perform minor editorial changes to the previous Interstate Standards. The FHWA proposes to adopt this latest edition of the Interstate Standards as its geometric design standards for all construction and reconstruction projects on the Interstate System. See ''Summary of Changes'' below for a description of the changes made in the January 2005 edition.

The Interstate Standards, being only 6 pages, are not intended to be a ''stand alone'' document for all of the geometric design standards that are used in the development of projects on the Interstate System. The Interstate Standards contain criteria that were developed specifically in keeping with the importance of the Interstate System as the backbone of the Nation's highway system. Specific examples include: Design traffic, right-of-way, geometric design controls and criteria, cross section elements, interchanges, and bridges and other structures. Other publications, such as A *Policy on Geometric Design of Highways and Streets and the Standard Specifications for Highway Bridges* [3] are referenced in the Interstate Standards and used for all geometric design issues not specifically addressed in the Interstate Standards.

The policies, standards, and standard specifications FHWA has adopted for all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625. The NHS was established by the National Highway System Designation Act of 1995, Pub. L. 104–59, Nov. 28, 1995, 109 Stat. 568. The NHS includes the Interstate System and other principal arterials serving major travel destinations and transportation needs, connectors to major transportation terminals, the Strategic Highway

[1] A Policy on Design Standards—Interstate System, 1991, is available by ordering from AASHTO at their Web site at *http://www.aashto.org.*

[2] A Policy on Design Standards Interstate System, January 2005, is available by ordering from AASHTO at their Web site at *http://www.aashto.org.*

[3] A Policy on Geometric Design of Highways and Streets and Standard Specifications for Highway Bridges are available by ordering from AASHTO at their Web site at *http://www.aashto.org.*

Network and major connectors, and high priority corridors identified by law.

The AASHTO is an organization which represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex officio member, and U.S. DOT officials participate in various AASHTO activities as non-voting representatives. Among other functions, the AASHTO develops and issues standards, specifications, policies, guides and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications approved by the FHWA and incorporated into 23 CFR part 625 were originally developed and issued by the AASHTO. Revisions to AASHTO policies, standards, and standard specifications are independently reviewed, considered, and where appropriate adopted by the FHWA for their application to projects on the NHS.

Summary of Changes

The changes in the Interstate Standards were developed as the result of information contributed by AASHTO and FHWA staff experts. The changes made to the Interstate Standards (January 2005 edition) consist of the following:

1. Metric values have been added for all dimensions. The previous edition contained only U.S. Customary values.
2. In ''Design Speed,'' the sentence specifying a separate design speed for rolling terrain has been deleted. The impacts of construction in level and rolling terrain are considered sufficiently close that individual criteria are no longer considered necessary.
3. In ''Gradients,'' the table for maximum grade has been expanded to include higher design speeds and intermediate design speeds. All of the values in the previous edition have been incorporated in the new table without any changes. The wording of the table footnote has been revised.
4. In ''Shoulders,'' the discussion of shoulder width in mountainous terrain has been revised to clarify the values that may be used.
5. In ''Horizontal Clearance to Obstructions,'' the discussion of horizontal clearance to obstructions has been revised and updated.
6. In ''Curbs,'' the discussion of curbs has been revised and expanded to clarify the use of curbs in conjunction with guardrail.
7. In ''Existing Bridges to Remain in Place,'' the wording has been revised to include bridges on future additions to the Interstate System.
8. In ''Tunnels,'' the discussion of the minimum width of a tunnel has been revised and a discussion of a safety shape barrier at the tunnel wall in lieu of a safety walk has been added.

Conclusion

The FHWA proposes to amend the design standards that apply to highway construction and reconstruction projects on the Interstate System by adopting the 2005 edition of AASHTO's A Policy on Design Standards Interstate System.

Rulemaking Analyses and Notices

All comments received on or before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866 or would not be significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal because the basic design standard criteria remain essentially the same. The proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, the changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. As stated above the basic design standard criteria remain essentially the same. Additionally, the proposed changes address design standards for States to follow in constructing or reconstructing the Interstate System. States are not included in the definition of small entity set forth in 5 U.S.C. 601. For these reasons, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532).

Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages to assess the effects on States, local, and tribal governments and the private sector. Additionally, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid Highway Program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to

this program. Accordingly, the FHWA solicits comments on this issue.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this proposed action would not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses obligation of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use dated May 18, 2001. We have determined that it is not a significant energy action under that order since it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, highways and roads, Incorporation by reference.

Issued on: November 21, 2005.

J. Richard Capka,

Acting Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 625, as set forth below:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48(b) and (n).

2. In § 625.4, revise paragraph (a)(2) to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) * * *

(2) A Policy on Design Standards Interstate System, AASHTO, January 2005. [See § 625.4(d)(1)]

* * * * *

[FR Doc. 05–23476 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R09–OAR–2005–CA–0010; FRL–8002–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; California; Carbon Monoxide Maintenance Plan Update for Ten Planning Areas; Motor Vehicle Emissions Budgets; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas.* This revision will provide a ten-year update to the carbon monoxide maintenance plan, as well as replace existing and establish new carbon monoxide motor vehicle emissions budgets for the purposes of determining transportation conformity, for the following ten areas: Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. In connection with the motor vehicle emissions budgets, we are proposing to deny a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets. Lastly, EPA is proposing to correct certain errors made in our 1998 final rule approving California's redesignation request for these ten planning areas.

DATES: Comments on this proposal must be received by December 30, 2005.

ADDRESSES: Submit comments, identified by docket number R09–OAR–2005–CA–0010, by one of the following methods:

1. *Agency Web site: http://docket.epa.gov/rmepub/.* EPA

prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.

2. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

3. *E-mail: tiktinsky.toby@epa.gov.*

4. *Mail or deliver:* Toby Tiktinsky (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available on-line at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal or e-mail. The agency Web site and eRulemaking portal are ''anonymous access'' systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

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

FOR FURTHER INFORMATION CONTACT: Toby Tiktinsky, EPA Region IX, (415) 947–4223, *tiktinsky.toby@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this **Federal Register**, we are approving the State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas.*

In addition, EPA is notifying the public that we have found that the carbon monoxide motor vehicle emissions budgets contained in the submitted maintenance plan are adequate for transportation conformity purposes. Related to the motor vehicle emissions budgets, however, we are denying a request by ARB for EPA to limit the duration of our approval of the budgets. Our denial of ARB's request, however, does not affect our approval of the plan itself or the budgets contained therein. Lastly, we are also correcting, pursuant to section 110(k)(6) of the Act, certain errors that we made in our 1998 final rule approving California's redesignation request for these ten planning areas.

We are taking these actions without prior proposal because we believe that the revision and request are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 15, 2005.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 05–23503 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 90-Day Finding on a Petition To Delist the *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 90-day finding on a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) as a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). We find that the petition presents substantial scientific or commercial information indicating that delisting *Astragalus magdalenae* var. *peirsonii* may be warranted. Therefore, we are initiating a status review of *Astragalus magdalenae* var. *peirsonii* to determine if delisting the species is warranted. To ensure that the review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: The finding announced in this document was made on November 30, 2005. To be considered in the 12-month finding for this petition, comments and information must be submitted to the Service by January 30, 2006.

ADDRESSES: Submit new information, materials, comments, or questions concerning this species to Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011; by facsimile to 760/431–9618; or by electronic mail to *''FW1PMV@fws.gov''.* Please submit electronic comments in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: 90-Day Finding on Peirson's Milk-Vetch Delisting Petition'' 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 Carlsbad Fish and Wildlife Office at phone number 760–431–9440. Please note that the e-mail address *''FW1PMV@fws.gov''* will be closed out at the termination of the public comment period. See also the ''Public Information Solicited''' section for more information on submitting comments. The complete file for this finding is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Carlsbad Fish and Wildlife Office (see **ADDRESSES**), telephone 760–431–9440; facsimile 760–431–9618.

SUPPLEMENTARY INFORMATION:

Public Information Solicited

When we make a finding that substantial information is presented to indicate that a delisting action may be warranted, we are required to promptly commence a review of the status of the species. Based on results of the status review, we will make a 12-month finding as required by section 4(b)(3)(B) of the Act. To ensure that the status review is complete and based on the best available scientific and commercial data, we are soliciting information on

the Peirson's milk-vetch. We request any additional data, references, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of Peirson's milk-vetch. Of particular interest is information pertaining to the factors the Service uses to determine if a species is threatened or endangered: (1) 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; and (5) other natural or human-caused factors affecting its continued existence. In addition, we request data and information regarding the items identified in the ''Summary of Threats Analysis'' section.

If you wish to comment, you may submit your comments and materials concerning this finding to the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. We will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 4(b)(3)(A) of the Act requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This finding is based on information contained in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners and otherwise available in our files at the time of the petition review, and evaluated that information in accordance with 50 CFR 424.14(b). Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial scientific or commercial information'' threshold.

Our 90-day finding considers whether the petitioners have stated a reasonable case that delisting may be warranted. Thus, our finding expresses no view as to the ultimate issue of whether the species should be delisted. We reach a conclusion on that issue only after a thorough review of the taxon's status. In that review, which will take approximately 9 more months, we will perform a rigorous, critical analysis of the best available commercial and scientific information. We will ensure that the data used to make our determination as to the status of the species (*i.e.*, our 12-month finding) is consistent with the Act and the Information Quality Act (44 U.S.C. 3504(d)(1) and 3516). Upon completion, our 12-month finding will be published promptly in the **Federal Register**.

Astragalus magdalenae var. *peirsonii* (Peirson's milk-vetch) was listed as threatened on October 6, 1998 (63 FR 53596). At the time of listing, the primary threat to the milk-vetch was the destruction of individuals and dune habitat from off-highway vehicle (OHV) use and associated recreational development. On October 25, 2001, we received a petition to delist *Astragalus magdalenae* var. *peirsonii* dated October 24, 2001, from David P. Hubbard, Ted J. Griswold, and Philip J. Giacinti, Jr. of Procopio, Cory, Hargreaves & Savitch, LLP, that was prepared for the American Sand Association (ASA), the San Diego Off-Road Coalition, and the Off-Road Business Association (ASA 2001). On September 5, 2003, we announced an initial petition finding in the **Federal Register** that the petition presented substantial information to indicate the petitioned action may be warranted (68 FR 52784). In accordance with section 4(b)(3)(A) of the Act, we completed a status review of the best available scientific and commercial information on the species, and published our 12-month finding on June 4, 2004 (69 FR 31523). We determined that the petitioned action was not warranted at that time. This determination met deadline requirements established by a court-approved settlement agreement (*ASA et. al.* v. *USFWS and Gale Norton*, Stipulated Settlement Agreement, Civ. No. 03–315L LAB).

On July 8, 2005, we received a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) that was prepared for the American Sand Association, the Off-Road Business Association, the San Diego Off-Road Coalition, the California Off-Road Vehicle Association, and the American Motorcycle Association District 37 (ASA 2005). The new petition claims that according to four years of additional data collection, ''the Peirson's milk-vetch is even more abundant than was reported in ASA, *et al.*'s original petition, and that the plant's population and reproductive capacity are so stable and strong as to warrant delisting.''

This petition and its associated documents also include claims and information previously addressed in our 90-day and 12-month findings on the previous petition to delist Peirson's milk-vetch. Those claims that are not substantially different from those addressed in our previous findings or that are not supported by additional information will not be addressed in this 90-day finding. However, all available information, including information provided by the petitioners in supplements to the petition dated September 8, 2005 and October 4, 2005, will be considered in our status review and 12-month finding.

Species Information

Species Description

Astragalus magdalenae var. *peirsonii* is an erect to spreading, herbaceous, short-lived perennial in the Fabaceae (Pea family) (Barneby 1959, 1964). Plants may reach 8 to 27 inches (in) (20 to 70 centimeters (cm)) in height and develop taproots (Barneby 1964) that penetrate to the deeper, moister sand. According to Phillips and Kennedy (2003), plants largely die back to a root crown in the summer. The stems and leaves are covered with fine, silky

appressed hairs. The leaflets, which may fall off in response to drought, are small and widely spaced, giving the plants a brushy appearance. This taxon is unusual in that the terminal leaflet is continuous with the rachis rather than articulated with it. The purple flowers are arranged in 10- to 17-flowered axillary racemes.

Taxonomy

The taxonomic status of Peirson's milk-vetch was discussed in the final listing rule (63 FR 53596). Although Peirson's milk-vetch was originally described at the species rank, it is currently recognized as a variety as *Astragalus magdalenae* var. *peirsonii.* There are two other currently recognized varieties of this species, but these are restricted to Mexico.

Two other *Astragalus* taxa occur in the Algodones Dunes region. They are *Astragalus lentiginosus* var. *borreganus,* which is easily distinguished by its conspicuously broad leaflets, and *Astragalus insularis* var. *harwoodii,* which is easily distinguished by its smaller stature and shorter banner petals.

Range and Distribution

Astragalus magdalenae var. *peirsonii* is reported from northeastern Baja California, Mexico (Barneby 1959, 1964; WESTEC 1977; Spellenberg 1993), and has been verified in the Gran Desierto of Sonora, Mexico (Felger 2000). In the United States, this plant is restricted to about 53,000 acres (ac) (21,500 hectares (ha)) in a narrow band of the central portion of the Algodones Dunes of eastern Imperial County, California, which are among the largest sand dune fields in North America. The Algodones Dunes are often referred to as the Imperial Sand Dunes. Nearly all of the lands in the Algodones Dunes are managed by the Bureau of Land Management (BLM) as the Imperial Sand Dunes Recreation Area (ISDRA). However, the State of California and private parties own small inholdings in the dune area. Approximately 21,836 ac (8,837 ha) of the 185,000-ac (74,867-ha) ISDRA have been designated as critical habitat for *A. m.* var. *peirsonii* (69 FR 47330).

Life History

Astragalus magdalenae var. *peirsonii* has variously been considered an annual or perennial (Munz 1932, 1974; Barneby 1959, 1964; Spellenberg 1993; Willoughby 2001). Willoughby (2001) states that *A. m.* var. *peirsonii* is apparently a short-lived perennial, so its response to the amount of rainfall in the growing seasons is predictable. Documented persistence of individuals from one growing season to the next also attests to the perennial nature of *A. m.* var. *peirsonii* (Phillips and Kennedy 2002, 2003, 2004). Although Romspert and Burk (1979) found inflorescences present from December through at least April, plants are reportedly in flower from as early as mid-November through May (Barneby 1964; Porter *in litt.* 2003; Phillips and Kennedy 2002). The plants are self-incompatible, requiring cross-pollination. The primary pollinator is a digger bee (*Habropoda pallida*) (Porter 2005).

Based on current understanding of the species' life history, sufficient rain in conjunction with cooler-than-average fall weather appears to trigger germination events. Seedlings may be present in suitable habitat throughout the dunes, especially during above-normal precipitation years. In drier years, plant numbers decrease as individuals die and are not replaced by new seedlings. The long-term survival of the species likely depends on the production of viable seeds in the wetter years, the continual replenishment of the seed bank, and the persistence of the seed bank. The seed bank allows the species to persist until appropriate conditions for germination, growth, and reproduction occur. Large annual fluctuations in the numbers of plants present have been consistently found (Phillips and Kennedy 2005; Willoughby 2004, 2005).

The relative contribution of first year plants of Peirson's milk-vetch to the seed bank and survival of the taxon is not fully understood. Available data (Phillips and Kennedy 2002, 2004, 2005) and previous research (Romspert and Burk 1979) suggest that older age classes produce substantially more seeds than first-year plants and that, therefore, the older persisting plants (*i.e.*, those plants that survive for more than one growing season) may be individually important for depositing more seeds into the seed bank.

In desert plants, the majority of seedlings may die at the onset of the drier season as noted by previous reports. Phillips and Kennedy (2002) reported that 26 percent of the plants recorded in Spring 2001 counts survived to late 2001. These authors (Phillips and Kennedy 2003) also report the nearly complete loss of the 2003 seedling cohort of Peirson's milk-vetch. Pavlik and Barbour (1988) studied the establishment and survivorship pattern of *Astragalus lentiginosus* var. *micans,* another dune endemic plant, and recorded a complete failure of the 1984–1985 seedling cohort. These authors also reported that 54 percent of the 1985–1986 cohort of seedlings survived. However, none of these plants reached reproductive maturity that year.

Seed Biology

The fruits of Peirson's milk-vetch are 0.8 to 1.4 in (2 to 3.5 cm) long, one-chambered, hollow, and inflated. Peirson's milk-vetch fruits contain 11 to 16 large flattened black seeds. The seeds, among the largest seeds of any *Astragalus* in North America (Barneby 1964), average less than 0.1 ounces (oz) (15 milligrams (mg)) each in weight and are up to 0.2 in (4.7 millimeters (mm)) in length (Bowers 1996). Seeds are either dispersed locally when they fall from partly opened fruits on the parent plant, or more widely when they are released from fruits blown across the sand after falling from the parent plant. Seeds require no pre-germination treatment to induce germination, but show increased germination success when scarified (outer cover is broken). Porter (2005) reported about 9.1 percent of scarified seeds germinated while only 5.3 percent of unscarified seeds germinated. In germination trials conducted by Romspert and Burk (1979), 92 percent or more seeds germinated within 29 days at temperatures of 77 °F (25 °C) or less, and no seeds germinated at temperatures of 86 °F (30 °C) or higher. This indicates that seeds on the dunes may likely germinate in the cooler months of the year. Porter (*in litt.* 2002) identified that the primary dormancy mechanism in Peirson's milk-vetch is the impermeability of the seed coat to water and demonstrated little loss of viability in seeds stored for three years. This mechanism is consistent with characteristics of other species that have seed banks (Given 1994). Dispersed seeds that do not germinate during the subsequent growing season become part of the seed bank (Given 1994).

In a given year, an annual or short-lived species can fluctuate between large numbers of plants to few or even no plants. Many species, and Peirson's milk-vetch may be one of them, have periodic ''rescue'' episodes from the seed bank where large flushes appear when germination conditions are suitable (Elzinga *et al.* 1998). To the extent that plants are precluded from adding seeds to the seed bank because the plants are eliminated entirely or their reproductive output is reduced by summer drought, herbivory, and OHV impacts, these individuals cannot be expected to contribute to the seed bank and/or long-term survival of Peirson's milk-vetch. Development of a seed bank and associated dormancy allows plant species to grow, flower, and set seed in

years with most favorable conditions (Given 1994). When measuring seed bank dynamics to determine the viability and productivity of a seed bank, among the factors necessary to consider are estimation of the rate of seed mortality and aging, the amount of seed removed by predators, and the variability in germination events (Elzinga *et al.* 1998).

Threats Analysis

When considering an action for listing, delisting, or reclassifying a species, we are required to determine whether a species is endangered or threatened based on one or more of the five listing factors as described at 50 CFR 424.11. These factors are given as: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting the continued existence of the species. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. In making this finding, we evaluated whether or not the petition and associated documents and other information available to us present substantial information that delisting Peirson's milk-vetch may be warranted. Our evaluation, based on information provided in the petition and available in our files, is presented below.

The petitioners provided us with four reports completed since our 2004 12-month finding (69 FR 31523). These new reports include the work by BLM (Willoughby 2004, 2005) and reports by Phillips and Kennedy (2004, 2005).

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Demography of Peirson's Milk-Vetch

The petition restates claims made in the October 2001 petition that (1) the original listing was made without a plant count and (2) the original listing relied on field studies that BLM has since indicated were biased. As noted above in the Background section, we will not be addressing in this 90-day finding those claims that are not substantially different from those addressed in our previous findings or are not supported by additional information.

The petition states that its point is ''to demonstrate, through four years of additional data collection, that the Peirson's milk-vetch is even more abundant than was reported in ASA *et al.*'s original petition, and that the plant's population and reproductive capacity are so stable and strong as to warrant delisting'' (ASA 2005 p. 5). The petitioners suggest that (1) the addition of several years of monitoring data by BLM (Willoughby 2004, 2005) and Phillips and Kennedy (2004, 2005) indicate that Peirson's milk-vetch has a ''large and stable population'' (ASA 2005 p. 46) and (2) new data gathered by Phillips and Kennedy (2004, 2005) on Peirson's milk-vetch reproductive strategy indicate that the plant has the capacity to produce large numbers of seeds to restock the seed bank.

Using, in particular, the results of the monitoring by BLM (Willoughby 2004, 2005) and Phillips and Kennedy (2004, 2005), the petitioners state that the ''anticipated threats to the Peirson's milk-vetch and its habitat have not materialized'' (ASA 2005 p. 47). Instead, they state that threats to its ''continuous existence are negligible'' (ASA 2005 p. 48).

Off Highway Vehicle (OHV) Use

A primary threat that led to the listing of the Peirson's milk-vetch in 1998 was the destruction of individuals and habitat from OHV use and associated recreational development (63 FR 53596). The current petition (ASA 2005) and associated new documents provide information that bears on the impact of OHV activity on Peirson's milk-vetch. Monitoring studies conducted by BLM (Willoughby 2004, 2005) provide updated information on Peirson's milk-vetch abundance classes, use of a new monitoring protocol, estimates of density and population, and OHV impacts. Studies conducted by Phillips and Kennedy (2004, 2005) provide information on germination events and their timing, survivorship, seed bank, estimates of density and population size, OHV impacts, and additional surveys for Peirson's milk-vetch.

Evaluation of Information in the Petition and Other Information in Our Files

Willoughby (2004) summarizes multiple years of monitoring of Peirson's milk-vetch and *Helianthus niveus* ssp. *tephrodes* (Algodones Dunes Sunflower) in the Algodones Dunes. For each transect used in previous BLM surveys, Willoughby (2004) included number of plants tallied, sums of abundance class values, and number of cells occupied. Willoughby (2004) reports that there is essentially no difference in the number of cells per transect occupied by Peirson's milk-vetch in areas opened or closed to OHV use. Willoughby (2004) noted that part of the area surveyed and considered as ''open area'' was, in fact, closed to OHV use during 2001 and 2002. The report concludes that the populations of Peirson's milk-vetch fluctuate with rainfall but there was no difference between open and closed areas. Willoughby (2005) estimated that there were 286,374 Peirson's milk-vetch plants with plant density estimated to be 13.5 plants per ha (33.3 ac). Willoughby (2005) included estimates of numbers of the total plants that were flowering adults in 2004 and seedling survival for seedlings found in spring 2004 until September 2004.

Phillips and Kennedy (2004, 2005) provide information on survivorship, germination, seed bank, and population estimates of Peirson's milk-vetch based on counts at their study sites. They report actual plant counts of 77,922 individuals in March 2005 and 66,931 individuals in April 2005 at 25 sample sites. Within 56 ha (138 ac) of potential habitat, Phillips and Kennedy (2005) estimate an approximate minimum population of 173,328 plants in March 2005 and 142,243 plants in April 2005. They describe finding approximately 30 seedlings in Anza-Borrego Desert State Park (an area outside of Algodones Dunes).

To summarize, the petitioners have presented new information on the demography of Peirson's milk-vetch. Some of this information may be relevant to the potential impacts of OHV activities on the plant and its habitat. They support their arguments that Peirson's milk-vetch is healthy and stable and that OHV impacts are minimal with information from four reports (Willoughby 2004, 2005 and Phillips and Kennedy 2004, 2005) that were not available at the time of the previous 12-month finding (69 FR 31523). We find that these documents present substantial information that the petitioned action may be warranted and that they justify further detailed analysis in a 12-month finding. Additional information in our files includes a study on the biology of Peirson's milk-vetch (Porter 2005) and a Service study on plant densities in the Algodones Dunes (Service 2005b). All of these materials will be included in the species status review as part of the 12-month finding.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

This petition (ASA 2005) does not present any information regarding this factor as a threat to Peirson's milk-vetch nor did we identify any threats relative to Factor B in our previous 12-month finding (69 FR 31523). If new information becomes available in public comments, we will analyze it in our 12-month finding.

C. Disease or Predation

The petition (ASA 2005) states that Peirson's milk-vetch is largely free of threats from disease or predation. This is the same statement made in the original (ASA 2001) petition. We addressed the impact of seed-eating beetles (Bruchidae) on the seeds and evidence of rodent and insect herbivory in our previous 12-month finding (69 FR 31523). In 2004, BLM recorded numbers and distribution of plants with damage. Damage that was not from OHV impacts was attributed principally to insects (Willoughby 2005).

We identified potential additive Factor C threats in our previous 12-month finding (69 FR 31523), but the current petition does not identify threats in this category. Therefore, the petition does not present substantial information related to Factor C. However, our new 12-month finding will consider Factor C threats.

D. Inadequacy of Existing Regulatory Mechanisms

This petition (ASA 2005) and the previous petition (ASA 2001) both state that Peirson's milk-vetch has received adequate protection from BLM since 1977. The claim in the current petition that BLM has adequately protected Peirson's milk-vetch does not appear to constitute substantial information in and of itself because the petitioners' discussion of the issue was brief. However, the issue may be clarified by further analysis in a 12-month finding, which would also consider the Service's biological opinion, signed January 25, 2005, for the Imperial Sand Dunes Recreational Area Management Plan (Plan) (Service 2005a). We will analyze the Plan and the biological opinion as part of the 12-month finding.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

This petition (ASA 2005) and the earlier petition (ASA 2001) both state that there are no other natural or manmade threats to Peirson's milk-vetch. We discussed threats from purposeful impacts to Peirson's milk-vetch by OHVs, rangewide natural threats during years when the numbers of individuals is very low, and the role of pollinators in our previous 12-month finding (69 FR 31523).

We identified Factor E threats in our previous 12-month finding (69 FR 31523), but the current petition does not identify threats in this category. Therefore, the petition does not present substantial information related to Factor E. However, the information presented by the petition may affect our analysis of the existence and relative magnitude of the identified Factor E threats and our new 12-month finding will consider these threats in light of the new information.

Summary of Threats Analysis

The petitioners have presented new information regarding the ecology and demography of Peirson's milk-vetch at the Algodones Dunes. Phillips and Kennedy (2004) include new information on seedling growth, documentation of a late winter germination in 2004, and a count of seedlings in 2004. Phillips and Kennedy (2005) provide new information on plant densities in three study areas, population estimates for those areas, results of a new survey area, and indicate that Peirson's milk-vetch ''colonies'' are increasing in three different areas open to OHV use. Willoughby (2004, 2005) includes new information regarding population trends of Peirson's milk-vetch plants in the Algodones Dunes, abundance class differences for 2002, number of occupied cells per transect, seedling survival, OHV impacts, and the use of a new monitoring protocol for special status plants, including Peirson's milk-vetch, in the Algodones Dunes. These reports constitute substantial information that the petitioned action may be warranted and thus justify further detailed analysis in a status review and 12-month finding.

Finding

We have reviewed the petition and associated documents and other information available in our files. Based on this review, and the reasons discussed above, we find that the petition and information in our files present substantial information that delisting of Peirson's milk-vetch may be warranted.

References Cited

A complete list of all references cited herein is available, upon request, from the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is the Carlsbad Fish and Wildlife Office.

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

Dated: November 17, 2005.

Richard E. Sayers, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–23407 Filed 11–29–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 70, No. 229

Wednesday, November 30, 2005

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Report of School Program Operations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment notice of a proposed information collection. The proposed collection is an extension of a collection currently approved for the National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, and the Special Milk Program.

DATES: Comments on this notice must be received by January 30, 2006 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Alan Rich, Program Reports, Analysis, and Monitoring Branch, Budget Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Alan Rich, (703) 305–2109.

SUPPLEMENTARY INFORMATION:

Title: Report of School Program Operations.

OMB Number: 0584–0002.

Expiration Date: April 30, 2006.

Type of Request: Extension of a currently approved collection.

Abstract: The National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, and the Special Milk Program are authorized by the National School Lunch Act, 42 U.S.C. 1751, *et seq.*, and the Child Nutrition Act of 1966, 42 U.S.C. 1771, *et seq.* Program implementing regulations are contained in 7 CFR parts 210, 215, and 220. In accordance with § 210.5(d)(1), § 215.11(c)(2), and § 220.13(b)(2), State agencies must submit to FNS a monthly report of program activity in order to receive Federal reimbursement for meals served to eligible participants.

Respondents: State agencies that administer the National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, or the Special Milk Program.

Number of Respondents: 62.

Estimated Number of Responses per Respondent: The number of responses includes initial, revised, and final reports submitted each month. The overall average is four submissions per State agency per reporting month for a total of 48 per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 32 hours per respondent.

Estimated Total Annual Burden on Respondents: 95,232 hours.

Dated: November 17, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E5–6707 Filed 11–29–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Report of the Child and Adult Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of a collection currently approved for the Child and Adult Care Food Program.

DATES: Comments on this notice must be received by January 30, 2006 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Alan Rich, Program Reports, Analysis, and Monitoring Branch, Budget Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Alan Rich, (703) 305–2109.

SUPPLEMENTARY INFORMATION:

Title: Report of the Child and Adult Care Food Program.

OMB Number: 0584–0078.

Expiration Date: April 30, 2006.

Type of Request: Extension of a currently approved collection.

Abstract: The Child and Adult Care Food Program is mandated by section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. § 1766). Program implementing regulations are contained in 7 CFR part 226. In accordance with § 226.7(d), State agencies must submit a monthly report of program activity in order to receive Federal reimbursement for meals served to eligible participants.

Respondents: State agencies that administer the Child and Adult Care Food Program.

Number of Respondents: 53.

Estimated Number of Responses per Respondent: The number of responses includes initial, revised, and final reports submitted each month. The overall average is three submissions per State agency per reporting month for a total of 36 per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average three hours per respondent for each submission.

Estimated Total Annual Burden on Respondents: 5,724 hours.

Dated: November 17, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E5–6708 Filed 11–29–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

White River National Forest; Summit County, CO; Arapahoe Basin Ski Area and Montezuma Bowl Projects

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the anticipated environmental effects of the Arapahoe Basin Ski Area and Montezuma Bowl Projects. The Proposed Action would upgrade and expand infrastructure within the existing Special Use Permit (SUP) area to accommodate parking demands and improve skiing opportunities for existing and proposed visitation, thereby enhancing the quality of the recreation experience.

The major aspects of the Proposed Action include:

- Install a new fixed-grip triple of quad chairlift in Montezuma Bowl. Adding lift-served skiing within Montezuma Bowl would increase A-Basin's existing overall skiable acreage for approximately 487 to 812 acres. The Montezuma Bowl area would add approximately 175 acres of intermediate terrain and 149 acres of advanced and expert terrain, all accessible for round-trip skiing via one proposed chairlift.
- Install snowfencing west of the proposed lift terminal, below (south) of the ridgeline, to aid in snow retention.
- Install a raised ''avalauncher'' platform to allow A-Basin ski patrol to safely conduct snow safety operations in Montezuma Bowl.
- Replace the existing Exhibition lift (fixed-grip triple) with a high speed detachable quad chair accommodating 2,60 people per hour in a slightly modified alignment.
- Create an additional 231 parking spaces by widening and re-grading the Lower Overflow Lot and the High Noon Lot, bringing total parking capacity at A-Basin's five lots to 1,781 vehicles. In conjunction with the re-grading of the High Noon lot, a series of sediment detention basins are proposed along the west edge of the parking area, parallel with Highway 6.

DATES: Comments concerning the scope of the analysis should be received by January 6, 2006.

ADDRESSES: Written comments concerning this notice should be addressed to Maribeth Gustafson, Forest Supervisor, c/o Peech Keller, Project Leader, Dillon Ranger District, PO Box 620, Dillon, CO 80498; (970) 468–7735 (fax); or by submitting an e-mail to: *comments-rocky-mountain-white-river-eastzone@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Peech Keller, Project Leader, at the Dillon Ranger District via telephone at (970) 468–5400 or e-mail at *cpkeller2fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Proposed Action addresses issues related to the recreation experience. Presently, alpine skiing/snowboarding and other resort activities are provided to the public through a SUP issued by the Forest Service and administered by the White River National Forest. All elements of the proposal remain within the existing SUP boundary area.

The proposed improvements are consistent with the 2002 Revised White River National Forest Land and Resource Management Plan (Forest Plan). The proposed improvements are considered necessary in light of current resort deficiencies and projected future visitation.

Purpose and Need for Action

The Forest Service and A-Basin cooperatively identified a purpose for this proposal, which is to upgrade and expand infrastructure within the existing SUP area to accommodate parking demands and improve skiing opportunities for existing and proposed visitation, thereby enhancing the quality of the recreation experience.

Responsible Official

The responsible official is Maribeth Gustafson, Forest Supervisor for the White River National Forest, 900 Grand Ave., P.O. Box 948, Glenwood Springs Colorado 81602. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR part 215 or part 251.

Nature of Decision To Be Made

Based on the analysis that will be documented in the forthcoming EIS, the responsible official for this project, the Forest Supervisor of the White River National Forest, will decide whether or not to implement, in whole or in part, the Proposed Action or another alternative developed by the Forest Service.

Scoping Process

Public questions and comments regarding this proposal are an integral part of this environmental analysis process. Comments will be used to identify issues and develop alternatives to A-Basin's proposal. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible.

Input provided by interested and/or affected individuals, organizations and governmental agencies will be used to identify resource issues that will be analyzed in the Draft EIS. The Forest Service will identify significant issues raised during the scoping process, and use them to formulate alternatives, prescribe mitigation measures, or analyze environmental effects.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the draft environmental impact statement, including the identification of the range of alternatives to be considered. While public participation is strictly optional at this stage, the Forest Service believes that it is important to give reviewers notice of several court rulings related to public

participation in the subsequent environmental review process. First, reviewers of draft statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate during the scoping period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the development of the alternatives. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the proposed action should be as specific as possible.

Dated: November 18, 2005.

Catherine Kahlow,

Acting Forest Supervisor, White River National Forest.

[FR Doc. 05–23262 Filed 11–29–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–008]

Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Final Results of Antidumping Duty Changed Circumstance Review

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

SUMMARY: On April 4, 2005, the Department of Commerce (the Department) published a notice of initiation of changed circumstance review of the antidumping order on certain circular welded carbon steel pipes and tubes from Taiwan to determine whether Yieh Phui Enterprise, Ltd. (Yieh Phui) is a successor–in-interest to Yieh Hsing Enterprise, Ltd. (Yieh Hsing). *See Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Initiation of Antidumping Duty Changed Circumstance Review*, 70 FR 17063 (April 4, 2005) (Initiation Notice). On October 17, 2005, the Department published a notice of preliminary results of this changed circumstance review in which we preliminarily determined that Yieh Phui is the successor–in-interest to Yieh Hsing for purposes of determining antidumping liability. We gave interested parties the opportunity to comment after publication of the Preliminary Results. *See Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Prelminary Results of Antidumping duty Changed Circumstance Review*, 70 FR 60279 (October 17, 2005) (Preliminary Results). No comments were received; thus, the Department is adopting its preliminary determination for these final results.

EFFECTIVE DATE: November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Angela Strom or Robert James at (202) 482–2704 or (202) 482–0649, respectively; AD/CVD Operations, Office 7, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Ave. NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2005, Yieh Phui requested the Department to conduct an expedited changed circumstance review of the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The Department determined that the information submitted by Yieh Phui was sufficient to warrant initiation of changed circumstance review and, on April 4, 2005, the Department published the *Initiation Notice* for this review. Yieh Phui claims to be a successor–in-interest to Yieh Hsing after it acquired Yieh Hsing's pipe production facilities. On April 6, 2005, the Department issued Yieh Phui a questionnaire requesting further details on the acquisition of the pipe facilities. Yieh Phui responded on April 29, 2005. On May 17, 2005, the Department issued a second supplemental questionnaire, to which Yieh Phui responded on June 13, 2005.

The evidence on the record shows that Yieh Phui operates in essentially the same manner in terms of production, management and customer base as did Yieh Hsing prior to the transfer of its pipe facilities. In analyzing the totality of the factors on the record with respect to the transfer of the pipe operations, the Department preliminarily concluded that Yieh Phui was the successor–in-interest to Yieh Hsing and ought to be accorded the same antidumping duty treatment as its predecessor. *See Preliminary Results*.

Scope of the Order

Imports covered by this order are shipments of certain circular welded carbon steel pipes and tubes. The Department defines such merchandise as welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch and 0.375 inch or more but not over 4.5 inches in outside diameter. These products are commonly referred to in the industry as ''standard pipe'' and are produced to various American Society for Testing Materials specifications, most notably A–53, A–120 and A–135. Standard pipe is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Final Results of Changed Circumstance Review

For the reasons stated in the *Preliminary Results*, we determine that Yieh Phui is the successor–in-interest to Yieh Hsing for antidumping duty purposes. The Department did not receive any comments or requests for a hearing from either party within the time frames established in the *Preliminary Results*. As a result, Yieh Phui will receive the same antidumping duty cash–deposit rate (*i.e.*, 1.61 percent) that was calculated and applied to Yieh Hsing during the most recent administrative review under this order. *See Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Final Results of Antidumping Duty Administrative Review*, 69 FR 58390 (September 30, 2004). The Department will instruct the U.S. Customs and Border Protection to collect cash deposits at a rate of 1.61 percent for all entries made by Yieh Phui of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstance review.

Notification Regarding APOs

This notice also serves as a 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). Timely written notification of the return/destruction of APO materials or conversation to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

The notice is in accordance with sections 751(b)(1) and 777(I)(1) of the Act, and 19 CFR 351.216.

Dated: November 23, 2005.

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–6711 Filed 11–30–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

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

EFFECTIVE DATE: November 30, 2005.

FOR FURTHER INFORMATION CONTACT: P. Lee Smith, 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) 482–1655.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2004, the Department published an opportunity to request a review for porcelain–on-steel cooking ware from the People's Republic of China (''PRC'') for the period of December 1, 2003, to November 30, 2004. *See Antidumping or Countervailing Duty Order, Filing, or Suspended Investigation; Opportunity to Request an Administrative Review*, 69 FR 69889 (December 1, 2004). On December 28, 2004, respondent Shanghai Watex Metal Products Co., Ltd. (''Watex''), an exporter of the subject merchandise, requested a review. No other interested parties requested a review. On January 31, 2005, the Department published its notice of initiation of an antidumping administrative review on porcelain–on-steel cooking ware from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005). On August 11, 2005, the Department published a notice of extension of time limit for the preliminary results of this administrative review extending the time limit for the preliminary results by 90 days until December 1, 2005. *See Porcelain–on-Steel Cooking Ware from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 70 FR 46813 (August 11, 2005). The preliminary results of this administrative review are currently due December 1, 2005.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the specified time periods, 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.

Completion of the preliminary results within the originally anticipated time limit, December 1, 2005, is impracticable because this review requires the Department to analyze complex issues regarding Watex's corporate structure and its affiliations and corporate relationships. Because it is not practicable to complete the review within the time specified under the Act, the Department is extending the time limit for completion of the preliminary results by 14 days to December 15, 2005, in accordance with section 751(a)(3)(A) of the Act. The deadline for the final results of this administrative review continues to be 120 days after the publication of the preliminary results. We are issuing and publishing this notice in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: November 22, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6714 Filed 11–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Notice of Extension of Final Results of the 2003–2004 Administrative Review of Silicon Metal from Brazil

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

EFFECTIVE DATE: November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–5831.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2005, the Department of Commerce (the Department) published the preliminary results of this administrative review of silicon metal from Brazil. *See Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 45665 (August 8, 2005) (''*Preliminary Results*''). In the *Preliminary Results* we stated that we would make our final determination for the antidumping duty review no later than 120 days after the date of publication of the preliminary results (*i.e.*, December 6, 2005).

Extension of Time Limit for Final Results

The Department is extending the time limit for the final results of the administrative review of the antidumping duty order on silicon metal from Brazil. This review covers the period July 1, 2003, through June 30, 2004.

Section 751(a)(3)(A) of the Act states that if it is not practicable to complete the review within the time specified, the administering authority may extend the 120–day period, following the date of publication of the preliminary results, to issue its final results by an additional 60 days. Completion of the final results within the 120–day period is not practicable due to a delay in the schedule for submission of interested party arguments and given the number and complexity of issues raised in this review segment, including issues regarding depreciation and financial expenses.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing

the final results of review by an additional sixty days until no later than February 4, 2006.

Dated: November 23, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6713 Filed 11–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–830]

Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Stainless Steel Bar from Germany

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

EFFECTIVE DATE: November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Andrew Smith or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–1276 and 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2002, the Department of Commerce (''the Department'') published an antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar from Germany*, 67 FR 10382 (March 7, 2002). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom*, 68 FR 58660 (October 10, 2003).

On March 1, 2005, the Department published its *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 9918 (March 1, 2005). On March 31, in accordance with 19 CFR 351.213(b), the Department received a timely request for review from BGH Edelstahl Freital GmbH, BGH Edelstahl Lippendorf GmbH, BGH Edelstahl Lugau GmbH, and BGH Edelstahl Siegen GmbH (collectively ''BGH''), and Stahlwerke Ergste Westig GmbH/Ergste Westig South Carolina (''SEW''). On March 31, Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., and Electralloy Corp. requested that the Department conduct an administrative review of BGH.

In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on April 22, 2005. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 20862 (April 22, 2005). The period of review (''POR'') is March 1, 2004, through February 28, 2005.

Extension of Time Limits for Preliminary 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 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 Department's recent determination to collapse the affiliated companies comprising the BGH Group of Companies, Inc., determining the accuracy of reported home market sales, and the complexity of sales and cost issues, it is not practicable to complete the preliminary results of this review within the original time limit (i.e., December 1, 2005). Therefore, the Department is extending the time limit for completion of the preliminary results to no later than January 30, 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) and 777(i)(1) of the Act.

Dated: November 23, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6712 Filed 11–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

DATES: Consideration will be given to all comments received by December 30, 2005.

Title, Form, and OMB Number: Department of Defense Standard tender of Freight Services; SDDC Form 364–R; OMB Control Number 0704–0261.

Type of Request: Extension.

Number of Respondents: 434.

Responses Per Respondent: 50 (average).

Annual Responses: 21,563.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 5,391.

Needs and Uses: The information derived from the DoD tenders on file with the Military surface Deployment and Distribution Command (SDDC) is used by SDDC subordinate commands and DoD shippers to select the best value carriers to transport surface freight shipments. Freight carriers furnish information in a uniform format so that the Government can determine the cost of transportation, accessorial, and security services, and select the best value carriers for 1.1 million Bill of Lading shipments annually. The DoD tender rate and other pertinent tender data are noted on the Bill of Lading at the time of shipment. The DoD tender is the source document for the General Services Administration post-shipment audit of carrier freight bills.

Affected Public: Not-for-profit institutions.

Frequency: On occasion.

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

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777

North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 22, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–23484 Filed 11–29–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

DATES: Consideration will be given to all comments received by December 30, 2005.

Title, Form, and OMB Number: Customer Service Survey—Regulatory Program, U.S. Army Corps of Engineers; ENG Form 5065; OMB Control Number 0710–0012.

Type of Request: Extension.

Number of Respondents: 60,000.

Responses Per Respondent: 1.

Annually Responses: 60,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 15,000.

Needs and Uses: The survey of applicants who are required to obtain permits from the U.S. Army Corps of Engineers to build on or conduct dredge and fill operations in United States waters. Opinions on the quality of service are used to make program improvements.

Affected Public: Business or other for-profit; individuals or households; not-for-profit institutions; farms; and state, local or tribal government.

Frequency: On occasion.

Respondents Obligation: Voluntary.

OMB Desk Officer: Mr. James Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 21, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–23485 Filed 11–29–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

DATES: Consideration will be given to all comments received by December 30, 2005.

Title and OMB Number: Information Collection in Support of the DoD Acquisition Process (Solicitation Phase); OMB Control Number 0704–0187.

Type of Request: Extension.

Number of Respondents: 5,608.

Responses Per Respondent: Approximately 6.

Annual Responses: 34,567.

Average Burden Per Response: 9.6 hours.

Annual Burden Hours: 330,718.

Needs and Uses: This information collection requirements pertains to information that an offeror must submit to DoD in response to a request for proposals or an invitation for bids. DoD uses this information to evaluate offers; determine whether the offered price is fair and reasonable and determine which offeror to select for contract award. DoD also uses this information in determining whether to provide precious metals as Government-furnished material; whether to accept alternate preservation, packaging, or packing; and whether to trade in existing personal property toward the purchase of new items.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

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

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 22, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–23486 Filed 11–29–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

DATES: Consideration will be given to all comments received by December 30, 2005.

Title and OMB Number: TRICARE Dental Program (TDP) Claim Form, OMB Number 0720–0035.

Type of Request: Extension.

Number of Respondents: 56,512.

Responses Per Respondent: 62.

Annual Responses: 3,503,744.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 875,936.

Needs and Uses: The TDP claim form is required to gather information to make payment for legitimate dental claims and to assist in contractor surveillance and program integrity investigations and to audit financial transactions where the Department of Defense has a financial stake. The information from the claim form is also used to provide important cost share explanations to the beneficiary.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD Health, Room 10102, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should

be sent to Ms. Toppings, WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 22, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–23487 Filed 11–29–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–15]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/ADM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–15 with attached transmittal and policy justification.

Dated: November 23, 2005.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

17 NOV 2005
In reply refer to:
I-05/011623

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-15, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Kuwait for defense articles and services estimated to cost $175 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-15

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Kuwait

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$175 million
TOTAL	$175 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 12 MKV-C Fast Interceptor Boats including installed Hull, Mechanical and Electrical systems, 12 RWM GMBH MLG-27mm Mauser Lightweight Gun Systems, communications, technical ground support equipment, spare and repair parts, supply support, publications and technical data, U.S. Government and contractor technical and logistics support services and other related elements of program support.

(iv) Military Department: Navy (SAY)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: 17 NOV 2005

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Kuwait – Mark V Special Operations Boats

The Government of Kuwait has requested a possible sale of 12 MKV-C Fast Interceptor Boats including installed Hull, Mechanical and Electrical systems, 12 RWM GMBH MLG-27mm Mauser Lightweight Gun Systems, communications, technical ground support equipment, spare and repair parts, supply support, publications and technical data, U.S. Government and contractor technical and logistics support services and other related elements of program support. The estimated cost is $175 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The Kuwaiti Navy does not have a modern, high speed, intruder interceptor boat capable of providing defensive protection for Kuwaiti territorial waters. The territorial waters extend from Khor Shitiyanah at the extreme north along Warba Island south to Umm Al-Maradem Island near its border with Saudi Arabia. Included are all Kuwaiti waters along the Khor Abdullah waterway and around Failaka Island in the North Arabian Gulf, the approaches to the Al-Kuwait Bay and Ash Shuaibah Prot in central Kuwait, and the approaches to Mohamad Al-Ahmed (Kuwait) Naval Base south to the northern territorial limit of Saudi Arabia. This area includes numerous islands and offshore oil pumping and loading facilities. The proposed sale will provide the Kuwaiti Navy the ability to defend these waters and the key facilities that are located in the area.

The MKV Fast Interceptor Boat is a design to specification high speed (40+ kts), 10.6 meter patrol boat similar to those used by U.S. Navy SEALs. Its hull design is based on an existing MKV design manufactured by one of the prospective prime contractors, VT Halter Marine of Gulfport Mississippi.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be either: VT Halter-Marine of Gulfport, Mississippi or U.S. Marine of New Orleans, Louisiana. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Kuwait.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 05–23483 Filed 11–29–05; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Person Per Diem Bulletin Number 242. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 242 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* December 1, 2005.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 241. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: November 23. 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGE IN CIVILIAN BULLETIN 242 IS AN UPDATE TO THE RATES FOR AMERICAN SAMOA.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
BARROW	159	95	254	05/01/2002
BETHEL	119	77	196	06/01/2004
BETTLES	135	62	197	10/01/2004
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER				
05/16 - 09/15	109	63	172	07/01/2003
09/16 - 05/15	99	63	162	07/01/2003
CORDOVA				
05/01 - 09/30	110	74	184	04/01/2005
10/01 - 04/30	85	72	157	04/01/2005
CRAIG				
04/15 - 09/14	125	64	189	04/01/2005
09/15 - 04/14	95	61	156	04/01/2005
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	89	75	164	06/01/2004
DENALI NATIONAL PARK				
06/01 - 08/31	114	60	174	04/01/2005
09/01 - 05/31	80	57	137	04/01/2005
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	73	194	04/01/2005
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
ELMENDORF AFB				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FAIRBANKS				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	89	75	164	06/01/2004
FT. RICHARDSON				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FT. WAINWRIGHT				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
GLENNALLEN				
05/01 - 09/30	125	73	198	04/01/2005

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	89	69	158	04/01/2005
HEALY				
06/01 - 08/31	114	60	174	04/01/2005
09/01 - 05/31	80	57	137	04/01/2005
HOMER				
05/15 - 09/15	125	73	198	04/01/2005
09/16 - 05/14	76	68	144	04/01/2005
JUNEAU				
05/01 - 09/30	120	80	200	06/01/2005
10/01 - 04/30	79	77	156	04/01/2005
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	82	211	04/01/2005
09/01 - 04/30	79	77	156	04/01/2005
KENNICOTT	189	85	274	04/01/2005
KETCHIKAN				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK				
04/15 - 09/14	125	64	189	04/01/2005
09/15 - 04/14	95	61	156	04/01/2005
KODIAK	112	80	192	04/01/2005
KOTZEBUE				
05/15 - 09/30	141	86	227	02/01/2005
10/01 - 05/14	135	85	220	02/01/2005
KULIS AGS				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
MCCARTHY	189	85	274	04/01/2005
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
NOME	120	84	204	04/01/2005
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	80	62	142	06/01/2005
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/01 - 09/30	145	79	224	04/01/2005
10/01 - 04/30	62	71	133	04/01/2005
SITKA-MT. EDGECUMBE				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 09/30	119	66	185	04/01/2005
10/01 - 04/30	99	64	163	04/01/2005
SKAGWAY				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE	112	80	192	04/01/2005
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	120	84	204	04/01/2005
TOGIAK	100	39	139	07/01/2002
UMIAT	180	107	287	04/01/2005
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	129	74	203	04/01/2005
10/02 - 04/30	79	69	148	04/01/2005
WASILLA				
05/01 - 09/30	134	78	212	04/01/2005
10/01 - 04/30	80	73	153	04/01/2005
WRANGELL				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	90	225	06/01/2005
HAWAII				
CAMP H M SMITH	129	96	225	05/01/2005
EASTPAC NAVAL COMP TELE AREA	129	96	225	05/01/2005
FT. DERUSSEY	129	96	225	05/01/2005
FT. SHAFTER	129	96	225	05/01/2005
HICKAM AFB	129	96	225	05/01/2005
HONOLULU (INCL NAV & MC RES CTR)	129	96	225	05/01/2005
ISLE OF HAWAII: HILO	105	80	185	05/01/2005
ISLE OF HAWAII: OTHER	150	92	242	05/01/2005
ISLE OF KAUAI	158	98	256	05/01/2005
ISLE OF MAUI	159	95	254	06/01/2004
ISLE OF OAHU	129	96	225	05/01/2005
KEKAHA PACIFIC MISSILE RANGE FAC	158	98	256	05/01/2005
KILAUEA MILITARY CAMP	105	80	185	05/01/2005
LANAI	400	153	553	05/01/2005
LUALUALEI NAVAL MAGAZINE	129	96	225	05/01/2005
MCB HAWAII	129	96	225	05/01/2005
MOLOKAI	119	95	214	05/01/2005
NAS BARBERS POINT	129	96	225	05/01/2005
PEARL HARBOR [INCL ALL MILITARY]	129	96	225	05/01/2005

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SCHOFIELD BARRACKS	129	96	225	05/01/2005
WHEELER ARMY AIRFIELD	129	96	225	05/01/2005
[OTHER]	72	61	133	01/01/2000
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY	100	65	165	07/01/2005
NORTHERN MARIANA ISLANDS				
ROTA	129	88	217	06/01/2005
SAIPAN	121	91	212	06/01/2005
TINIAN	85	80	165	06/01/2005
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	98	83	181	08/01/2003
12/15 - 04/14	135	87	222	08/01/2003
ST. JOHN				
04/15 - 12/14	110	91	201	08/01/2003
12/15 - 04/14	185	98	283	08/01/2003
ST. THOMAS				
04/15 - 12/14	163	95	258	08/01/2003
12/15 - 04/14	220	99	319	08/01/2003
WAKE ISLAND				
WAKE ISLAND	100	65	165	07/01/2005

[FR Doc. 05–23482 Filed 11–29–05; 8:45 am]

BILLING CODE 5001—06–C

DEPARTMENT OF ENERGY

Energy Employees Occupational Illness Compensation Program Act of 2000; Revision to List of Covered Facilities

AGENCY: Department of Energy.

ACTION: Notice of revision of listing of covered facilities.

SUMMARY: Periodically, the Department of Energy (''Department'' or ''DOE'') publishes a list of facilities covered under the Energy Employees Occupational Illness Compensation Program Act of 2000 (''Act''), Title 36 of Public Law 106–398 (66 FR 4003; 66 FR 31218). This notice revises the previous lists because it has been found that some designated atomic weapons employers should not have been so designated. Previous lists were published on August 23, 2004, July 21, 2003, December 27, 2002, June 11, 2001 and January 17, 2001.

FOR FURTHER INFORMATION CONTACT: Michael A. Montopoli, MD, MPH, Acting Director, Office of Health Services (EH–54) 202–586–6178.

ADDRESSES: The Department welcomes comments on this list. Comments should be addressed to: Michael A. Montopoli, MD, MPH, Acting Director, Office of Health Services (EH–54), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Purpose

The Energy Employees Occupational Illness Compensation Program Act of 2000 (''Act''), Title 36 of Public Law 106–398, establishes a program to provide compensation to certain employees who developed illnesses as a result of their employment with the Department of Energy, its predecessor agencies and certain of its contractors and subcontractors. Section 3621 defines an atomic weapons employer (AWE) as an entity, other than the United States, that (A) processed or produced, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and (B) is designated by the Secretary of Energy as an atomic weapons employer for purposes of the compensation program. Section 3621 goes on to define an atomic weapons employer facility as a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

It has recently come to the attention of the Department that a number of entities previously designated as AWE's failed the basic definitional test for an AWE because the designated entities were agencies of the United States Government. Since the definition of an AWE specifically excludes the United States, these previously-made designations are invalid. To make it clear that these entities are not covered under the Act, this notice formally removes the following entities from the list.

- Frankford Arsenal, previously designated as an AWE in Philadelphia, Pennsylvania
- National Bureau of Standards, Van Ness Street, previously designated as an AWE in the District of Columbia
- Seneca Army Depot, previously designated as an AWE in Romulus, New York
- Picatinny Arsenal, previously designated as an AWE in Dover, New Jersey

Issued in Washington, DC, November 23, 2005.

Steven V. Cary,

Deputy Assistant Secretary for Health, Office of Environment, Safety and Health.

[FR Doc. E5–6706 Filed 11–29–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–104–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 23, 2005.

Take notice that on November 21, 2005, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, one firm transportation service agreement (FTSA) and the following tariff sheets to become effective December 22, 2005:

Thirteenth Revised Sheet No. 1.
First Revised Sheet No. 380J.

CIG states that the FTSA is being submitted for the Commission's review and acceptance and has been listed on Sheet No. 1 as a non-conforming agreement. Further, CIG is revising Sheet No. 380J to add an additional fuel exemption route to the Tariff.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6695 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–102–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 23, 2005.

Take notice that on November 18, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff

sheets, to become effective December 19, 2005:

1st Rev Eighth Revised Sheet No. 336.
Original Sheet No. 336A.
Second Revised Sheet No. 343.
1st Rev Second Revised Sheet No. 344.
1st Rev Third Revised Sheet No. 345.

EPNG states that the tariff sheets are being submitted to revise certain bid evaluation options available for capacity release transactions to provide for multi-month releases with varying monthly contract quantities.

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

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

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Magalie R. Salas,

Secretary.

[FR Doc. E5–6693 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–414–002]

Entrega Gas Pipeline LLC; Notice of Compliance Filing

November 22, 2005.

Take notice that on November 16, 2005, Entrega Gas Pipeline LLC (Entrega) filed its FERC Gas Tariff, Original Volume 1, in compliance with Ordering Paragraph (B)(4) of the Order Issuing Certificates, issued by the Commission on August 9, 2005 in the captioned dockets. Entrega requests an effective date of December 17, 2005, the earliest date that service is expected to commence on Segment 1 (36-inch diameter pipeline from the Meeker Hub in Rio Blanco County, Colorado to Wamsutter in Sweetwater County, Wyoming) of the Entrega Pipeline.

Entrega states that copies of its transmittal letter and the unmarked tariff sheets have been mailed to all parties to this proceeding, Entrega's shipper and interested state regulatory agencies.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

Protest Date: 5 p.m. eastern time on December 15, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6689 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–079]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

November 22, 2005.

Take notice that on November 17, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Sub Twenty-Sixth Revised Sheet No. 15, to become effective November 1, 2005.

GTN states that this sheet is being submitted to correct an error in GTN's reporting of negotiated rate transactions that it has entered into.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6683 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–080]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

November 23, 2005.

Take notice that on November 18, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets, to become effective November 19, 2005:

Twenty-Seventh Revised Sheet No. 15.
Sixth Revised Sheet No. 17.

GTN states that these sheets are being filed to update GTN's reporting of negotiated rate transactions that it has entered into.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6690 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–101–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

November 23, 2005.

Take notice that on November 18, 2005, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2005:

Eleventh Revised Sheet No. 20.
Eighth Revised Sheet No. 21.
Eighth Revised Sheet No. 22.
Eighth Revised Sheet No. 23.
Sixth Revised Sheet No. 24.

Gulf South states that the purpose of this filing is to update Gulf South's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective beginning October 1, 2005.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6692 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–1225–000; ER05–1225–001; ER05–1225–002; ER05–1226–000; ER05–1226–001; and ER05–1226–002]

New York Industrial Energy Buyers, LLC and New York Commercial Energy Buyers, LLC; Notice of Issuance of Order

November 21, 2005.

New York Industrial Energy Buyers, LLC (NYIEB) and New York Commercial Energy Buyers, LLC (NYCEB) filed an application for market-based rate authority, with accompanying tariffs. The proposed market-based rate tariffs provides for the sales of capacity and energy at market-based rates. NYIEB and NYCEB also requested waiver of various Commission regulations. In particular, NYIEB and NYCEB requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by NYIEB and NYCEB.

On November 17, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part

34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by NYIEB and NYCEB should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

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

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6682 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1511–000]

Noble Thumb Windpark I LLC; Notice of Issuance of Order

November 21, 2005.

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

On November 17, 2005, the Commission granted the request for blanket approval under part 34, but stated that:

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

Noble Thumb Windpark I LLC, 113 FERC ¶ 61,156 (2005). Notice is hereby given that the deadline for filing motions to intervene or protests, is December 19, 2005.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6680 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–103–000]

Sabine Pipe Line LLC; Notice of Proposed Changes in FERC Gas Tariff

November 23, 2005.

Take notice that on November 21, 2005, Sabine Pipe Line LLC (Sabine) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective December 1, 2005:

Third Revised Sheet No. 201,
First Revised Sheet No. 305,
Original Sheet No. 310,
Original Sheet No. 311.

Sabine states that it is submitting the Agreement for Commission approval because the Agreement deviates from the Form of Service Agreement in Sabine's tariff by omitting Section 8.1 from Article VIII. The tariff sheets are filed to add Section 25 ''Non-conforming Agreements'' to the General Terms and Conditions of Sabine's tariff.

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

need not serve motions to intervene or protests on persons other than the Applicant.

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6694 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Establishing Expedited Schedule

November 23, 2005.

[Docket No. EL00–95–000; Docket No. EL00–98–000; Docket No. PA02–2–000; Docket No. EL03–180–000; Docket No. EL03–154–000; Docket No. EL02–114–007; Docket No. EL02–115–008; Docket No. EL02–113–000; and Docket No. EL04–1–000]

San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Fact-Finding Investigation into Possible Manipulation of Electric and Natural Gas Prices; Enron Power Marketing, Inc. and Enron Energy Services, Inc.; Enron Power Marketing, Inc. and Enron Energy Services, Inc.; Portland General Electric Company; Enron Power Marketing, Inc.; El Paso Electric Company, Enron Power Marketing, Inc., and Enron Capital and Trade Resources Corporation; and Enron Power Marketing, Inc.

Take notice that on November 18, 2005, Enron [1] and the Nevada Companies [2] (collectively the Parties) filed a motion asking that the Commission establish an expedited schedule for consideration of the Settlement and Release of Claims filed on November 16, 2005, in the above-captioned dockets (the Settlement). The Parties state that the Settlement resolves claims raised in the above-captioned proceedings arising from Enron's actions and transactions in western energy markets during the period from January 16 through June 25, 2005, including Enron's largest contract termination payment dispute.

According to the Parties, expedited filing of comments on the Settlement will facilitate Commission consideration of the Settlement, and will also streamline the captioned proceedings by removing issues surrounding the Nevada Companies' dealings with Enron from the proceedings without prejudicing participants. The Parties have requested that the Commission establish the following schedule: Initial comments on the Settlement should be filed by November 30, 2005, reply comments should be filed by December 7, 2005, and the Commission's decision should be rendered by January 31, 2006. The Parties also request that the Commission review the Settlement without prior certification by an Administrative Law Judge and an expedited decision by January 31, 2006, ''to achieve the full benefits of the Settlement, to eliminate additional litigation expenses, to effectuate judicial economy, and to protect the interests of all Remaining Participants.[3] Finally, the Parties assert that they are authorized to state that Commission Trial Staff does not object to the expedited procedures requested for the comment and review process.

Upon consideration, the Commission establishes the following shorted comment procedures, as requested by the Parties: Initial comments on the Settlement must be filed no later than November 30, 2005, and reply comments must be filed no later than December 7, 2005.

Initial Comment Date: 5 p.m. eastern time on November 30, 2005.

Reply Comments Date: 5 p.m. eastern time on December 7, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6691 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

[1] According to the motion, ''Enron'' or ''Enron Parties'' means the Enron Debtors and the Enron Non-Debtor Gas Entities. The ''Enron Debtors'' are Enron Corp.; Enron Power Marketing, Inc.; (EPMI); Enron North America Corp. (formerly known as Enron Capital and Trade Resources Corp.); Enron Energy Marketing Corp.; Enron Energy Services Inc.; Enron Energy Services North America, Inc.; Enron Capital & Trade Resources International Corp.; Enron Energy Services, LLC; Enron Energy Services Operations, Inc.; Enron Natural Gas Marketing Corp.; and ENA Upstream Company, LLC. The ''Enron Non-Debtor Gas Entities'' are Enron Canada Corp.; Enron Compression Services Company; and Enron MW, L.L.C.

[2] For purposes of the motion, the ''Nevada Companies'' means Nevada Power Company, Sierra Pacific Power Company and Sierra Pacific Resources.

[3] According to the Parties, ''Remaining Participants'' include the Commission's Trial Staff, the City of Santa Clara, d/b/a/ Silicon Valley Power, the Public Utility District No. 1 of Snohomish County, Washington, Valley Electric Association, Inc., and the Metropolitan Water District of Southern California.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–22–000]

Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization

November 22, 2005.

Take notice that on November 9, 2005, Texas Gas Transmission, LLC (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP06–22–000, an application pursuant to Sections 157.205, 157.208, and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, for authorization to construct the West Greenville—Elkton Lateral in Muhlenberg and Todd Counties, Kentucky, to decrease the risk of service interruption during periods of peak customer demand, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that it proposes to construct and operate the West Greenville—Elkton Lateral, which would consist of approximately 27.5 miles of natural gas pipeline (12.8 miles of 12-inch diameter and 14.7 miles of 10-inch diameter pipe) and appurtenant facilities, to provide an additional means of transporting natural gas to the Bowling Green, Kentucky, market area. Texas Gas also states that the proposed lateral would decrease the risk of service interruptions during customer demand periods. Texas Gas estimates that it would spend $14,165,000 to construct the proposed lateral.

Any questions concerning this application may be directed to counsel for Texas Gas, Kathy D. Fort, Manager of Certificates and Tariffs, Texas Gas Transmission, LLC, P.O. Box 20008,

Owensboro, Kentucky 42304; telephone 270–688–6825 or facsimile 270–688–5871.

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6684 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–98–000]

TransColorado Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2005.

Take notice that on November 16, 2005, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of January 1, 2006.

TransColorado states that it is filing the above-referenced tariff sheets in compliance with the Commission's ''Order Issuing Certificate'' dated May 27, 2005 in Docket No. CP05–45–000.

TransColorado states that a copy of this filing has been served upon all parties on the official service list for this proceeding, as well as interested state commissions, customers, and other interested parties.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6687 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–100–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2005.

Take notice that on November 17, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Fifty-Ninth Revised Sheet No. 50 and Substitute Sixtieth Revised Sheet No. 50, to become effective November 1, 2005 and November 15, 2005, respectively.

Transco states that the purpose of the instant filing is to track fuel percentage changes attributable to transportation service purchased from Texas Gas Transmission, LLC (Texas Gas) under its Rate Schedule FT, the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. This filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Transco states that included in Appendix B attached to the filing is the explanation of the fuel percentage changes and details regarding the computation of the revised FT–NT rates.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

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

The Commission encourages electronic submission of protests and interventions in lieu of paper using the

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6686 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–99–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tairff

November 22, 2005.

Take notice that on November 17, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing.

Transco states that the purpose of the instant filing is to track rate changes attributable to storage services purchased from Dominion Transmission, Inc. (DTI) under its Rate Schedule GSS, the costs of which are included in the rates and charges payable under Transco's Rate Schedule GSS and LSS. This filing is being made pursuant to tracking provisions under Section 3 of Transco's Rate Schedule GSS and Section 4 of Transco's Rate Schedule LSS.

Transco states that included in Appendix B attached to the filing is the explanation of the rate changes and details regarding the computation of the revised GSS and LSS rates.

Transco states that copies of the filing are being mailed to each of its GSS and LSS customers and interested State Commissions.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6688 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–009]

Viking Gas Transmission Company; Notice of Compliance Filing

November 22, 2005.

Take notice that on November 17, 2005, Viking Gas Transmission Company (Viking) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets attached to the filing, to become effective on January 1, 2006.

Viking states that the purpose of this filing is to comply with Article XIII of the Stipulation and Agreement (Settlement) in Docket No. RP02–132–002 approved by Letter Order dated November 8, 2002. Article XIII of the Settlement provides that Viking would file to cancel Rate Schedule FT–D and remove all references to service under this rate schedule upon completion of Stage 4 of the rolled-in rate treatment of its expansion facilities approved by the Commission in Docket No. RP98–761–000. Accordingly, Viking is proposing herein to implement rates reflecting Stage 4 of the rolled-in rate treatment to be effective on January 1, 2006 and to delete all references to Rate Schedule FT–D.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6685 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EF06–5031–000, et al.]

United States Department of Energy, et al.; Electric Rate and Corporate Filings

November 18, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. United States Department of Energy Western Area Power Administration

[Docket No. EF06–5031–000]

Take notice that on November 10, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved Rate Schedules P–SED–F8 and P–SED–FP8, specified in Rate Order No. WAPA–126, for the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP–ED).

Comment Date: 5 p.m. Eastern time on December 1, 2005.

2. United States Department of Energy Western Area Power Administration

[Docket No. EF06–5181–000]

Take notice that on November 10, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved L–F6, specified in Rate Order No. WAPA–125 for Loveland Area Projects firm electric service.

Comment Date: 5 p.m. Eastern time on December 1, 2005.

3. PSI Energy, Inc.

[Docket No. ER96–2506–008]

Take notice that on November 16, 2005, Cinergy Entities submitted revised sheets for tariff filed and in this proceeding pursuant to a July 15, 2005 Commission Order.

Comment Date: 5 p.m. Eastern time on November 28, 2005.

4. New York Independent System Operator, Inc.

[Docket No. ER04–230–021]

Take notice that on October 31, 2005, the New York Independent System Operator, Inc. (NYISO) tendered for filing a report on its plan and schedule for shortening time periods for posting notices of price corrections and for correcting prices under its Temporary Extraordinary Procedures (TEP), as well as eventually phasing out the TEP altogether.

Comment Date: 5 p.m. Eastern time on November 28, 2005.

5. Hot Spring Power Company, LP

[Docket No. ER05–1419–002]

Take notice that on November 9, 2005, Hot Spring Power Company, LP, submits under protest a Conditional Notice of Cancellation of its Rate Schedule FERC No. 2.

Comment Date: 5 p.m. Eastern time on November 30, 2005.

6. New York Independent System Operator, Inc.

Docket No. ER06–185–000]

Take notice that on November 8, 2005, the New York Independent System Operator, Inc. (NYISO) tendered for filing a report on certain errors that were made in the changes to the Market Mitigation Measures, Attachment H to its Market Administration and Control Area Services Tariff.

Comment Date: 5 p.m. Eastern time on November 29, 2005.

7. Southern California Edison Company

[Docket No. ER06–186–000]

Take notice that on November 10, 2005, Southern California Edison Company (SCE) tendered for filing a revision to its Transmission Owner Tariff, FERC Electric Tariff, Section Revised Volume No. 6 with an effective date of January 10, 2006.

Comment Date: 5 p.m. Eastern time on December 1, 2005.

Standard Paragraph:

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6677 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–28–000, et al.]

The Potomac Edison Company and Allegheny Energy Service Corporation, et al.; Electric Rate and Corporate Filings

November 21, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. The Potomac Edison Company and Allegheny Energy Service Corporation; Allegheny Energy Service Corporation; The Potomac Edison Company; and Virginia Electric and Power Company

[Docket Nos. EC06–28–000; ER06–202–000; ER06–203–000; ER06–204–000]

Take notice that on November 14, 2005, The Potomac Edison Company (Potomac Edison) and Allegheny Energy Service Corporation (AESC) (jointly referred to as Applicants), jointly tendered for filing an application under section 203 of the Federal Power Act for Commission authorization for Potomac Edison to assign its interest in the Borderline Interchange Agreement between The Potomac Edison Company of Virginia and Virginia Electric and Power Company (Borderline Interchange Agreement) to its affiliate, AESC as agent for Potomac Edison, Monongahela Power Company (Mon Power) and West Penn Power Company (West Penn). Mon Power and West Pennstate that they are affiliates of AESC and Potomac Edison. Also, pursuant to section 205 of the FPA, AESC tendered for filing the Borderline Interchange Agreement designated as an AESC rate schedule and Potomac Edison tendered for filing cancellation documents to terminate its Borderline Interchange Agreement. Virginia

Electric and Power Company, d/b/a Dominion Virginia Power, tendered for filing its revised version of the Borderline Interchange Agreement reflecting the assignment.

The Applicants request that the Commission accept the Application and authorize the proposed assignment within sixty days of the date of filing, which is January 13, 2006. AESC requests that its Borderline Interchange Agreement become effective on January 13, 2006. Potomac Edison requests that the cancellation documents become effective on January 13, 2006. Dominion Virginia Power requests that its revised version of the Borderline Interchange Agreement become effective on January 13, 2006.

Applicants state that copies of the filing were served upon the Virginia State Corporation Commission and Virginia Electric and Power Company.

Comment Date: 5 p.m. Eastern Time on December 5, 2005.

2. Rugby Wind, LLC

[Docket No. EG06–7–000]

On November 14, 2005, Rugby Wind, LLC (Rugby Wind), located at 1125 NW Couch, Suite 700, Portland, OR 97209, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Rugby Wind, states that it is an Oregon limited liability company, will be engaged directly and exclusively in the business of owning all or part of one or more eligible facilities, and selling electric energy at wholesale. Rugby Wind further states that it is developing an approximately 150 megawatt wind power generation facility to be located in Pierce County, North Dakota. Rugby Wind explains that the Project will be an eligible facility pursuant to section 32(a)(2) of PUHCA.

Rugby Wind states it has served a copy of the filing on the Securities and Exchange Commission, the California Public Utilities Commission, the Oregon Public Utilities Commission, the Washington Utilities and Transportation Commission, the Utah Public Service Commission, the Idaho Public Utilities Commission, and the Wyoming Public Service Commission.

Comment Date: 5 p.m. eastern time on December 5, 2005.

3. Manzana Wind, LLC

[Docket No. EG06–8–000]

On November 14, 2005, Manzana Wind, LLC (Manzana), located at 1125 NW Couch, Suite 700, Portland, OR 97209, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Manzana, states that it is an Oregon limited liability company, will be engaged directly and exclusively in the business of owning all or part of one or more eligible facilities, and selling electric energy at wholesale. Manzana further states it is developing an approximately 300 megawatt wind power generation facility to be located in Kern County, California. Manzana explains that the project will be an eligible facility pursuant to section 32(a)(2) of PUHCA.

Manzana states it has served a copy of the filing on the Securities and Exchange Commission, the California Public Utilities Commission, the Oregon Public Utilities Commission, the Washington Utilities and Transportation Commission, the Utah Public Service Commission, the Idaho Public Utilities Commission, and the Wyoming Public Service Commission.

Comment Date: 5 p.m. eastern time on December 5, 2005.

4. Klondike Wind Power III, LLC

[Docket No. EG06–9–000]

On November 14, 2005, Klondike Wind Power III, LLC (Klondike III), located at 1125 NW Couch, Suite 700, Portland, OR 97209, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Klondike III, states that it is an Oregon limited liability company, will be engaged directly and exclusively in the business of owning all or part of one or more eligible facilities, and selling electric energy at wholesale. Klondike III is developing an approximately 300 megawatt wind power generation facility to be located in Sherman County, Oregon. Klondike III further states that the Project will be an eligible facility pursuant to section 32(a)(2) of PUHCA.

Klondike III states that it has served a copy of the filing on the Securities and Exchange Commission, the California Public Utilities Commission, the Oregon Public Utilities Commission, the Washington Utilities and Transportation Commission, the Utah Public Service Commission, the Idaho Public Utilities Commission, and the Wyoming Public Service Commission.

Comment Date: 5 p.m. eastern time on December 5, 2005.

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

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

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

Magalie R. Salas,

Secretary.

[FR Doc. E5–6709 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1501–000]

California Independent System Operator Corp.; Notice of Technical Conference

November 21, 2005.

Parties and interested persons are invited to attend a technical conference in the above-referenced California Independent System Operator Corp (CAISO) proceeding on Wednesday, December 7, 2005, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, from 9:30 a.m. until 5 p.m. (e.s.t.).

The technical conference will address the issues identified in the interventions and protests filed in this docket, as well as the responses in the CAISO's answer to those interventions and protests.

Questions about the conference should be directed to: Connie Caldwell; Office of the General Counsel; Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; (202) 502–6489; *connie.caldwell@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6681 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC03–131–003, EC03–131–004]

Oklahoma Gas and Electric Company; Notice of Technical Conference

November 23, 2005.

Parties are invited to attend a technical conference in the above-referenced Oklahoma Gas and Electric Company (OG&E) proceeding on December 1, 2005 at Commission Headquarters, 888 First Street, NE., Washington, DC 20426. The technical conference will be held from 10 a.m. until 5 p.m, in Conference Room 3M2–A. Arrangements have been made for parties to listen to the technical conference by telephone.

On July 2, 2004, the Commission approved OG&E's Offer of Settlement in this proceeding subject to certain modifications. In the Offer of Settlement, OG&E offered a number of permanent and interim mitigation measures. Among these mitigation measures was a commitment to construct a 600 MW Bridge between InterGen's Redbud Energy Project and OG&E's control area that would create an additional 600 MWs of available transmission capacity. See Oklahoma Gas and Electric and NRG McClain LLC, 105 FERC ¶ 61,297 (2003), order approving settlement, 108 FERC ¶ 61,004 (2004). On May 31, 2005, OG&E filed a letter informing the Commission that, as of May 19, 2005, all of the facilities that OG&E committed to construct under the Offer of Settlement were placed into commercial operation.

The purpose of the conference is to discuss whether the upgrades completed by OG&E resulted in an additional 600 MWs of available transmission capacity, as required in the July 2004 Order.

Questions about the conference and the telephone conference call arrangements should be directed to: David Hunger, *David.hunger@ferc.gov*, Office of Markets Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8148.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6696 Filed 11–29–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2005–0009; FRL–8003–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals; EPA ICR No. 1188.08, OMB Control No. 2070–0038

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals; EPA ICR No. 1188.08, OMB No. 2070–0038. This is a request to renew an existing approved collection, that is scheduled to expire on January 31, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before December 30, 2005.

ADDRESSES: Submit your comments, referencing docket ID Number OPPT–2005–0009, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 23, 2005 (70 FR 14674), EPA sought comments on this renewal ICR pursuant to 5 CFR 1320.8(d). EPA received two comments during the comment period, which are addressed in the Supporting Statement of the ICR. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2005–0009, which is available for online viewing at *http://www.epa.gov/edocket*, or in person viewing at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as

CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket go to *http://www.epa.gov/edocket.*

Title: TSCA section 5(a)(2) Significant New Use Rules for Existing Chemicals.

Abstract: Section 5 of the Toxic Substances Control Act (TSCA) provides EPA with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Section 5 authorizes EPA to determine by rule (a significant new use rule or SNUR), after considering all relevant factors, that a use of a chemical substance represents a significant new use. If EPA determines that a use of a chemical substance is a significant new use, section 5 requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

EPA uses the information obtained through this collection to evaluate the health and environmental effects of the significant new use. EPA may take regulatory actions under TSCA sections 5, 6 or 7 to control the activities for which it has received a SNUR notice. These actions include orders to limit or prohibit the manufacture, importation, processing, distribution in commerce, use or disposal of chemical substances. If EPA does not take action, section 5 also requires EPA to publish a **Federal Register** notice explaining the reasons for not taking action.

Responses to the collection of information are mandatory (*see* 40 CFR 721). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register,** are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 118.9 hours per response. Burden is the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are companies that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Frequency of Collection: On occasion.

Estimated total/average number of responses for each respondent: 1.

Estimated No. of Respondents: 5.

Estimated Total Annual Burden on Respondents: 861 hours.

Estimated Total Annual Costs: $51,030.

Changes in Burden Estimates: There is a decrease of 159 hours (from 1,020 hours to 861 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This decrease reflects EPA's updating of burden estimates for this collection based upon historical information on the number of chemicals per SNUR. Based upon revised estimates, the number of chemicals per SNUR has decreased from 65.5 to 41, with a corresponding decrease in the associated burden. This change is an adjustment.

Dated: November 22, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E5–6698 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2005–0018; FRL–8003–9]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NSPS for Equipment Leaks of VOC in Petroleum Refineries (Renewal); ICR Number 0983.08; OMB Number 2060–0067

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on December 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 30, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2005–0018, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: María Malavé, Compliance Assessment and Media Programs Division (Mail Code 2223A), Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7027; fax number: (202) 564–0050; e-mail address: *malave.maria@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005 (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2005–0018, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for

the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI) or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: NSPS for Equipment Leaks of VOC in Petroleum Refineries (Renewal).

Abstract: The New Source Performance Standards (NSPS) for Equipment Leaks of VOC (Volatile Organic Compound) in Petroleum Refineries were proposed on January 4, 1983 and promulgated on May 30, 1984. These standards apply to the following facilities in petroleum refineries: Compressors and the group of all equipment (*e.g.*, valves, pumps, flanges, etc.) within a process unit in VOC service, commencing construction, modification or reconstruction after the date of proposal.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. In general, these notifications, reports and records are required of all sources subject to NSPS.

Monitoring requirements specific to this NSPS provide information regarding which components are leaking VOCs. This rule references the compliance requirements of 40 CFR part 60, subpart VV. On a periodic basis, which varies depending on equipment type and leak history, owners or operators are required to record: (1) Information identifying leaking equipment; (2) repair methods used to stop the leaks; and (3) dates of repair. Semiannual reports are required to measure compliance with the standards of NSPS subpart VV as referenced by NSPS subpart GGG . These notifications, reports, and records are essential in determining compliance and in general, are required of all sources subject to NSPS.

This information is being collected to assure compliance with 40 CFR part 60 subpart GGG. Any owner or operator subject to the provisions of this part will maintain a file of these records, and retain the file for at least two years following the date of such records. The reporting requirements for this industry currently include only the initial notifications and initial performance test report listed above. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 72 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Process service units at petroleum refineries.

Estimated Number of Respondents: 148.

Frequency of Response: initially, semiannually, and on occasion.

Estimated Total Annual Hour Burden: 21,360 hours.

Estimated Total Annual Costs: $1,724,344, which includes $0 annualized capital/startup costs, $0 O&M costs, and $1,724,344 annual labor costs.

Changes in the Estimates: The increase in labor burden to industry from the most recently approved ICR from 6,137 hours to 21,360 hours is due to adjustments. The burden change resulted from an increase from 48 to 148 on the number of sources subject to the standard which is based on recent Agency data available on the sector and consultation with industry, as discussed in section 3 of this report. In the burden calculation, we also deleted any burden associated with new sources complying with the initial rule requirements, due to the assumption that there will be no industry growth. The total industry cost also increased from $631,983 to $1,724,344 as a result of these changes and the use of updated labor rates.

Dated: November 21, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E5–6699 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0266; FRL–7746–3]

Dodine Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide dodine, and opens a public comment period on this document. The

Agency's risk assessments and other related documents are also available in the dodine docket. Dodine is a fungicide used primarily on fruits and nuts and is registered for control of a range of pathogenic fungi that affect a number of agricultural and some ornamental crops. There are no registered residential uses of dodine. The dodine RED addresses the tolerance reassessment for all the currently registered uses of dodine. EPA is reviewing dodine through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification number (ID) number OPP–2005–0266, must be received on or before January 30, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Cathryn O'Connell, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0136; fax number: (703) 308–8041; e-mail address: oconnell.cathryn@*epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0266. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also, include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that

is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0266. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2005–0266. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2005–0266.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP–2005–0266. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful, if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, dodine under section 4(g)(2)(A) of FIFRA. Dodine is a fungicide used primarily on fruits and nuts and is registered for control of a range of pathogenic fungi that affect a number of agricultural and some ornamental crops. There are no registered residential uses of dodine. The dodine RED addresses the tolerance reassessment for all the currently registered uses of dodine. Another active ingredient of similar chemical composition and properties, dodecylguanidine hydrochloride (DGH), is included with dodine in case number 0161. DGH has only antimicrobial uses, some of which may occur in a residential environment, i.e., treatment of paper that comes into contact with food, paint additives, and anti-bacterial treatment of diapers. Because of the similarity of these compounds, EPA has considered the contribution to overall risk of the DGH uses in its aggregate assessment for dodine. However, the RED for the antimicrobial uses of DGH will be issued at a later date.

EPA has determined that the data base to support reregistration is substantially complete and that products containing dodine are eligible for reregistration provided the risks are mitigated in the manner described in the RED. Upon submission of any required product-specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product-specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing dodine.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the dodine tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in

conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, dodine was reviewed through a modified process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for dodine.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the dodine RED for public comment. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for dodine. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date in the Docket and electronic EDOCKET. If any comment significantly affects the document, EPA will also publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the dodine RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 16, 2005.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–23420 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0308; FRL–7747–2]

Notice of Filing of a Pesticide Petition for the Establishment of Regulations for Residues of the Fungicide Metiram in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the fungicide metiram: a mixture of 5.2 parts by weight of ammoniates of ethylenebis(dithiocarbamato) zinc with 1 part by weight ethylenebis (dithiocarbamic acid) bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate in or on imported bananas (whole fruit) and grapes.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0308 and pesticide petition (PP) number PP9E6006, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Lisa Jones, Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; phone number: 703–308–9424; e-mail address: *jones.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0308. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0308. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0308. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0308.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0308. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comment.

II. What Action is the Agency Taking?

EPA is printing notice of filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the fungicide metiram: a mixture of 5.2 parts by weight of ammoniates of ethylenebis(dithiocarbamate) zinc with 1 part by weight ethylenebis(dithiocarbamic acid) bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate in or on bananas (whole fruit) and grapes. EPA has determined that the pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 9E6006. BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709, proposes to establish tolerances for the combined residues of the fungicide metiram: a mixture of 5.2 parts by weight of ammoniates of ethylenebis(dithiocarbamato) zinc with 1 part by weight ethylenebis(dithiocarbamic acid) bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate in or on the food commodities imported bananas (whole fruit) at 5.0 parts per million (ppm) and grapes at 7.0 ppm. The nature of the residue in grapes and bananas is also adequately understood. The residues of concern are the parent compound, metiram and its metabolite ethylenethiourea (ETU). BASF has developed an analytical method converting metiram to carbon disulfide (CS2) and quantitating using photometric measurement of the Ultraviolet (UV) absorption at 302 nm. An analytical method using high performance liquid chromatography with electrochemical detection for the determination of ETU was also developed. These methods have been confirmed through independent laboratory validations.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 16, 2005.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23444 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0312; FRL–7747–6]

Notice of Filing of a Pesticide Petition for the Establishment of Regulations for Residues of the Fungicide Prothioconazole and its Metabolites in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the fungicide prothioconazole and its desthio metabolite in or on barley, bran/grain/hay/pearled/straw; black mustard/borage/canola/ crambe/field mustard/flax/Indian mustard/Indian rapeseed/rapeseed, seed; flax, grain and aspirated fractions; peas and beans, dried shelled (except soybeans); peanut, nutmeat/hay/meal; rice, grain/straw/hulls; and wheat, grain/bran/forage/germ/hay/straw; and for residues of prothioconazole, its desthio and 4–hydroxy metabolites, and conjugates of each in cattle, meat/meat byproducts/fat/milk.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0312 and pesticide petition (PP) number PP 4F6830, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Lana Coppolino, Registration Division (7505C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–0086; e-mail address: *coppolino.lana@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0312. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0312. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0312. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address

identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0312.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0312. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing a summary of the pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the fungicide prothioconazole and its desthio metabolite in or on barley, bran/grain/hay/pearled/straw; black mustard/borage/canola/ crambe/field mustard/flax/Indian mustard/Indian rapeseed /rapeseed, seed; flax, grain and aspirated fractions; peas and beans, dried shelled (except soybeans); peanut, nutmeat/hay/ meal; rice, grain/straw/hulls; and wheat, grain/bran/ forage/germ/hay/straw; and for residues of prothioconazole, its desthio and 4–hydroxy metabolites, and conjugates of each in cattle, meat/meat byproducts/fat/milk. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket.* To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 4F6830. Bayer CropScience, 2 T. W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the fungicide prothioconazole and its desthio metabolite in or on food and feed commodities barley, grain at 0.2 parts per million (ppm); barley, hay at 7.0 ppm; barley, straw at 2.0 ppm; barley, pearled at 0.2 ppm; barley, bran at 0.4 ppm; black mustard, seed at 0.10 ppm; borage, seed at 0.1 ppm; canola, seed at 0.1 ppm; crambe, seed at 0.1 ppm; field mustard, seed at 0.1 ppm; flax, seed at 0.1 ppm; grain, aspirated fractions at 13.0 ppm; Indian mustard, seed at 0.1 ppm; Indian rapeseed at 0.1 ppm; pea and bean, dried shelled, except soybean, subgroup at 0.8 ppm; peanut, nutmeat at 0.02 ppm; peanut, hay at 5.0 ppm; peanut, meal at 0.3 ppm; rapeseed at 0.1 ppm; rice, grain at 0.25 ppm; rice, straw at 1.5 ppm; rice, hulls at 1.0 ppm; wheat, grain at 0.06 ppm; wheat, bran at 1.5 ppm; wheat, forage at 7.0 ppm; wheat, germ at 0.15 ppm; wheat, hay at 4.0 ppm; and wheat, straw at 2.3 ppm; as well as tolerances for residues of prothioconazole, its desthio metabolite, and 4–hydroxy metabolite and conjugates of each in meat, cattle at 0.01 ppm; meat by-products, cattle at 1.2 ppm; fat, cattle at 0.1 ppm and milk at 0.006 ppm. The analytical method for determining residues of concern in plants extracts residues of prothioconazole and JAU6476–desthio and converts the prothioconazole to JAU6476–desthio and JAU6476–sulfonic acid. Following addition of internal standards, the sample extracts are analyzed by LC/MS/MS. Radiovalidation and independent laboratory validation have shown that the method adequately quantifies prothioconazole residues in treated commodities. The analytical method for analysis of large animal tissues includes extraction of the residues of concern, followed by addition of an internal standard to the extract. The extract is then hydrolyzed to release conjugates, partitioned and analyzed by LC/MS/MS as prothioconazole, JAU6476–desthio and JAU6476–hydroxy. The method for analysis of milk eliminated the initial extraction step in the tissue method.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23438 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0272; FRL–7745–9]

Notice of Filing of a Pesticide Petition for the Establishment of Regulations for Residues of the Herbicide Diuron in or on Catfish, Edible Portions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the herbicide diuron in or on catfish, edible portions.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0272 and pesticide petition (PP) number PP6F4680, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jim Tompkins, Product Manager (25), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address: *tompkins.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0272. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do

not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0272. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0272. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0272.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0272. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the herbicide diuron in or on catfish, edible portions. EPA has determined that the pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on the pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket/*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 6F4680. Catfish Farmers of America, 1100 Hwy. 82 East, Suite 202, Indianola, MS 38751, proposes to establish a tolerance for residues of the herbicide diuron in or on catfish, edible portions at 2.0 part per million (ppm). An analytical method is available, a modified form of DuPont Agricultural Products method #5470. The principle of the determination is the hydrolysis of diuron and its metabolites by alkaline reflux to 3,4–dichloroaniline (3,4–DCA),

followed by a distillation of the aniline into an acid solution. The acid distillate is made alkaline with concentrated base and subsequently extracted into an organic solvent (hexane) and analyzed by gas chromatography. With the modified method, recoveries exceeded 70% and the limit of quantitation (LOQ) is 0.01 µ.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23441 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0307; FRL–7747–5]

Notice of Filing of Pesticide Petitions for the Establishment of Regulations for Residues of the Fungicide Mancozeb in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of the fungicide mancozeb in or on almond nuts and hulls; broccoli, cabbage, lettuce and peppers; and imported mandarin oranges/mandarins.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0307 and pesticide petition (PP) numbers PP 3E6536, 4F4324, and PP 4F4333, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Lisa Jones, Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; phone number: 703–308–9424; e-mail address: *jones.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0307. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a

brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0307. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0307. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0307.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0307. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed at the end of the pesticide petition summary of interest.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and the **Federal Register** citation related to your comment.

II. What Action is the Agency Taking?

EPA is printing notice of filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the fungicide mancozeb in or on almond nuts and hulls; broccoli, cabbage, lettuce and peppers; and imported mandarin oranges/mandarins. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search''

and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

1. *PP 3E6536*. Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, proposes to establish import tolerances for the combined residues of the fungicide mancozeb in or on the imported food commodities mandarin oranges/mandarins at 5.0 parts per million (ppm). Residues of mancozeb are determined by decomposing the residue with strong acid to release carbon disulfide (CS2). The CS2 can be measured by gas chromatography or by absorbance of a colored copper dithiocarbamate complex formed by sweeping the CS2 through a trap and into a reaction tube containing a solution of copper acetate and an amine. Adequate methodology for enforcement is available in the Pesticide Analytical Manual (PAM II, Method II).

2. *PP 4F4324*. Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, proposes to establish tolerances for the combined residues of the fungicide mancozeb in or on the food commodities almond nuts at 0.1 ppm and almond hulls at 10.0 ppm. Residues of mancozeb are determined by decomposing the residue with strong acid to release carbon disulfide (CS2). The CS2 can be measured by gas chromatography or by absorbance of a colored copper dithiocarbamate complex formed by sweeping the CS2 through a trap and into a reaction tube containing a solution of copper acetate and an amine. Adequate methodology for enforcement is available in the Pesticide Analytical Manual (PAM II, Method II).

3. *PP 4F4333*. Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, proposes to establish tolerances for the combined residues of the fungicide mancozeb in or on food commodities broccoli at 13.0 ppm, cabbage at 10.0 ppm, lettuce at 10.0 ppm, and peppers at 7.0 ppm. Residues of mancozeb are determined by decomposing the residue with strong acid to release carbon disulfide (CS2). The CS2 can be measured by gas chromatography or by absorbance of a colored copper dithiocarbamate complex formed by sweeping the CS2 through a trap and into a reaction tube containing a solution of copper acetate and an amine. Adequate methodology for enforcement is available in the Pesticide Analytical Manual (PAM II, Method II).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 16, 2005.

Donald R. Stubbs,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23443 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0245; FRL–7735–7]

Notice of Filing of Pesticide Petitions for the Establishment of Regulations for Residues of the Fungicide Fenhexamid in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of the fungicide fenhexamid in or on cilantro, ginseng, non-bell pepper, and pomegranate.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0245 and pesticide petition (PP) numbers 4E6859 and 4E6860, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Maria I. Rodriguez, Registration Division, (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; (703) 305–6710; e-mail: *rodriguez.maria@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0245. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*.Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0245. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0245. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0245.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), U. S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0245. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you would provide the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 4E6859 and PP 4E6860. The Interregional Research Project Number 4 (IR–4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390, proposes to establish tolerances for residues of the fungicide fenhexamid in or on food commodities cilantro (as part of the Crop Sub-group 4A) at 30.0 parts per million (ppm), ginseng at 0.3 ppm, non-bell pepper at 0.02 ppm, and pomegranate at 3.0 ppm. HPLC-ECD is the tolerance enforcement method for fenhexamid residues.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23439 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0289; FRL–7746–7]

Notice of Filing of Pesticide Petitions for the Establishment and Amendment of Regulations for Residues of the Insect Growth Regulator Buprofezin in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of the insect growth regulator buprofezin, 2–[(1,1–dimethylethyl)imino]tetrahydro–3(1–methylethyl)–5–phenyl–4H–1,3,5–thiadiazin–4–one in or on citrus, fruit; citrus, dried pulp; citrus, oil; and the amendment of regulations for residues in or on almond, hulls; cotton, gin byproducts, cotton, undelinted seed; and tomato.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0289 and pesticide petition (PP) numbers PP 0F6087 and PP 5F6968, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Melody Banks, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5413; e-mail address: *banks.melody@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0289. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0289. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0289. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0289.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0289. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the insect growth regulator buprofezin in or on citrus, fruit; citrus, dried pulp; citrus, oil; and the amendment of regulations for residues in or on almond, hulls; cotton, gin byproducts, cotton, undelinted seed; and tomato. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 5F6968. Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to establish a tolerance for residues of the insect growth regulator buprofezin, 2–[(1,1–dimethylethyl)imino]tetrahydro–3(1–methylethyl)–5–phenyl–4H–1,3,5–thiadiazin–4–one in or on food commodities citrus fruit (Group 10) at 2.5 parts per million (ppm); citrus, dried pulp at 7.5 ppm; and citrus, oil at 80.0 ppm. Development of the analytical method took place parallel with the metabolism studies and the method was designed to quantify two metabolites (BF9 and BF12) in addition to the parent compound, buprofezin.

Amendment to an Existing Tolerance

PP 0F6087. Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to amend the tolerances in 40 CFR 180.511 by establishing permanent tolerances for the residues of the insect growth regulator buprofezin, 2–[(1,1–dimethylethyl)imino]tetrahydro–3(1–methylethyl)–5–phenyl–4H–1,3,5–thiadiazin–4–one in or on food commodities almond hulls at 0.7 ppm; cotton, gin byproducts at 15.0 ppm; cotton, undelinted seed at 0.4 ppm; and tomato at 0.4 ppm. Development of the analytical method took place parallel with the metabolism studies and the method was designed to quantify two metabolites (BF9 and BF12) in addition to the parent compound, buprofezin.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 10, 2005.

Lossi Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23445 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0282; FRL–7743–1]

Notice of Filing of a Pesticide Petition for Amendment to a Regulation for Residues of Bacillus thuringiensis VIP3A in or on Cotton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the amendment of a regulation for residues of the plant-pesticide *Bacillus thuringiensis* VIP3A insect control protein and the genetic material necessary for its production in or on cotton.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0282 and pesticide petition (PP) number PP 3G6547, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide

for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0282. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0282. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0282. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in

WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0282.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0282. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number in the subject line on the first page of your response. You may also provide the name, date, and citation.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the amendment of a regulation in 40 CFR part 180 for residues of the plant-pesticide *Bacillus thuringiensis* VIP3A insect control protein and the genetic material necessary for its production in or on cotton. EPA has determined that the pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on the pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

Amendment to an Existing Exemption from the Requirement of a Tolerance

PP 3G6547. Syngenta Seeds, Inc., 3054 Cornwallis Rd., Research Triangle Park, NC 27709–2257, proposes to amend the existing tolerance exemption in 40 CFR part 180 for residues of the plant-pesticide *Bacillus thuringiensis* VIP3A insect control protein and the genetic material necessary for its production in or on cotton. An analytical method is not required because this petition requests an extension of the current exemption from a tolerance. However, the petitioner has submitted a validated analytical method for detection of the VIP3A protein in cottonseed.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 1, 2005.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–23446 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0311; FRL–7747–3]

Notice of Filing of a Pesticide Petition for the Establishment of Regulations for Residues of the Herbicide Flumiclorac Pentyl Ester in or on Cotton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the herbicide flumiclorac pentyl ester in or on cotton, undelinted seed and gin byproducts.

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: Comments, identified by docket identification (ID) number OPP–2005–0311 and pesticide petition (PP) number PP3F6767, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joanne Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0311. 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 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0311. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0311. In contrast to EPA's

electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0311.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0311. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the herbicide flumiclorac pentyl ester in or on cotton, undelinted seed and gin byproducts. EPA has determined that the pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on the pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket/*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 3F6767. Valent U.S.A. Corporation, 1600 Riviera Ave., Suite 200, Walnut Creek, CA 94596–8025, proposes to establish a tolerance for residues of the herbicide flumiclorac pentyl ester, pentyl [2–chloro–4–fluoro–5–(1,3,4,5,6,7–hexahydro–1,3–dioxo–2*H*-isoindol–2–yl)phenoxy]-acetate in or on cotton, undelinted seed at 0.1 parts per million (ppm) and cotton, gin by products at 2.0 ppm. The residue analytical method for enforcement purposes uses gas-liquid chromatography with a thermionic-specific detector. The enforcement method has been validated at an independent laboratory and by EPA. The method has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 18, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23440 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8003–3]

Proposed CERCLA Administrative Cost Recovery Settlement; Gill Pond Realty Trust, Zimble Drum Superfund Site, Norwood, MA

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past costs concerning the Zimble Drum Superfund Site in Norwood,

Massachusetts with the following settling party: Gill Pond Realty Trust. The settlement requires the settling party to pay $300,000 to the Hazardous Substance Superfund and to complete remediation of contaminated surface soils on Site. The settlement includes a covenant not to sue the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02114–2023 (Telephone No. 617–1440).

DATES: Comments must be submitted within thirty (30) days of publication of this notice.

ADDRESSES: Comments should be addressed to Audrey Zucker, Enforcement Counsel, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 (SES), Boston, Massachusetts 02114–2023 (Telephone No. 617–918–1788) and should refer to: In re: Zimble Drum Superfund Site, U.S. EPA Docket No. 01–2005–0023.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Audrey Zucker, Enforcement Counsel, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 (SES), Boston, Massachusetts 02114–2023 (Telephone No. 617–918–1788; E-mail *zucker.audrey@epa.gov*).

Dated: September 28, 2005.

Richard Cavagnero,

Acting Director, Office of Site Remediation and Restoration, EPA Region I.

[FR Doc. E5–6697 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0046; FRL–7745–6]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on 1,1,2–Trichloroethane (1,1,2–TCE)(CAS No. 79–00–5). These data were submitted pursuant to an Enforceable Consent Agreement (ECA) and Testing Consent Order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about data on health and/or environmental effects and other characteristics of this chemical. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0046. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, 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. Test Data Submissions

Under 40 CFR 790.60, all TSCA section 4 ECA orders must contain a statement that results of testing conducted pursuant to ECA orders will be announced to the public in accordance with section 4(d) of TSCA.

Test data for 1,1,2–TCE, a Hazardous Air Pollutant (HAP) listed under section 112 of the Clean Air Act Amendments of 1990, were submitted by the HAP Task Force. These data were submitted pursuant to a TSCA section 4 ECA order and were received by EPA on May 5, 2005, August 9, 2005, October 13, 2005, and October 13, 2005. The submission includes the following final reports titled:

1. "A Prenatal Development Toxicity Study of 1,1,2–Trichloroethane via Drinking Water in Rats."

2. "1,1,2–Trichloroethane: Subchronic Neurotoxicity Study in F344/DUCRL Rats."

3. "Route-to Route Extrapolation of 1,1,2–Trichloroethane Studies from the Oral Route to Inhalation Using Physiologically Based Pharmacokinetic Models: Subchronic Neuroticicity."

4. "Route-to-Route Extrapolation of 1,1,2–Trichloroethane Studies from the Oral Route to Inhalation Using Physiologically Based Pharmacokinetic Models: Developmental Toxicity."

The air pollutant, 1,1,2–TCE is used as an intermediate in the production of vinylidene chloride and some tetrachloroethanes. It is also used as a solvent, and in adhesives, lacquers, in electronic components, and in the production of Teflon®.

EPA has initiated its review and evaluation process for this submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Hazardous substances, Toxic substances.

Dated: November 17, 2005.

Jim Willis,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. E5–6615 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

November 21, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 30, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0178.

Title: Section 73.1560, Operating Power and Mode Tolerances.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1560 requires licensees of AM, FM or TV broadcast stations to file notification with the FCC when operating at reduced power for 10 consecutive days, upon restoration to normal operations, and to file a written request for additional time when operation cannot be restored within 30 days. The data is used by FCC staff to maintain complete and accurate data about station operations.

OMB Control Number: 3060–0181.

Title: Section 73.1615, Operating During Modification of Facilities.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 110.

Estimated Time per Response: 0.17–1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 27 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1615(c) requires notification to the FCC by a licensee of an AM, FM, or TV station when it is in the process of modifying existing facilities as authorized by a construction permit and it becomes necessary either to discontinue operation or to operate with temporary facilities. If such licensee needs to discontinue operation or to operate with temporary facilities for more than 30 days, then an informal letter request must be sent to the FCC prior to the 30th day.

47 CFR 73.1615(d) requires the licensee of an AM station holding a construction permit which authorizes both a change in frequency and directional facilities to obtain authority from the FCC prior to using any new installation authorized by the permit, or using temporary facilities. This request is to made by letter 10 days prior to the date on which the temporary operation is to commence. The letter shall describe the operating modes and the facilities to be used.

OMB Control Number: 3060–0564.

Title: Section 76.924, Cost Accounting and Cost Allocation Requirements.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50.

Estimated Time per Response: 40 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 2,000 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.924(b) of the Commission's rules specifies cost accounting and cost allocation requirements for regulated cable operators. 47 CFR 76.924 was established as part of the cable rate regulation requirements set forth in the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''). This collection accounts for the burden imposed on cable operators to rearrange their accounting records to be in compliance with the requirements set forth in 47 CFR 76.924. This burden should be considered a one-time only recordkeeping requirement for new cable operators. Information derived from accounting records that are arranged in compliance with 47 CFR 76.924 is used by the cable operators themselves when completing rate filings and by local franchising authorities when reviewing rate filings.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E5–6581 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 03–123; DA 05–2961]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on a petition for rulemaking to mandate captioned telephone relay service and to approve Internet-Protocol (IP) captioned telephone relay service. Captioned telephone service is a form of telecommunications relay service (TRS) that permits persons, on the same device, to simultaneously listen to what the other party is saying and read captions of what the other party is saying. Presently the service is eligible for compensation from the Interstate TRS Fund (Fund), but is not mandatory. The petition asks the Commission to initiate a rulemaking for the purpose of making captioned telephone service a mandatory form of TRS and approving IP captioned telephone service as eligible for compensation from the Fund.

DATES: Comments are due on or before December 30, 2005. Reply comments are due on or before January 17, 2006.

ADDRESSES: You may submit comments identified by [docket number and/or rulemaking number], by any of the following methods:

■ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

■ *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.

■ *Mail:* Parties who choose to file by paper should also submit their comment on diskette. These diskettes should be submitted, along with three paper copies to Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3–C418, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible formatted using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (CG Docket No. 03–123)), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

■ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone (202) 418–0539 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Dana Jackson, (202) 418–2247 (voice), (202) 418–7989 (TTY), or e-mail *Dana.Jackson@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 05–2961, released November 14, 2005. Pursuant to §§ 1.415 and 1.419 of the Commission rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

■ For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response. All comments received are viewable by the general public at any time through the Web site.

■ *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

■ The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

■ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

■ U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure.

The full text of document DA 05–2961 and copies of any subsequently filed documents relating to this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document and copies of subsequently filed documents in this matter may also be purchased from the Commission's contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's contractor at their Web site *www.bcpiweb.com* or by calling 1–800–378–3160. A copy of NECA's submission may also be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs* (insert CG

Docket No. 03–123 into the proceeding block).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Document DA 05–2961 can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb.dro.*

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 05–23449 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2742]

Petitions for Reconsideration of Action in Rulemaking Proceeding

November 21, 2005.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by December 15, 2005. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations, Glenville, Weaverville, and Clyde, North Carolina; Tazewell, Tennessee (MB Docket 02–352).

In the Matter of Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations, Elberton and Union Point, Georgia (MB Docket 05–191).

Number of Petitions Filed: 1.

Subject: In the Matter of FM Table of Allotments, Oolitic, Indiana, 94.1 MHz, Channel 231A (MB Docket 03–98).

Number of Petitions Filed: 1.

William F. Caton,

Deputy Secretary.

[FR Doc. 05–23450 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2743]

Petition for Reconsideration of Action in Rulemaking Proceeding

November 23, 2005.

Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to the petition must be filed by December 15, 2005. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Section 73.202(b) FM Table of Allotments, FM Broadcast Stations (Columbus and Monona, Wisconsin) (MB Docket 05–122).

Number of Petitions Filed: 1.

William F. Caton,

Deputy Secretary.

[FR Doc. 05–23451 Filed 11–29–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 002105F
Name: A.P. Champagne Co., Inc.
Address: 822 Perdido Street, Suite 301, New Orleans, LA 70112.
Date Revoked: October 31, 2005.
Reason: Surrendered license voluntarily.

License Number: 000128F
Name: ''AA'' Pacific Express, Enterprises
Address: 2145 North Tyler Avenue, Suite B, South El Monte, CA 91733.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017441N
Name: Al G. Wichterich Inc. dba Worldwide Express
Address: 9327 Tranquil Park Drive, Spring, TX 77379.
Date Revoked: October 29, 2005.
Reason: Failed to maintain a valid bond.

License Number: 013013N
Name: Alelqui Lines, Inc.
Address: 59–46 64th Street, Maspeth, NY 11378.
Date Revoked: August 13, 2005.
Reason: Failed to maintain a valid bond.

License Number: 002708F
Name: Aloyd Forwarding Company, Inc.
Address: 45 Rason Road, Inwood, NY 11096.
Date Revoked: October 21, 2005.
Reason: Failed to mantain a valid bond.

License Number: 015507N
Name: Ampac Freight Service, Inc.
Address: 3234 Arden Road, Hayward, CA 94554.
Date Revoked: October 26, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019380N
Name: Autolog Forwarding Corp.
Address: 1701 East Linden Avenue, Linden, NJ 07036.
Date Revoked: October 21, 20005.
Reason: Failed to maintain a valid bond.

License Number: 017614N
Name: E–Z Express Corporation
Address: 58 N. Virginia Court, Englewood Cliffs, NJ 07632.
Date Revoked: September 2, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004239F
Name: Emery Global Logistics, Inc.
Address: One Lagoon Drive, Suite 400, Redwood City, CA 94065.
Date Revoked: October 20, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019348NF
Name: Full Package Logistics Inc.
Address: 1890 NW. 82nd Avenue, Suite 101, Miami, FL 33126.
Date Revoked: October 29, 2005.
Reason: Failed to maintain valid bonds.

License Number: 017926N
Name: GQ Logistics, Inc.
Address: 11222 La Cienega Blvd., Suite 510, Inglewood, CA 90304Date Revoked: October 9, 2005.
Reason: Failed to maintain a valid bond.

License Number: 002953F
Name: General Brokerage Services, Inc.

Address: 5253 NW. 36th Street, Miami Springs, FL 33166.
Date Revoked: November 16, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017080N
Name: General Cargo & Logistics
Address: 3405 Rindge Lane, Redondo Beach, CA 90278.
Date Revoked: November 7, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017443N
Name: Grace Cargo, Inc.
Address: 648 Marsat Court, Suite B, Chula Vista, CA 91911
Date Revoked: October 9, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017129N
Name: Hercules Packing Shipping & Moving Co., Inc.
Address: 23–96 48th Street, Astoria, NY 11103.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019033F
Name: HUA Feng (USA) Logistics Inc.
Address: 11222 S. La Cienega Blvd., Suite 608, Inglewood, CA 90304.
Date Revoked: October 15, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004268F
Name: J & S Universal Services, Inc. dba, Patrick & Rosenfeld Shipping Corp.
Address: 12972 SW. 133 Court, Suite A, Miami, FL 33186.
Date Revoked: October 30, 2005.
Reason: Failed to maintain a valid bond.

License Number: 000379F
Name: Joseph C. Murray & Co., Inc.
Address: 139 Fulton Street, New York, NY 10038.
Date Revoked: November 11, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017848N
Name: K2 International, LLC dba All-Ways Cargo Services.
Address: 2782 Eagandale Blvd., Eagan, MN 55121.
Date Revoked: October 8, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003444N
Name: Kosmo International, Inc.
Address: 2125 Center Avenue, Suite 207A, Fort Lee, NJ 07024.
Date Revoked: October 15, 2005.
Reason: Failed to maintain a valid bond.

License Number: 000128F
Name: Lusk Shipping Company, Inc.
Address: 408 Magazine Corner, New Orleans, LA 70130.
Date Revoked: November 9, 2005.
Reason: Failed to maintain a valid bond.

License Number: 000016F
Name: Major Forwarding Company, Inc.
Address: 159–15 Rockaway Blvd., Jamaica, NY 11434.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003957F
Name: Marmara, Inc.
Address: 6 Self Boulevard, Carteret, NJ 07008.
Date Revoked: October 8, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003326F
Name: Modern Cargo Services, Inc.
Address: 12870 NW 107th Court, Miami, FL 33178.
Date Revoked: November 2, 2005.
Reason: Failed to maintain a valid bond.

License Number: 012361N
Name: North American Van Lines, Inc.
Address: 5001 U.S. Highway 30 West, Ft. Wayne, IN 46618.
Date Revoked: November 1, 2005.
Reason: Surrendered license voluntarily.

License Number: 002474F
Name: Projects Transportation International Ltd.
Address: 10607 Southwest Hwy 1C, P.O. Box 613, Worth, IL 60432.
Date Revoked: November 8, 2005.
Reason: Failed to maintain a valid bond.

License Number: 002946F
Name: R.C.A. Shipping Corp.
Address: 23–41 33rd Avenue, Long Island City, NY 11106.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019170N
Name: Seabound Freight, LLC
Address: 12972 133rd Court, Suite A, Miami, FL 33182.
Date Revoked: October 30, 2005.
Reason: Failed to maintain a valid bond.

License Number: 018110F
Name: Sirva Freight Forwarding, Inc. dba North American International.
Address: 5001 U.S. Highway 30 West, Ft. Wayne, IN 46818.
Date Revoked: November 1, 2005.
Reason: Surrendered license voluntarily.

License Number: 015932N
Name: Solomon Shipping & Trading Inc.
Address: 206 Main Street-Rear, Orange, NJ 07050.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003643F
Name: Suren K. Demirjian dba Surdem International
Address: 136 East 56th Street, Suite 3–K, New York, NY 10022.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003363N and 003363F
Name: Transportation Services International, Inc.
Address: 1418 E. Linden Avenue, Linden, NJ 07036.
Date Revoked: September 14, 2005 and October 20, 2005.
Reason: Failed to maintain valid bonds.

License Number: 019402N
Name: Ubique Logistics, Inc.
Address: 179–14 149th Road, Jamaica, NY 11434.
Date Revoked: November 15, 2005.
Reason: Surrendered license voluntarily.

License Number: 017952N
Name: Uniworld Cargo Shipping Lines, LLC
Address: 4000 West Side Avenue, North Bergen, NJ 07047.
Date Revoked: October 14, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019009NF
Name: Vivek Shipping Company, LLC
Address: 106 Country Mill Lane, Stockbridge, GA 30281.
Date Revoked: October 6, 2005.
Reason: Failed to maintain valid bonds.

License Number: 016535N
Name: World Trans Logistic Inc. dba World Air Logistic Co.
Address: 841 E. Sandhill Avenue, Carson, CA 90746.
Date Revoked: November 6, 2005.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 05–23472 Filed 11–29–05; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping

Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
003735FF	Macro Trans Corporation, 7 Dey Street, New York, NY 10007	September 12, 2005.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–23473 Filed 11–29–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel–Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants

Maxfreight International Logistics, Inc., 708 S. Hindry Avenue, Inglewood, CA 90301, Officers: David Yasuo Miyamoto, CEO (Qualifying Individual), Barry Chiang, Director.

Five Continent Line, L.L.C., 2065 S. Escondido Blvd., #101, Escondido, CA 92025, Officer: Alycia Cerini, Managing Member (Qualifying Individual).

Logical Solution Services, Inc., dba Cruz World Shipping, 317 Brick Blvd., Brick, NJ 08723, Officer: Victor Cruz, President (Qualifying Individual).

Willy Express Shipping, Inc., 1327 Webster Avenue, Bronx, NY 10456, Officer: Nelson W. Rivera, President (Qualifying Individual).

Stevens Global Logistics, dba Stevens Global Freight Services, 3700 Redondo Beach Avenue, Redondo Beach, CA 90278, Officers: Thomas Petrizzio, CEO (Qualifying Individual), Larry Coyle, President.

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

International Trade Management Group, LLC, 611 Live Oak Drive, McLean, VA 22101, Officers: Lahyan Diab, Member, Isahm Diab, Member.

Oceanexpress Shipping LLC, dba Oceanexpress, 411 North Harbor Blvd., Suite 203, San Pedro, CA 90731, Officer: Paul D. Snell, Vice President (Qualifying Individual).

Carijamaica Freight & Shipping, LLC, 8524 NW 72nd Street, Miami, FL 33166, Officers: Devon Grant, President (Qualifying Individual), Marcia Sayles, Vice President.

Scanwell Logistics (LAX) Inc., 615 N. Nash Street, Suite 202, El Segundo, CA 94025, Officers: Dennis Choy, President (Qualifying Individual) Adam Hassan, Chairman.

Advanced Logistics Group Inc., 20644 S. Fordyce Avenue, Carson, CA 90810–1019, Officers: Joseph L. Vidal, CEO (Qualifying Individual), Patricia McElroy, Director.

TSL Express, Inc., 1041 S. Garfield Avenue, Suite 205, Alhambra, CA 91801, Officers: Joseph Cho-Fung Yeung, CFO, Ho Ying Chu (Yo Yo), Secretary (Qualifying Individuals), Yuen Yee Chan, CEO.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

World Wide International, Inc., 5900 Roche Drive, Suite LL 20, Columbus, OH 43229, Officers: Carolyn Sue Logan, President (Qualifying Individual), Melvin C. Logan, Vice President.

International Shipping Company, dba ISC International Shipping Company, 6425 Tireman, Detroit, MI 48204, Officers: Nachaat, Mazeh, President (Qualifying Individual), Ali Kain, Vice President.

Supply Chain Shipping LLC, 4607 44th Street S.E., Grand Rapids, MI 49512, Officers: John M. Toles, Managing Partner, (Qualifying Individual), James W. Ward, Partner.

Shipping Overseas Specialist, Inc., 1121 A Industrial Parkway, Brick, NJ 08724, Officers: Anthony Cavaliere, President (Qualifying Individual), Mike Dragin, Secretary.

Dated: November 23, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–23474 Filed 11–29–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to sections 14 and 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 018410NF.

Name: Onebin.Com, Inc.

Address: 3406 SE 26 Terrace, Unit C–10, Lauderdale, FL 33312.

Order Published: FR: 09/28/05 (Volume 70, No. 187, Pg. 56691).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–23471 Filed 11–29–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 15, 2005.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Carolyn Ferguson Pryor, Jackson, Mississippi; Nancy Ferguson Rasco, Hot Springs, Arkansas; Rebecca Ferguson Ehrlicher, Memphis, Tennessee; and the Carolyn F. Pryor Trust, Nancy F. Rasco Trust and Rebecca F. Ehrlicher Trust, each of DeWitt, Arkansas; to acquire voting shares of DBT Financial Corporation, and thereby indirectly acquire DeWitt Bank and Trust Company, both of DeWitt, Arkansas.

Board of Governors of the Federal Reserve System, November 25, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E5–6679 Filed 11–29–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—10/25/2005			
20060011	Lafarge S.A.	Hale D. Ritchie	Application Systems Technology, Inc., Ark River Sand, Inc., Ark River Sand of Oklahoma, Inc., Hesston Ready Mix, Inc., R-Con Corporation, Ritchie Companies, Inc., Ritchie Concrete Paving, Inc., Ritchie Corporation, Ritchie Paving & Construction, Inc., Ritchie Paving, Inc., Ritchie Paving of Oklahoma, Inc., Ritchie Sand, Inc., Tarp Bow Solutions, Inc.
20060021	CCMG Holdings, Inc.	Ford Motor Company	The Hertz Corporation
20060029	Plum Creek Timber Company, Inc.	Maple Timber Acquisition LLC	Escanaba Timber LLC
20060032	The Lightyear Fund, L.P.	Code Hennessy & Simmons IV LP	FTT Holdings, Inc.
20060035	Wolseley plc	Harry Jay Seigle & Susan Gilbert Seigle.	Michael Nicholas Carpentry, LLC, Seigle's, Inc.
20060052	Hushang Ansary	Stewart & Stevenson Services, Inc.	Sierra Detroit Diesel Allison, Inc., S&S Trust, Stewart & Stevenson International, Inc., Stewart & Stevenson Petroleum Services, Inc.
20060064	Bruckmann, Rosser, Sherrill & Co. II, L.P..	Richard Teasta	EZ Lube, Inc.
20060065	Bruckmann, Rosser, Sherrill & Co. II, L.P..	Michael Dobson	EZ Lube, Inc.
20060066	John B. Hess	Amerada Hess Corporation	Amerada Hess Corporation.
Transactions Granted Early Termination—10/26/2005			
20060008	WLR Recovery Fund III, L.P.	Malcolm I. Glazer	Safety Component International, Inc.
20060012	Lafarge S.A.	H.T. Ritchie II	Application Systems Technology, Inc., Ark River Sand, Inc., Ark River Sand of Oklahoma, Inc., Hesston Ready Mix, Inc., R-Con Corporation, Ritchie Companies, Inc., Ritchie Concrete Paving, Inc., Ritchie Corporation, Ritchie Paving & Construction, Inc., Ritchie Paving, Inc., Ritchie Paving of Oklahoma, Inc., Ritchie Sand, Inc., Tarp Bow Solutions, Inc.
20060024	AMN Healthcare Services, Inc.	Joseph E. Hawkins	The MHA Group, Inc.
20060057	TCV IV, L.P.	Redback Networks, Inc.	Redback Networks, Inc.
Transactions Granted Early Termination—10/27/2005			
20060004	Odyssey Investment Partners Fund III, L.P.	Residuary Trust under the Will of Charles E. Bowers, Jr..	The Fibre-Metal Products Company.
20060022	DAVA Pharmaceuticals, Inc.	PLIVA d.d.	Odyssey Pharmaceuticals, Inc.

Trans No.	Acquiring	Acquired	Entities
20060054	Chesapeake Energy Corporation	Morgan Stanley Dean Witter Capital Partners IV, L.P..	Columbia Energy Resources, LLC.
Transactions Granted Early Termination—10/28/2005			
20051697	Millard Drexler	J. Crew Group, Inc.	J. Crew Group, Inc.
20060055	Code Hennessy & Simmons IV LP	Sherrill S. Deputy Trust	The Godfrey Conveyor Company, Inc.
20060061	Hewlett-Packard Company	Peregrine Systems, Inc.	Peregrine Systems, Inc.
20060073	Babcock & Brown Wind Partners Limited.	Babcock & Brown Limited	Babcock & Brown Wind Partners—U.S. LLC, BBPOP Wind Investment 3 LLC.
20060079	TA IX L.P.	Intuit Inc.	Blue Ocean Software, Inc.
20060089	TANDBERG Television ASA	GoldPocket Interactive, Inc.	GoldPocket Interactive, Inc.
20060092	Barr Pharmaceuticals, Inc.	Copper 38OT LLC	Cooper 38OT LLC.
20060097	Comverse Technology, Inc.	CSG Systems International, Inc.	CSG Americas Holdings, Inc., CSG Software, Inc., CSG Technology Limited.
Transactions Granted Early Termination—10/31/2005			
20051548	The Geo Group, Inc.	Correctional Services Corporation	Correctional Services Corporation.
20060018	Timothy R. Barakett	Phelps Dodge Corporation	Phelps Dodge Corporation.
20060060	ArcLight Energy Partners Fund II, L.P.	Haddington/Chase Energy Partners (WHP) LP.	Lodi Holdings, L.L.C.
20060067	ArcLight Energy Partners Fund II, L.P.	ArcLight Energy Parnters Fund I, L.P.	Lodi Holdings, L.L.C.
20060100	China National Chemical Corporation	CVC European Equity Partners II L.P.	Drakkar Holdings, S.A.
20060101	Blackstone Capital Partners IV L.P.	Team Health Holdings, L.L.C.	Team Health Holdings, L.L.C.
Transactions Granted Early Termination—11/01/2005			
20060023	Quad-C Partners VI, L.P.	Sea Gull Holdings, Inc.	Seagull Lighting Products, LLC, Woodco, LLC.
20060094	Bain Capital Fund VIII, L.P.	CRC Health Group, Inc.	CRC Health Group, Inc.
20060098	GGC Investment Fund II, L.P.	Appleseed's Holdings, Inc.	Appleseed's Holdings, Inc.
Transactions Granted Early Termination—11/02/2005			
20050520	Johnson & Johnson	Guidant Corporation	Guidant Corporation.
20060088	Starwood Global Opportunity Fund VII–A, L.P..	David R. McCoy and Roma B. McCoy	Mammoth Mountain Ski Area.
Transactions Granted Early Termination—11/04/2005			
20060091	John C. Smith, Jr.	Energy Coal Resources, Inc.	Energy Coal Resources, Inc.
20060099	General Electric Company	IDX Systems Corporation	IDX Systems Corporation.
20060109	Tom L. Ward	Chesapeake Energy Corporation	Chesapeake Energy Corporation.
20060114	KRG Capital Fund III, L.P.	ATI Holdings, LLC	ATI Holdings, LLC.
20060121	Madison Dearborn Capital Partners IV, L.P..	Reliant Energy, Inc.	Astoria Generating Company, L.P., Orion Power Operating Services Astoria, Inc.
20060122	livedoor Co., Ltd.	Howie Balter	Innovation Interactive LLC.
20060124	CHS Inc.	Britz, Inc.	Britz Fertilizers, Inc.
20060125	Land O'Lakes, Inc.	Britz, Inc.	Britz Fertilizers, Inc.
20060128	Sun Capital Partners IV, L.P.	ShopKo Stores, Inc.	ShopKo Stores, Inc.
20060133	Eagle 1 Limited	ERM Holdings Limited	ERM Holdings Limited.
20060134	O. Bruton Smith	Robert Rosenthal	RRR II, LLC, RRR, LLC.
Transactions Granted Early Termination—11/07/2005			
20060117	Financiere Foret S.A.	Sydsvenska Kemi AB	Sydsvenska Kemi AB.
Transactions Granted Early Termination—11/08/2005			
20060070	Ralcorp Holdings, Inc.	Michael G. Campbell	421335 British Columbia Ltd.
20060071	Ralcorp Holdings, Inc.	Ole Elmer	421336 British Columbia Ltd.
20060113	Madison Dearborn Capital Partners IV, L.P..	Wm. Bolthouse Farms, Inc.	Wm. Bolthouse Farms, Inc.
20060139	GS Capital Partners V, L.P.	Triad Hospitals, Inc.	Gulf Coast Hospital, L.P., Medical Park Hospital, LLC, Pampa Hospital, L.P.
Transactions Granted Early Termination—11/09/2005			
20060037	GMO Forestry Fund 8–B, L.P.	Cascade Timberlands LLC	Cascade Timberlands (Olympic), LLC.
20060116	Hunting PLC	Gammaloy Holdings, L.P.	Gammaloy Holdings, L.P.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—11/10/2005			
20060069	Deutsche Post AG	Exel plc	Exel plc.
20060112	NRG Energy, Inc.	Texas Genco LLC	Texas Genco LLC.
Transactions Granted Early Termination—11/14/2005			
20060130	The Scotts Miracle-Gro Company	Gutwein & Co., Inc.	Gutwein & Co., Inc.
20060131	Genstar Capital Partners IV, L.P.	Hal P. Harlan 2004 GRAT II	Harlan BioProducts for Science, Inc., Harlan Sprague Dawley, Inc.
20060136	Infocrossing, Inc.	Level 3 Communications, Inc.	(i)Structure, LLC.
20060138	Tarnsportation Resource Partners, L.P.	The Bekins Company	Bekins Worldwide Services, Inc., The Bekins Co. II LLC, The Bekins Company.
20060141	The PNC Financial Services Group, Inc..	First Data Corporation	PNC Merchant Services Company.
20060146	Blackstone Capital Partners IV, L.P.	UICI	UICI.
20060148	GS Capital Partners V, L.P.	UICI	UICI.
20060150	Credit Suisse Group	UICI	UICI.
20060158	TSG4 L.P.	Nicholas V. Perricone, M.D.	Clinical Creations International, Inc., N.V. Perricone, M.D., Limited.
20060165	M&F Worldwide Corp.	Honeywell International Inc.	Novar USA Inc.
Transactions Granted Early Termination—11/15/2005			
20060142	Sports Capital Partners CEV, LLC	R. Greg Blair	Escort Holdings Corp.
20060145	Sports Capital Partners CEV, LLC	American Capital Strategies, Ltd.	Escort Holdings Corp.
20060159	Massimo Zanetti	Sara Lee Corporation	Quikava, Inc., Sara Lee International B.V., Saramar, LLC.
20060161	Onex Partners LP	Heritage Fund II, L.P.	Skilled HealthCare Group, Inc.
20060166	Leucadia National Corporation	Level 3 Communications, Inc.	Level 3 Communications, Inc.
20060167	Level 3 Communications, Inc.	Leucadia National Corporation	WilTel Communications Group, LLC.
20060194	Man Group plc	Refco Inc.	Refco Inc.
Transactions Granted Early Termination—11/16/2005			
20051673	Cargill, Inc.	RAG AG	Degussa Flavors & Fruit Systems do Brasil Ltda, Degussa Food Ingredients, GmbH, Degussa Food Ingredients US, LLC, Maxens GmbH.
20060080	Symantec Corporation	BindView Development Corporation	BindView Development Corporation.
20060140	Platinum Equity Capital Partners, L.P.	RAG AG	ESM Group, Inc.
Transactions Granted Early Termination—11/17/2005			
20060090	Handleman Company	Nima Taghavi	Crave Entertainment Group, Inc.
20060106	Fountain Investments, LLC	Energy Coal Resources, Inc.	Energy Coal Resources, Inc.
Transactions Granted Early Termination—11/18/2005			
20051050	New York Stock Exchange, Inc.	Archipelago Holdings, Inc.	Archipelago Holdings, Inc.
20051051	Archipelago Holdings, Inc.	New York Stock Exchange, Inc.	New York Exchange, Inc.
20051657	Oracle Corporation	Siebel Systems, Inc.	Siebel Systems, Inc.
20051658	Siebel Systems, Inc.	Oracle Corporation	Oracle Corporation.
20060010	GlaxoSmithKline plc	ID Biomedical Corporation	ID Biomedical Corporation.
20060085	Macquarie Industrial Investments Norway AS.	DNH International S.a.r.l.	Dyno Nobel Holdings ASA.
20060093	KKR Millennium Fund L.P.	KRG/CMS L.P.	Accellent Inc.
20060132	Endeavour Capital Fund IV, L.P.	Tidewater Holdings, Inc.	Tidewater Holdings, Inc.
20060135	Sentara Healthcare	Obici Health System, Inc.	Obici Health System, Inc.
20060152	Romano Volta and Lucia Fantini	Littlejohn Fund II, L.P.	LJ Scanner Holdings, Inc.
20060153	Sydney L. Small	Nassau Broadcasting Partners, L.P.	Nassau Broadcasting Partners, L.P.
20060156	Harbert Distressed Investment Offshore Fund, Ltd..	MS Jewelers Limited Partnership	Friedman's Inc.
20060157	Charlesbank Equity Fund VI, Limited Partnership.	Masco Corporation	Zenith Products Corporation.
20060172	Hushang Ansary	Stewart & Stevenson Services, Inc.	Stewart & Stevenson Services, Inc.
20060176	Greenbriar Equity Fund, L.P.	James E. Coles	Western Peterbilt Inc., Western Truck Parts & Equipment Company LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative or Renee Hallman, Contact Representative.

Federal Trade Commission, Premerger Notification Office, Bureau of

Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05–23498 Filed 11–29–05; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the State Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2006 Through September 30, 2007

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

SUMMARY: The Federal Medical Assistance Percentages and Enhanced Federal Medical Assistance Percentages for Fiscal Year 2007 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2006 through September 30, 2007. This notice announces the calculated ''Federal Medical Assistance Percentages'' and ''Enhanced Federal Medical Assistance Percentages'' that we will use in determining the amount of Federal matching for State medical assistance (Medicaid) and State Children's Health Insurance Program (SCHIP) expenditures, and Temporary Assistance for Needy Families (TANF) Contingency Funds, the Federal share of Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Foster Care Title IV–E Maintenance payments, and Adoption Assistance payments. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Programs under title XIX of the Act exist in each jurisdiction; programs under titles I, X, and XIV operate only in Guam and the Virgin Islands; while a program under title XVI (Aid to the Aged, Blind, or Disabled) operates only in Puerto Rico. Programs under title XXI began operating in fiscal year 1998. The percentages in this notice apply to State expenditures for most medical services and medical insurance services, and assistance payments for certain social services. The statute provides separately for Federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Act require the Secretary of Health and Human Services to publish the Federal Medical Assistance Percentages each year. The Secretary is to calculate the percentages, using formulas in sections 1905(b) and 1101(a)(8)(B), from the Department of Commerce's statistics of average income per person in each State and for the Nation as a whole. The percentages are within the upper and lower limits given in section 1905(b) of the Act. The percentages to be applied to the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

The ''Federal Medical Assistance Percentages'' are for Medicaid. Section 1905(b) of the Act specifies the formula for calculating Federal Medical Assistance Percentages as follows:

> ''Federal medical assistance percentage'' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum.

Section 4725 of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the Federal Medical Assistance Percentage for the District of Columbia for purposes of titles XIX and XXI shall be 70 percent. For the District of Columbia, we note under the table of Federal Medical Assistance Percentages the rate that applies in certain other programs calculated using the formula otherwise applicable, and the rate that applies in certain other programs pursuant to section 1118 of the Social Security Act.

Section 2105(b) of the Act specifies the formula for calculating the Enhanced Federal Medical Assistance Percentages as follows:

> The ''enhanced FMAP'', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.

The ''Enhanced Federal Medical Assistance Percentages'' are for use in the State Children's Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the Enhanced Federal Medical Assistance Percentages. We include them in this notice for the convenience of the States.

DATES: The percentages listed will be effective for each of the 4 quarter-year periods in the period beginning October 1, 2006 and ending September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Kate Bloniarz or Robert Stewart, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93–596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: State Children's Health Insurance Program)

Dated: November 22, 2005.

Michael O. Leavitt,

Secretary.

BILLING CODE 4120–03–P

Federal medical assistance percentages and enhanced Federal medical assistance percentages, Effective October 1, 2006-September 30, 2007 (Fiscal year 2007)

State	Federal Medical Assistance Percentages	Enhanced Federal Medical Assistance Percentages
Alabama	68.85	78.20
Alaska	51.07	65.75
American Samoa*	50.00	65.00
Arizona	66.47	76.53
Arkansas	73.37	81.36
California	50.00	65.00
Colorado	50.00	65.00
Connecticut	50.00	65.00
Delaware	50.00	65.00
District of Columbia**	70.00	79.00
Florida	58.76	71.13
Georgia	61.97	73.38
Guam*	50.00	65.00
Hawaii	57.55	70.29
Idaho	70.36	79.25
Illinois	50.00	65.00
Indiana	62.61	73.83
Iowa	61.98	73.39
Kansas	60.25	72.18
Kentucky	69.58	78.71
Louisiana	69.69	78.78
Maine	63.27	74.29
Maryland	50.00	65.00
Massachusetts	50.00	65.00
Michigan	56.38	69.47
Minnesota	50.00	65.00
Mississippi	75.89	83.12
Missouri	61.60	73.12
Montana	69.11	78.38
Nebraska	57.93	70.55
Nevada	53.93	67.75
New Hampshire	50.00	65.00
New Jersey	50.00	65.00
New Mexico	71.93	80.35
New York	50.00	65.00
North Carolina	64.52	75.16
North Dakota	64.72	75.30
Northern Mariana Islands*	50.00	65.00
Ohio	59.66	71.76
Oklahoma	68.14	77.70
Oregon	61.07	72.75
Pennsylvania	54.39	68.07
Puerto Rico*	50.00	65.00
Rhode Island	52.35	66.65
South Carolina	69.54	78.68
South Dakota	62.92	74.04
Tennessee	63.65	74.56
Texas	60.78	72.55
Utah	70.14	79.10
Vermont	58.93	71.25
Virgin Islands*	50.00	65.00
Virginia	50.00	65.00
Washington	50.12	65.08
West Virginia	72.82	80.97
Wisconsin	57.47	70.23
Wyoming	52.91	67.04

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.

** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, including programs remaining in Title IV of the Act, the percentage for D.C is 50.00.

[FR Doc. 05–23392 Filed 11–29–05; 8:45 am]

BILLING CODE 4120–03–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to particpate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for ''The Building Research Infrastructure Capacity'' (BRIC) RFA, are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: The Building Research Infrastructure Capacity (BRIC) RFA.

Date: December 15–16, 2005 (Open on December 15 from 8 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: Doubletree Hotel, Executive Meeting Center, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: November 21, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–23491 Filed 11–29–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004G–0381]

Guidance for Industry and Food and Drug Administration Staff, Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Guidance for Industry and FDA Staff entitled ''Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.'' The document finalizes the draft guidance entitled ''Draft Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.'' The guidance clarifies the circumstances under which FDA may access and copy records under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. (''Bioterrorism Act''), and describes the procedure that FDA intends to follow to exercise its authority to inspect records under the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Submit written or electronic comments on agency guidance documents at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002'' to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 240–632–6861. Submit written comments on the final guidance to the Division of Dockets Management (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Diane Kelley, Office of Regulatory Affairs (HFC–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6860, or e-mail *Diane.Kelley@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 9, 2004 (69 FR 71657), FDA (we) announced the availability of a draft guidance entitled ''Draft Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.'' FDA has finalized the guidance.

FDA received a number of comments in response to the draft guidance. The agency considered those within the scope of this document carefully and is making two changes to the draft guidance. First, we have expanded the answer to question III.C, which describes records FDA may not access, to clarify that FDA has authority to access lists of ingredients (sections 414(a) and 704(a) of the act. Second, we have changed the answer to question III. E, which describes how FDA intends to make a records request, to indicate that FDA intends to use a new form to make such a request. FDA has decided to create a specific form to document a request to access and copy records under the Bioterrorism Act. The form FDA 482c ''Notice of Inspection—Request for Records'' will be presented to the owner, operator, or agent in charge, once FDA determines that the threshold for requesting records has been attained. This form will assist industry and the agency in distinguishing this type of notice from a routine Notice of Inspection.

This Level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on how it will exercise its authority to access records under the Bioterrorism Act (sections 414(a) and 704(a) of the act (21 U.S.C. 350c and 374)). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 1.337, 1.345, and 1.352 have been approved under OMB Control Number 0910–0560.

III. Comments

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. The final guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the final guidance at *http://www.fda.gov/oc/bioterrorism/bioact.html* under ''Section 306 (Records Maintenance)''.

Dated: November 18, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–23504 Filed 11–29–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Multistate Conservation Grant Program; Priority List for Conservation Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of receipt of priority list.

SUMMARY: The U.S. Fish and Wildlife Service (FWS) is publishing in the **Federal Register** the priority list of wildlife and sport fish conservation projects submitted by the International Association of Fish and Wildlife Agencies (IAFWA) for funding under the Multistate Conservation Grant Program. This notice is required by the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Pub. L. 106–408). FY 2006 grants may be awarded from this priority list.

FOR FURTHER INFORMATION CONTACT: Pam Matthes, Multistate Conservation Grants Program Coordinator, Division of Federal Assistance, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP–4020, Arlington, Virginia 22203; phone (703) 358–2156; or e-mail *Pam_Matthes@fws.gov.*

SUPPLEMENTARY INFORMATION: The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Improvement Act) amended the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*) and established the Multistate Conservation Grant Program. The Improvement Act authorizes grants of up to $3 million annually from funds available under each of the Restoration Acts, for a total of up to $6 million annually. Grants may be awarded from a list of priority projects recommended to the FWS by the IAFWA. The Director of the FWS, exercising the authority of the Secretary of the Interior, need not fund all IAFWA-recommended projects, but may fund only those projects identified on IAFWA's priority list. Funds under the Multistate Conservation Grant Program may be used for sport fisheries and wildlife management and research projects, boating access development, hunter safety and education, aquatic education, fish and wildlife habitat improvements and other purposes consistent with the purposes of the enabling legislation.

To be eligible for funding, a project must benefit fish and/or wildlife conservation in at least 26 States, a majority of the States in a region of the FWS, or a regional association of State fish and wildlife agencies. Grants may be awarded to a State or group of States as well as to non-governmental organizations. For the purpose of carrying out the National Survey of Fishing, Hunting and Wildlife-Associated Recreation, grants may be awarded to the FWS or to a State or a group of States. Also, IAFWA requires all project proposals to address its National Conservation Needs, which are announced annually by the IAFWA at the same time as its request for proposals. Further, applicants must provide certification that no activities conducted under a Multistate Conservation Grant will promote or encourage opposition to the regulated hunting or trapping of wildlife or to the regulated angling for or taking of fish.

Eligible project proposals are reviewed and ranked by IAFWA Committees and interested non-governmental organizations that represent conservation organizations, sportsmen organizations, and industries that support or promote fishing, hunting, trapping, recreational shooting, bow hunting, or archery. A final list of priority projects is recommended by the IAFWA's Committee on National Grants to the Directors of State fish and wildlife agencies for their approval by majority vote. The final approved list is then recommended to the FWS for funding under the Multistate Conservation Grant Program and must be submitted to the FWS by October 1.

This year, the FWS received a list of 23 IAFWA-recommended projects, 4 of which are recommended as contingent projects. They are recommended for funding in 2006, contingent on the Multistate Conservation Grant Program receiving additional funds as specified in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (Pub. L. 109–059) passed in August 2005. The list recommended by IAFWA follows:

BILLING CODE 4310–55–P

Priority List	ID	Project Title	Submitter	2006 Wildlife Restoration	2006 Sport Fish Restoration	2007 Wildlife Restoration	2007 Sport Fish Restoration	2008 Wildlife Restoration	2008 Sport Fish Restoration	Total Grant Request
Yes	06-003	Complete the Approval Requirements for AQUI-S®, Zero Withdrawal Anesthetic	IAFWA		$25,157		$104,477		$106,321	**$235,955**
Yes	06-004	Data-Driven Strategies to Recruit and Retain Anglers	IAFWA		$160,452					**$160,452**
Yes	06-005	Multistate Conservation Grant Program Coordination	IAFWA	$48,484	$48,484	$50,344	$50,344	$52,204	$52,204	**$302,064**
Yes	06-006	Development and coordination, IAFWA N.A. Conservation Education Strategy	IAFWA	$41,800	$41,800	$72,325	$72,325	$72,325	$72,325	**$372,900**
Yes	06-007	Clarifying Population Objectives for Waterfowl Habitat and Harvest Mngt.	IAFWA	$66,000		$27,500				**$93,500**
Yes	06-008	Training Opportunities for New Trapper Education Program Materials	IAFWA	$60,500						**$60,500**
Yes	06-009	Review of Conservation Practices Used on Conservation Reserve Program Land	IAFWA	$39,700	$39,700					**$79,400**
Yes	06-010	(Conservation Security Program) Evaluating the Integration of Fish & Wildlife	IAFWA	$37,500	$37,500	Not approved	Not approved			**$75,000**
Yes	06-011	Coordination of Farm Bill Conservation Program Implementation to Optimize Fish	IAFWA	$28,287.50	$28,287.50	$28,287.50	$28,287.50			**$113,150**
Yes	06-020	American Woodcock Conservation Initiative: Atlantic Northern Forest Bird Conservation	Wildlife Management Institute	$22,000		$22,000		$22,000		**$66,000**
Yes	06-024	Regional model for development and implementation of a comprehensive bird	American Bird Conservancy	$187,360		$159,483		$170,983		**$517,826**
Yes	06-029	Explore Archery: A process for strategic placement of archery ranges	Bowhunting Preservation Alliance	$38,000		$43,000				**$81,000**
Yes	06-032	Production of a "Guide to Fishing and Boating with Children"	Future Fisherman Foundation		$109,000					**$109,000**
Yes	06-034	An Aquatic Habitat Plan for the southeastern United States	Georgia Department of Natural Resources		$132,500		$124,500			**$257,000**
Yes	06-039	Implementation of the National CP33 Monitoring Program	Mississippi State University	$235,950		$235,950		$235,950		**$707,850**
Yes	06-040	Building the Interstate Capacity of the Northern Bobwhite Conservation Initiative	Tennessee Wildlife Resources Agency	$62,500		$87,500		$89,500		**$239,500**
Yes	06-052	Project Manager and Coordinator for the 2006 National Survey of Fishing, Hunting	USFWS	$173,608	$173,608	$200,080.50	$200,080.50	$210,606	$210,606	**$1,168,589**
Yes	06-055	Sage-Grouse Interstate Working Group Coordinator	Western Association of Fish and Wildlife Agencies	$101,475						**$101,475**
Yes	06-056	Advancing Human Dimensions Expertise among Fish and Wildlife Agencies	Western Association of Fish and Wildlife Agencies	$49,059	$49,059	$94,564.50	$94,564.50			**$287,247**
Contingent	06-022	International Instream Flow Program Initiative	Instream Flow Council (IFC)		$24,000		$156,000		$82,000	**$262,000**
Contingent	06-025	Fisheries Database Summit II, Data to Support the National Fish Habitat Initiative	American Fisheries Society-Computer User Section		$95,700					**$95,700**
Contingent	06-050	Midwest Driftless Area Fish Habitat Restoration Effort	Trout Unlimited – Midwest Office		$94,600		$97,900			**$192,500**
Contingent	06-057	Western Native Trout Initiative	Western Association of Fish and Wildlife Agencies		$188,365		$188,365		$188,365	**$565,095**

Dated: October 31, 2005.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–23489 Filed 11–29–05; 8:45 am]

BILLING CODE 4310–55–C

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–406, Enforcement I (Remand)]

In the Matter of Certain Lens-Fitted Film Packages; Notice of Commission Decision To Terminate a Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned proceeding.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3104. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this enforcement proceeding on July 31, 2001, based on a complaint filed by Fuji Photo Film Co., Ltd. (''Fuji''). Fuji sought to enforce a general exclusion order issued as a result of an investigation conducted by the Commission in 1999, Inv. No. 337–TA–406, *Certain Lens-Fitted Film Packages.* The investigation involved newly made and refurbished lens-fitted film packages and involved numerous Fuji patents, including U.S. Patent No. 4,884,087 (''the '087 patent''). The initial investigation also involved numerous respondents, twenty-six of whom were found to violate section 337 of the Tariff Act of 1930. Respondent VastFame Camera, Ltd. (''VastFame'') was not a party to the initial investigation, and its VN99 and VN991 cameras were not at issue in that investigation.

During the enforcement proceedings, VastFame pled as a defense that claim 15 of the '087 patent was invalid under 35 U.S.C. 102 and 103(a). The presiding administrative law judge refused to consider invalidity, ruling that no defense could be raised in the enforcement proceeding. The Commission adopted this ruling. VastFame appealed this ruling to the Federal Circuit, which reversed and remanded the case for further proceedings. *See VastFame Camera, Ltd.* v. *Int'l Trade Comm'n*, 386 F.3d 1108 (Fed. Cir. 2004). VastFame did not challenge the ALJ's determination that the VN99 and VN991 cameras infringe claim 15 of the '087 patent.

On June 23, 2005, the ALJ precluded VastFame from raising new invalidity defenses under 35 U.S.C. 112, and, on June 25–26, 2005, the ALJ conducted an evidentiary hearing on the remaining invalidity issues. The ALJ held that the asserted prior art references, Japanese Unexamined Utility Model Publication Nos. 53–127934 and 48–46622, do not anticipate claim 15 of the '087 patent and that they do not render the claimed invention obvious in combination with Dutch Patent No. 6,708,486.

On September 23, 2005, VastFame filed a petition for review, arguing that the ALJ improperly concluded that claim 15 is not invalid. On September 30, 2005, the Commission's investigative attorney filed a response to VastFame's petition, and on October 3, 2005, Fuji also filed a response. Both asserted that VastFame had not shown any clear error of fact, error of law, or abuse of discretion in the ALJ's final initial determination (ID) that would merit Commission review.

On October 27, 2005, after examining the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission determined to review in part the ALJ's ID. Specifically, the Commission determined to review the portion of the ALJ's claim interpretation that relies on law of the case. On review, the Commission determined to take no position with respect to that analysis, but affirmed the ALJ's claim construction based on his independent finding that the preamble to claim 15 is a claim limitation.

The Commission requested that the parties provide written submissions indicating whether there are any further proceedings required by the Commission to complete this remand. All parties responded that no further proceedings were required. Accordingly, the Commission has terminated the remand proceedings.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

By order of the Commission.
Issued: November 23, 2005.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 05–23493 Filed 11–29–05; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Bridger Coal Company

[Docket No. M–2005–073–C]

Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942 has filed a petition to modify the application of 30 CFR 75.1101–8 (Water sprinkler systems; arrangement of sprinklers) to its Bridger Underground Mine (MSHA I.D. No. 48–01646) located in Sweetwater County, Wyoming. The petitioner requests to modify the application of 30 CFR 75.1101–8 (Water sprinkler systems arrangement of sprinklers) if the belt controller and take-up control units comply with existing safety standards 30 CFR 75.340 and 75.1107–1(a)(3). The petitioner states that the units presently are electric and are located in transformer rooms which comply with the safety standards 75.340 and 75.1107–1(a)(3). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Brooks Run Mining Company, LLC

[Docket No. M–2005–074–C]

Brooks Run Mining Company, LLC, 25 Little Birch Road, Sutton, West Virginia 25601 has filed a petition to modify the application of 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility) to its Saylor Mine (MSHA I.D. No. 46–09126) located in Braxton County, West Virginia. The petitioner requests a modification of the existing standard to permit a production stream to be maintained from the 2,400-volt continuous miners at the Saylor Mine. The petitioner has listed in this petition specific terms and conditions that will be followed when the proposed

alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. AMFIRE Mining Company, LLC

[Docket No. M–2005–075–C]

AMFIRE Mining Company, LLC, P.O. Box 157, Clymer, Pennsylvania 15728 has filed a petition to modify the application of 30 CFR 75.1710–1 (Canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Nolo Mine (MSHA I.D. No. 36–08850) located in Indiana County, Pennsylvania. The petitioner proposes to operate self-propelled electric face equipment without cabs and canopies in coal seams of 48″ or less. The petitioner asserts that using cabs and canopies on the equipment in areas of 48′ or less results in a diminution of safety causing the roof support to be dislodged. In addition, the operator's visibility is decreased which poses a hazardous situation to persons traveling on foot. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail: *zzMSHA-Comments@dol.gov*; Fax: (202) 693–9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before December 30, 2005. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 23rd day of November 2005.

Rebecca J. Smith,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. E5–6705 Filed 11–29–05; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Modification Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 30, 2005. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (2004–009) to Dr. Robert L. Pitman on January 15, 2004. The issued permit allows the applicant to collect biopsy samples of up to 200 Killer whales and skin and tissue samples from approximately 10 Minke and 4 Arnoux's Beaked whales.

The applicant requests a modification to his permit to attach satellite tags on approximately 20 Killer whales to monitor their distribution. The tabs will be embedded at the base of the dorsal fin until such time the tissue rejects it and the tag falls off.

Location: Antarctic waters.

Dates: December 15, 2005 to March 31, 2006.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 05–23500 Filed 11–29–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY: Nuclear Regulatory Commission.

DATE: Weeks of November 28, December 5, 12, 19, 26, 2005, January 2, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 28, 2005

Tuesday, November 29, 2005

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2).

Wednesday, November 30, 2005

9:25 a.m. Affirmation Session (Public Meeting) (Tentative). a. Exelon Generation Company, LLC (Early Site Permit for Clinton Site) (Tentative).

9:30 a.m. Briefing on EEO Program (Public Meeting). (Contact: Corenthis Kelley, 301–415–7380).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

Week of December 5, 2005—Tentative

Thursday, December 8, 2005

1 p.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS). (Contact: John Larkins, 301–415–7360).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

Week of December 12, 2005—Tentative

Monday, December 12, 2005

9 a.m. Discussion of Security Issues (Closed—Ex. 1).

Wednesday, December 14, 2005

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1).

Thursday, December 15, 2005

1:30 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1).

Week of December 19, 2005—Tentative

There are no meetings scheduled for the Week of December 19, 2005.

Week of December 26, 2005—Tentative

There are no meetings scheduled for the Week of December 26, 2005.

Week of January 2, 2006—Tentative

There are no meetings scheduled for the Week of January 2, 2006.

*The schedule for commission meetings is subject to change on short

notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: November 23, 2005.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 05–23518 Filed 11–28–05; 10:15 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

State of Minnesota: NRC Draft Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Minnesota

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a Proposed Agreement with the State of Minnesota.

SUMMARY: By letter dated July 6, 2004, Governor Tim Pawlenty of Minnesota requested that the U.S. Nuclear Regulatory Commission (NRC) enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended (Act).

Under the proposed Agreement, the Commission would discontinue, and Minnesota would assume, portions of the Commission's regulatory authority exercised within the State. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing the summary of a Draft Staff Assessment of the Minnesota Program. Comments are requested on the proposed Agreement and the NRC Draft Staff Assessment which finds the Program adequate to protect public health and safety and compatible with NRC's program for regulation of agreement material.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Minnesota from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR part 150.

DATES: The comment period expires December 9, 2005. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555–0001. Comments may be submitted electronically at *nrcrep@nrc.gov*.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at (800) 397–4209, or (301) 415–4737, or by e-mail to *pdr@nrc.gov*.

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O–1–F21, Rockville, Maryland. Copies of the request for an Agreement by the Governor of Minnesota including all information and documentation submitted in support of the request, and copies of the full text of the NRC Draft Staff Assessment are also available for public inspection in the NRC's Public Document Room—ADAMS Accession Numbers: ML041960496, ML041960499, ML052440344, ML050130375, ML050140452, ML051330043, ML051740384, ML051650073, ML052200424, and ML053060372.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–3340 or e-mail *CHM1@nrc.gov*.

SUPPLEMENTARY INFORMATION: Since section 274 of the Act was added in 1959, the Commission has entered into Agreements with 33 States. The Agreement States currently regulate approximately 17,200 agreement material licenses, while NRC regulates approximately 4,700 licenses. Under the proposed Agreement, approximately 167 NRC licenses will transfer to Minnesota. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of section 274.

Section 274e requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This Notice is being published in fulfillment of the requirement.

I. Background

(a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials [1] and activities that involve use of the materials.

In a letter dated July 6, 2004, Governor Pawlenty certified that the State of Minnesota has a program for the control of radiation hazards that is adequate to protect public health and safety within Minnesota for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this Notice.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') which the State of Minnesota requests authority over are: (1) The possession and use of byproduct materials as defined in section 11e.(1) of

[1] The radioactive materials are: (a) byproduct materials as defined in section 11e.(1) of the Act; (b) byproduct materials as defined in section 11e.(2) of the Act; (c) source materials as defined in section 11z. of the Act; and (d) special nuclear materials as defined in section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

the Act; (2) the possession and use of source materials; and (3) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass, as provided for in regulations or orders of the Commission.

(b) The proposed Agreement contains articles that:

—Specify the materials and activities over which NRC's authority is discontinued and transferred;

—Specify the activities over which the Commission will retain regulatory authority;

—Continue the authority of the Commission to safeguard nuclear materials and restricted data;

—Commit the State of Minnesota and NRC to exchange information as necessary to maintain coordinated and compatible programs;

—Provide for the reciprocal recognition of licenses;

—Provide for the amendment, suspension or termination of the Agreement; and

—Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the Chairman of the Commission and the Governor of Minnesota.

(c) Minnesota currently registers users of naturally-occurring and accelerator-produced radioactive materials. Authority for Minnesota's radiation control unit and proposed Agreement State activities is primarily found in Minnesota Statutes, sections 144.12–144.121, and in the Minnesota Rules Chapter 4731. Section 144.1202 provides the authority for the Governor to enter into an Agreement with the Commission and contains provisions for the orderly transfer of regulatory authority over affected licensees from NRC to the State. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Minnesota licenses until the licenses expire or are replaced by State-issued licenses.

(d) The NRC Draft Staff Assessment finds that the Minnesota Program is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of agreement materials.

II. Summary of the NRC Draft Staff Assessment of the Minnesota Program for the Control of Agreement Materials

NRC staff has examined the Minnesota request for an Agreement with respect to the ability of the Minnesota radiation control program to regulate agreement materials. The examination was based on the Commission's policy statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement'' (referred to herein as the ''NRC criteria''), published on January 23, 1981 (46 FR 7540), as amended by policy statements published on July 16, 1981 (46 FR 36969), and on July 21, 1983 (48 FR 33376).

(a) Organization and Personnel. The agreement materials program will be located within the existing Environmental Health Division (Program) of the Minnesota Department of Health (MDH). The Program will be responsible for implementation of all regulatory activities related to the proposed Agreement.

The educational requirements for the Program staff members are specified in the Minnesota State personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all staff members have had additional training plus working experience in radiation protection. The Program supervisor has more than 20 years work experience in radiation protection.

The Program performed, and NRC staff reviewed, an analysis of the expected Program workload under the proposed Agreement. Based on the NRC staff review of the State's staff analysis, Minnesota has an adequate number of staff to regulate radioactive materials under the terms of the Agreement. The Program will employ a staff of 3.5 full-time professional/technical and administrative employees for the agreement materials program. The distribution of the qualifications of the individual staff members will be balanced to the distribution of categories of licensees transferred from NRC.

(b) Legislation and Regulations. The MDH is designated by law in Section 144.1202 of the Minnesota Statutes to be the radiation control agency. The law provides the MDH the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors. The MDH is authorized to promulgate regulations.

The State's regulations are found in Minnesota Rules Chapter 4731 effective June 2004. The NRC staff reviewed and forwarded comments on these regulations to the Minnesota staff. The NRC staff review verified that, with the comments incorporated, the Minnesota rules, and with the addition of legally binding requirements to incorporate recent changes to 10 CFR Part 35 and 71 contain all of the provisions that are necessary in order to be compatible with the regulations of the NRC on the effective date of the Agreement between the State and the Commission. The MDH has extended the effect of the rules, where appropriate, to apply to naturally-occurring or accelerator-produced radioactive materials (NARM), in addition to agreement materials. The NRC staff is satisfied that the Minnesota Program, will not regulate in areas reserved to the NRC in matters concerning or affecting the proposed Agreement.

(c) Storage and Disposal. Minnesota has also adopted NRC compatible requirements for the handling and storage of radioactive material. Minnesota will not seek authority to regulate the land disposal of radioactive material as waste. The Minnesota waste disposal requirements cover the preparation, classification and manifesting of radioactive waste, generated by Minnesota licensees, for transfer for disposal to an authorized waste disposal site or broker.

(d) Transportation of Radioactive Material. Minnesota has adopted regulations compatible with NRC regulations in 10 CFR Part 71. Part 71 contains the requirements that licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials.

(e) Recordkeeping and Incident Reporting. Minnesota has adopted the sections compatible with the NRC regulations which specify requirements for licensees to keep records, and to report incidents, accidents, or events involving materials.

(f) Evaluation of License Applications. Minnesota has adopted regulations compatible with the NRC regulations that specify the requirements which a person must meet in order to get a license to possess or use radioactive

materials. Minnesota has also developed a licensing procedures manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the Program staff when evaluating license applications.

(g) Inspections and Enforcement. The Minnesota radiation control program has adopted a schedule providing for the inspection of licensees as frequently as the inspection schedule used by NRC. The Program has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the reporting of inspection results to the licensees. The Program has also adopted, by rule based on the Minnesota Statutes, procedures for the enforcement of regulatory requirements.

(h) Regulatory Administration. The MDH is bound by requirements specified in State law for rulemaking, issuing licenses, and taking enforcement actions. The Program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Minnesota law prescribes standards of ethical conduct for State employees.

(i) Cooperation with Other Agencies. Minnesota law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Minnesota. The law provides that these former NRC licenses will expire on the date of expiration specified in the NRC license.

Minnesota also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. Minnesota Rules Chapter 4731 provides exemptions from the State's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors. The proposed Agreement commits Minnesota to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the Minnesota Program will continue to be compatible with the NRC's program for the regulation of agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Minnesota to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under subsection 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the NRC's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its Draft Staff Assessment, the NRC staff concludes that the State of Minnesota meets the requirements of the Act. The State's program, as defined by its statutes, regulations, personnel, licensing, inspection, and administrative procedures, is compatible with the program of the NRC and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

NRC will continue the formal processing of the proposed Agreement which includes publication of this Notice once a week for four consecutive weeks for public review and comment.

Dated at Rockville, Maryland, this 7th day of November, 2005.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Appendix A

An Agreement Between The United States Nuclear Regulatory Commission And The State Of Minnesota For The Discontinuance Of Certain Commission Regulatory Authority And Responsibility Within The State Pursuant To Section 274 Of The Atomic Energy Act Of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials as defined in sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the State of Minnesota is authorized under section 144.1202, subdivision 1, Minnesota Statutes, to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Minnesota certified on July 6, 2004, that the State of Minnesota (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on [date] that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the State recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, Therefore, It is hereby agreed between the Commission and the Governor of the State acting in behalf of the State as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials;

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

A. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

B. The regulation of the export from or import into the United States of byproduct, source, or special nuclear materials, or of any production or utilization facility;

C. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear materials waste as defined in the regulations or orders of the Commission;

D. The regulation of the disposal of such other byproduct, source, or special nuclear materials as the Commission from time to

time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission;

E. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

F. The regulation of the land disposal of byproduct, source, or special nuclear materials waste received from other persons;

G. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

With the exception of those activities identified in Article II, paragraphs A through D, this Agreement may be amended, upon application by the State and approval by the Commission, to include one or more of the additional activities specified in Article II, paragraphs E, F, and G, whereby the State may then exert regulatory authority and responsibility with respect to those activities.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear materials shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear materials.

Article VI

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and State programs for protection against hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article IX

This Agreement shall become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

For the United States Nuclear Regulatory Commission.

Nils J. Diaz,
Chariman.

For the State of Minnesota.

Tim Pawlenty,
Governor.

[FR Doc. 05–22582 Filed 11–29–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Proposed Bulletin for Good Guidance Practices

AGENCY: Office of Management and Budget.

ACTION: Notice of proposed guidelines and request for comments.

SUMMARY: The Office of Management and Budget (OMB) is proposing policies and procedures for agencies to develop, issue, and use guidance documents. This Bulletin is intended to increase the quality and transparency of agency guidance practices and the guidance documents produced through them.

DATES: Written comments regarding OMB's Proposed Bulletin for Good Guidance Practices are due by December 23, 2005.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Electronic comments may be submitted to: *OMB_GGP@omb.eop.gov.* Please put the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments also may be submitted via facsimile to (202) 395–7245.

FOR FURTHER INFORMATION CONTACT: Lisa Jones, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., New Executive Office Building, Room 10201, Washington, DC 20503. Telephone: (202) 395–5897.

SUPPLEMENTARY INFORMATION: OMB is seeking comments on its Proposed Bulletin for Good Guidance Practices by December 23, 2005. The draft Bulletin for Good Guidance Practices is posted on OMB's Web site, *http://www.whitehouse.gov/omb/inforeg/regpol.html.* This draft Bulletin provides a definition of guidance; describes the legal effect of guidance documents; establishes practices for developing guidance documents and receiving public input; and establishes ways for making guidance documents available to the public.

Dated: November 23, 2005.

John D. Graham,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. E5–6704 Filed 11–29–05; 8:45 am]

BILLING CODE 3110–01–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:* Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings.

(2) *Form(s) submitted:* RL–231–F.

(3) *OMB Number:* 3220–0107.

(4) *Expiration date of current OMB clearance:* 02/28/2006.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 150.

(10) *Collection description:* Under the Railroad Retirement Act (RRA), benefits are not payable if an annuitant works for an employer covered under the RRA or last non-railroad employer. The collection obtains information regarding an annuitant's work and earnings from a non-railroad employer. The information will be used for determining whether benefits should be withheld.

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. 05–23475 Filed 11–29–05; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27166; 812–12909]

AEW Real Estate Income Fund, et al.; Notice of Application

Date: November 23, 2005.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, under section 6(c) of the Act for an exemption from sections 18(f) and 21(b) of the Act, and under section 17(d) of the Act and Rule 17d–1 under the Act to permit certain joint arrangements.

Summary of Application: Applicants request an order that would permit certain registered management investment companies to invest cash balances in affiliated money market funds and to participate in a joint lending and borrowing facility.

Applicants: AEW Real Estate Income Fund, IXIS Advisor Funds Trust I (formerly CDC Nvest Funds Trust I), IXIS Advisor Funds Trust II (formerly CDC Nvest Funds Trust II), IXIS Advisor Funds Trust III (formerly CDC Nvest Funds Trust III), IXIS Advisor Funds Trusts IV (formerly CDC Nvest Companies Trust I), IXIS Advisor Cash Management Trust (formerly CDC Nvest Cash Management Trust), Harris Associates Investment Trust, Loomis Sayles Funds I (formerly Loomis Sayles Investment Trust), Loomis Sayles Funds II (formerly Loomis Sayles Funds), Delafield Fund, Inc., Institutional Daily Income Fund, Cortland Trust, Inc., and Short Term Income Fund, Inc. (each, a ''Trust,'' and each Trust on behalf of itself and its existing series, an ''Existing Fund''); AEW Management and Advisers, L.P., IXIS Asset Management Advisors, L.P. (formerly CDC IXIS Asset Management Advisers, L.P.), Harris Associates L.P., Loomis, Sayles & Company, L.P., and Reich & Tang Asset Management, LLC (each, an ''Applicant Adviser'').

Filing Dates: The application was filed on December 12, 2002, and amended on November 2, 2005.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 20, 2005 and should be accompanied by proof of service on the 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 Commission's Secretary.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549–9303; Applicants, c/o Coleen Downs Dinneen, Esq., IXIS Asset Advisors, L.P., 399 Boylston Street, Boston, MA 02116.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Stacy L. Fuller, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 at telephone (202) 551–5850.

Applicants' Representations

1. Each of the Existing Funds is a management investment company registered under the Act, and is organized as a Massachusetts business trust or a Maryland corporation. All but one of the Existing Funds are open-end investment companies (''open-end Funds''); the AEW Real Estate Income Fund is a closed-end investment company (''closed-end Fund''). Certain of the open-end Funds are money market funds subject to the requirements of Rule 2a–7 under the Act (each, a ''Central Fund''). Any Funds that are not Central Funds are referred to herein as ''Participating Funds.''

2. Applicants request that any relief granted pursuant to the Application also apply to any future series of the Trusts and to any other existing or future registered management investment companies, or series thereof, for which an Applicant Adviser, or a company controlling, controlled by, or under common control with an Applicant Adviser (together with the Applicant Advisers, the ''Advisers''), acts as investment adviser or sub-adviser (''Future Funds'' and together with the Existing Funds, the ''Funds'').[1] Each Applicant Adviser is registered as an investment adviser under the Investment Advisers Act of 1940, and is an investment adviser to one or more of the Existing Funds. Each Applicant Adviser is an indirect wholly-owned subsidiary of IXIS Asset Management North America, L.P. Each Adviser, as the primary investment adviser or as subadviser to a Participating Fund is, and will be, responsible for the investment of Cash Balances, as defined below.

[1] All existing Funds that presently intend to rely on the order are named as Applicants. Any existing or future Fund that subsequently relies on the order will comply with the terms and conditions in the Application.

A. Investment of Cash Balances in the Central Funds

1. Each Participating Fund has, or may be expected to have, cash reserves that have not been invested in portfolio securities (''Uninvested Cash'') held by its custodian. Uninvested Cash may result from a wide variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, liquidations of investment securities, and new investor monies. In addition, certain of the Participating Funds also may participate in a securities lending program (''Securities Lending Program'') under which the Participating Funds lend their securities to registered broker-dealers or other institutional investors. These loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral,'' and together with Uninvested Cash, ''Cash Balances''). Any Securities Lending Program, including any investment of Cash Collateral will comply with all present and future Commission and staff positions regarding securities lending arrangements.

2. Applicants request an order to permit each Participating Fund to use its Cash Balances to purchase shares of one or more of the Central Funds that are in the same group of investment companies (as defined in section 12(d)(1)(G) of the Act) as the Participating Fund, and each Central Fund to sell its shares to, and redeem its shares from, Participating Funds that are in the same group of investment companies as the Central Fund (''Cash Sweep''). Investment by a Participating Fund of Cash Balances in shares of the Central Funds will be in accordance with each Participating Fund's investment restrictions and will be consistent with each Participating Fund's policies as set forth in its prospectus or statement of additional information (''SAI''). Applicants believe that by investing Cash Balances in the Central Funds, Participating Funds may reduce their transaction costs, create more liquidity, increase returns, and diversify holdings.

3. In connection with the proposed Cash Sweep transactions, applicants request an order under (i) section 12(d)(1)(J) of the Act granting relief from sections 12(d)(1)(A) and (B) of the Act; (ii) sections 6(c) and 17(b) of the Act granting relief from section 17(a) of the Act; (iii) section 17(d) of the Act and Rule 17d–1 under the Act to permit certain joint arrangements.

B. Interfund Lending Program

1. Under current arrangements, the Funds may lend money to banks, brokers or other entities by entering into repurchase agreements or purchasing other short-term instruments. In addition, the open-end Funds may borrow money from the same or other banks for temporary or emergency purposes to satisfy redemption requests or to cover unanticipated cash shortfalls, such as trade ''fails'' in which cash payments for a portfolio security sold by a Fund have been delayed. The open-end Funds may have credit arrangements with their custodians under which a custodian may, but is not obligated to, lend money to the Funds to meet their temporary or emergency cash needs. The open-end Funds may also borrow money from banks, brokers and other entities by entering into reverse repurchase agreements and economically similar transactions.

2. If an open-end Fund borrows money from any bank under its current arrangements or under other arrangements, the Fund will pay interest on the borrowed cash at a significantly higher rate than the rate that would be earned by other (non-borrowing) Funds on repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit for serving as a middleman between a borrower and lender. Other bank loan arrangements, such as committed lines of credit, may require a borrowing Fund to pay substantial commitment fees in addition to the interest rate to be paid by the Fund on outstanding loans.

3. Applicants request an order that would permit Funds that are in the same group of investment companies to enter into lending agreements (''Interfund Lending Agreements'') to lend and borrow money for temporary purposes directly to and from each other through a credit facility (''Interfund Loans'').[2] Applicants believe that the proposed credit facility (''Credit Facility'') would both substantially reduce the borrowing costs of an open-end Fund that sought to borrow money for temporary or emergency purposes and enhance the ability of a lending Fund to earn higher rates of interest on its short-term loans than it might otherwise earn on high quality, short-term, interest-bearing investments. Although the Credit Facility would substantially reduce an open-end Fund's reliance on bank credit arrangements, the Funds may continue to maintain bank loan facilities.

4. Applicants state that the Credit Facility would likely provide a borrowing Fund with significant savings when its cash position is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the borrowing Fund has insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The Credit Facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

5. Applicants also propose using the Credit Facility when a sale of securities fails due to circumstances beyond a Fund's control, such as delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction (''sales fails''). Sales fails may present a cash shortfall if the Fund has undertaken to purchase a security with the proceeds from securities sold. Under such circumstances, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional costs to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the Credit Facility would enable the Funds to have access to immediate short-term liquidity without incurring overdraft or other charges.

6. While bank borrowings generally could supply needed cash to cover unanticipated redemptions and sales fails, under the Credit Facility a borrowing Fund would pay lower interest rates than those that would be payable under short-term loans offered by banks. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or purchasing shares of Central Funds. Thus, Applicants assert that the Credit Facility would benefit both borrowing and lending Funds.

7. The interest rate to be charged on Interfund Loans (the ''Interfund Rate'') would be determined daily and would be the average of (i) the higher of (x) the ''OTD Rate,'' as defined below, and (y) the ''Repo Rate,'' as defined below, and (ii) the ''Bank Loan Rate,'' as defined below. The OTD Rate on any day would be the highest rate available to the lending Funds from investments in

[2] The Central Funds and closed-end Funds will participate in the Credit Facility only as lenders.

overnight time deposits. The Repo Rate on any day would be the highest interest rate available to the lending Funds from investments in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by the Interfund Lending Team, as defined below, according to a formula established by the board of trustees of each Fund (''Board''), intended to approximate the lowest interest rate at which short-term bank loans are available to the Funds. The formula would be based upon a publicly available rate (*e.g.*, Federal funds rate plus 25 basis points) and would vary with that rate to reflect changing bank loan rates. The initial formula and any subsequent modification thereto would be subject to the approval of the Board of each Fund. In addition, each Fund's Board periodically would review the continuing appropriateness of reliance on the publicly available rate used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates available to the Funds.

8. The Credit Facility would be administered by personnel at Reich & Tang Asset Management, LLC (''Reich & Tang'') who have accounting experience, are members of its mutual fund administration group or the financial analysis department, and who are not portfolio managers of a Fund (''Interfund Lending Team''). No portfolio manager from any Fund would participate in the administration of the Credit Facility. Under the Credit Facility, the portfolio managers for each Fund could provide standing instructions to participate daily as a borrower or lender. On each business day the Interfund Lending Team would collect data on the uninvested cash and borrowing requirements of the Funds from each Fund's custodian, portfolio managers and/or administrators. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Team would allocate loans among borrowing Funds without any further communication from portfolio managers. Applicants expect there to be far more available cash each day than borrowing demand. After allocating cash for Interfund Loans, the Interfund Lending Team would invest any remaining cash in accordance with the standing instructions of the relevant Fund's portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Fund.

9. The Interfund Lending Team would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Team believed to be an equitable basis, subject to certain administrative requirements applicable to all Funds, such as the time of filing requests to participate, minimum loan sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan may be allocated to minimize the number of participants necessary to complete that Interfund Loan transaction. The Interfund Lending Team would not solicit cash for loans from any Funds or publish or disseminate the amount of current borrowing demand to portfolio managers.

10. The Interfund Lending Team would (i) monitor the interest rates charged and the other terms and conditions of the Interfund Loans, (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund under the Credit Facility, and (iv) make quarterly reports to the Funds' Boards concerning any transactions by the Funds under the Credit Facility and the Interfund Rates. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of trustees who are not interested persons of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure that both borrowing Funds and lending Funds participate in the Credit Facility on an equitable basis.

11. Reich & Tang would administer the Credit Facility pursuant to a form of Interfund Lending Agreement (to which Reich & Tang and each Fund participating in the Credit Facility would be a party). Reich & Tang would not receive any fees in connection with its administration of the Credit Facility.

12. No Fund would participate in the Credit Facility unless (i) it had fully disclosed all material information concerning the Credit Facility in its prospectus or SAI, or, in the case of a closed-end Fund, in its registration statement or shareholder reports, (ii) it had obtained shareholder approval to participate in the Credit Facility, if shareholder approval were required by the Fund's fundamental investment policies, and (iii) the Fund's participation in the Credit Facility was consistent with its investment policies and restrictions and its organizational documents.

13. In connection with the Credit Facility, Applicants request an order under (i) section 6(c) granting relief from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) granting relief from sections 12(d)(1)(A) and (B) of the Act; (iii) sections 6(c) and 17(b) granting relief from sections 17(a) and (iv) section 17(d) and Rule 17d–1 to permit certain joint arrangements.

Applicants' Legal Analysis

A. Investment of Cash Balances in the Central Funds

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company, its principal underwriter or any broker or dealer, may sell the company's securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) provides that the Commission may exempt any person, security, or transaction, or classes of persons, securities or transactions, from any provision of section 12(d)(1) if and to the extent that the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) from the limitations of sections 12(d)(1)(A) and (B) to permit each Participating Fund to invest its Cash Balances in the Central Funds that are in the same group of investment companies as the Participating Fund; under the requested order, the Participating Fund's aggregate investment of Uninvested Cash in the Central Funds would not exceed the greater of 25% of such Participating Fund's total assets or $10 million.

3. Applicants state that the proposed investment of Cash Balances in the Central Funds will not result in the abuses meant to be addressed by section 12(d)(1), including undue influence, layering of fees and complexity. Applicants state that because each Central Fund will maintain a highly liquid portfolio and both the Participating Fund and the Central Fund are in the same group of investment companies, there should not be a concern about undue influence by a Participating Fund over a Central Fund.

With respect to layering of fees, Applicants note that shares of the Central Funds sold to the Participating Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with Rule 12b–1 under the Act, or service fee (as defined in Rule 2830(b)(9) of the National Association of Securities Dealers, Inc. Conduct Rules (''NASD Conduct Rules'')). Applicants state that if a Central Fund offers more than one class of shares, a Participating Fund will invest its Cash Balances only in the class with the lowest expense ratio at the time of the investment. In addition, before the next meeting of the Board of a Participating Fund is held for the purpose of voting on any investment advisory contract, the investment adviser will provide the Board with information on the approximate cost to the adviser of, or portion of the advisory fee under the existing contract attributable to, managing the Participating Fund's Uninvested Cash that may be invested in the Central Funds. Further, before approving any investment advisory contract for a Participating Fund, the Board of the Participating Fund, including a majority of the Independent Trustees, will consider to what extent, if any, the investment advisory fees charged to the Participating Fund should be reduced to account for the reduced services provided to the Participating Fund as a result of Uninvested Cash being invested in the Central Funds. With regard to complexity, Applicants include a condition that the Central Funds will not acquire shares of any other investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A), except as permitted by a Commission order governing interfund loans.

4. Section 17(a) makes it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person (''Second Tier Affiliate''), acting as principal, knowingly to sell any security to or purchase any security from the investment company. Section 2(a)(3) of the Act defines an ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and, in the case of an investment company, its investment adviser. Applicants state that because the Funds share a common Adviser or have Advisers that are under common control, the Funds may be deemed to be under common control and, thus, affiliated persons of each other. In addition, applicants state that a Participating Fund may acquire more than 5% of a Central Fund's outstanding voting securities and, as a result, the Participating Fund and the Central Fund may be deemed to be affiliated persons of each other. The sale of shares by the Central Funds to the Participating Funds and the redemption of such shares would thus be prohibited under section 17(a).

5. Section 17(b) authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 6(c) authorizes the Commission to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that the request for relief to permit the purchase and redemption of shares of the Central Funds by the Participating Funds satisfies the standards in sections 6(c) and 17(b). Applicants note that shares of the Central Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. In addition, Applicants state that the Participating Funds will retain their ability to invest Cash Balances directly in money market or other instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return or for any other reason. Each Central Fund reserves the right to discontinue selling shares to any of the Participating Funds if its Board determines that the sale will adversely affect its portfolio management and operations.

7. Section 17(d) and Rule 17d–1 prohibit any affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Participating Fund (by purchasing shares of the Central Funds), the Advisers (by managing the assets of the Participating Funds and the Central Funds, including the Participating Funds' investments in the Central Funds), and each Central Fund (by selling shares to the Participating Funds) could be deemed to be participants in a ''joint enterprise or other joint arrangement'' within the meaning of section 17(d) and Rule 17d–1.

8. Rule 17d–1 permits the Commission to approve a joint arrangement covered by the terms of section 17(d). In determining whether to approve a transaction, the Commission considers whether the investment company's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that investments by the Participating Funds will be at net asset value and will be indistinguishable from any other shareholder account maintained by the Central Funds, and that the transactions will be consistent with the Act. Applicants further submit that the arrangement is not intended to increase the fees earned by the Advisers. Thus, applicants contend that the proposed transactions meet the standards for relief under Rule 17d–1.

B. Interfund Lending Program

1. Section 17(a)(3) of the Act generally prohibits any affiliated person or Second-Tier Affiliate from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management company from lending money or other property to any person if that person controls or is under common control with the company. As discussed above, Applicants believe that the Funds may be deemed to be under common control and, as a result, prohibited from participating in the Credit Facility because of sections 17(a)(3) and 21(b).

2. Applicants submit that sections 17(a)(3) and 21(b) were intended to prevent a party with potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly benefit that party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed transactions do not raise such concerns for the following reasons: (i) Reich & Tang would receive no

compensation for administering the Credit Facility; (ii) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term investments; (iii) the Interfund Loans would not involve a greater risk than such other investments; (iv) the lending Fund would earn interest on Interfund Loans at a rate higher than it could obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under bank loan agreements and avoid commitment fees associated with committed lines of credit. Moreover, Applicants believe that the other conditions proposed would effectively preclude the possibility of any Fund obtaining undue advantage over any other Fund.

3. Applicants also seek exemptions from section 17(a)(1) under sections 6(c) and 17(b) and from section 12(d)(1) under section 12(d)(1)(J) with respect to the Credit Facility. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1)(J), as stated above, are satisfied for all the reasons set forth in the two preceding paragraphs in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons set forth below.

4. As discussed above, Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid, among other things, duplicative costs and fees that are generated by multiple layers of investment companies. Applicants submit that the Credit Facility does not involve these types of abuses. Regarding duplicative costs, Applicants state that Reich & Tang would administer the Credit Facility pursuant to an Interfund Lending Agreement between it and the relevant Fund and would not receive any compensation for its services. Applicants further state that the purpose of the Credit Facility is to provide economic benefits for all participating Funds.

5. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security, except that a company may borrow from any bank so long as immediately after the borrowing there is asset coverage of at least 300% for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the Credit Facility (because the lending Funds are not banks).

6. Applicants believe that granting relief under section 6(c) is appropriate. Based on the conditions and safeguards described in the Application, Applicants also submit that to allow the Funds to borrow from other Funds under the Credit Facility is consistent with the purposes and policies of section 18(f)(1).

7. Applicants also request an order under Rule 17d–1 with respect to the Credit Facility. Applicants state that the Credit Facility could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of section 17(d) and Rule 17d–1. Applicants submit that the proposed transactions meet the standards of Rule 17d–1 because the Credit Facility offers both reduced borrowing costs to borrowing Funds and enhanced returns on loaned funds to lending Funds. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investments policies and fundamental investment limitations and that Reich & Tang would not receive any compensation for administering the Credit Facility. Applicants therefore believe that each Fund's participation in the Credit Facility would be on terms that are no different from or less advantageous than those of other participants.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. Investment of Cash Balances in the Central Funds

1. The shares of the Central Funds sold to and redeemed by the Participating Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with Rule 12b–1 under the Act, or service fee (as defined in NASD Conduct Rule 2830(b)(9)).

2. No Central Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except as permitted by an SEC order governing interfund loans.

3. Before the next meeting of the Board of a Participating Fund is held for the purpose of voting on an investment advisory contract of the Participating Fund under section 15 of the Act, the investment adviser to the Participating Fund will provide the Board with specific information regarding the approximate cost to the investment adviser of, or the portion of the investment advisory fee under the existing investment advisory agreement attributable to, managing the Uninvested Cash of the Participating Fund that may be invested in the Central Funds. Before approving any investment advisory contract for a Participating Fund, the Board of the Participating Fund, including a majority of the Independent Trustees, shall consider to what extent, if any, the investment advisory fees charged to the Participating Fund should be reduced to account for reduced services provided to the Participating Fund as a result of Uninvested Cash being invested in the Central Funds. The minute books of the Participating Fund will record fully the Board's consideration in approving the investment advisory contract, including the considerations relating to the fees referred to above.

4. A Participating Fund may invest Uninvested Cash in, and hold shares of, the Central Funds only to the extent that such Participating Fund's aggregate investment of Uninvested Cash in the Central Funds does not exceed the greater of 25% of the Participating Fund's total assets or $10 million.

5. Each Participating Fund and Central Fund shall be advised by an Adviser. Each Participating Fund may only invest in Central Funds that are in the same group of investment companies, as defined in section 12(d)(1)(G) of the Act, as the Participating Fund. A Participating Fund that is subadvised by an Adviser may rely on the order provided that the Adviser manages Cash Balances.

6. Investment of Cash Balances by a Participating Fund in shares of the Central Funds will be consistent with each Participating Fund's respective investment restrictions and policies as set forth in its prospectus and SAI or, in the case of a closed-end Fund, in its registration statement or shareholder reports.

7. Before a Participating Fund may participate in a Securities Lending Program, a majority of the Board, including a majority of the Independent Trustees, will approve the Participating Fund's participation in the Securities Lending Program. The Board also will evaluate the Securities Lending Program and its results no less frequently than annually and determine that any investment of Cash Collateral in the Central Funds is in the best interest of the shareholders of the Participating Fund.

8. The Board of any Participating Fund will satisfy the fund governance standards as defined in rule 0–1(a)(7) under the Act by the compliance date for the rule.

B. Interfund Lending Under the Credit Facility

1. The interest rate to be charge to the Funds under the Credit Facility will be the average of (i) the higher of (x) the OTD Rate and (y) the Repo Rate and (ii) the Bank Loan Rate.

2. The Interfund Lending Team on each business day will compare the Bank Loan Rate with the Repo Rate and the OTD Rate and will make cash available for Interfund Loans only if the Interfund Rate is (i) more favorable to the lending Fund than both the Repo Rate and the OTD Rate and (ii) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, then any Interfund Loans to the Fund (i) will be at an interest rate equal to or lower than any outstanding bank loan, (ii) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (iii) will have a maturity no longer than any outstanding bank loan (and in no event more than seven days) and (iv) will provide that if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement. This event of default will entitle the lending Fund to call the Interfund Loan and exercise all rights with respect to the collateral, if any. Such call will be made if a lending bank or banks exercise their rights to call their loan under an agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the Credit Facility only on a secured basis. A Fund may not borrow through the Credit Facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or shareholder redemptions), the Fund will within one business day thereafter (i) repay all of its outstanding Interfund Loans, (ii) reduce its outstanding indebtedness to 10% or less of its total assets or (iii) secure each outstanding Interfund Loan by a pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) will no longer be required. Until each Interfund Loan that is outstanding any time that a Fund's total outstanding borrowings exceed 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the Interfund Loan.

6. No Fund may loan funds through the Credit Facility if the loan would cause its aggregate outstanding loans through the Credit Facility to exceed 15% of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition (8).

9. Unless the Fund has a policy that prevents it from borrowing for other than temporary or emergency purposes, its borrowing through the Credit Facility, as measured on the day the most recent Interfund Loan was made to it, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by the lending Fund and may be repaid on any day by the borrowing Fund.

11. A Fund's participation in the Credit Facility must be consistent with its investment policies and limitations and organizational documents.

12. The Interfund Lending Team will calculate total Fund borrowing and lending demand through the Credit Facility, and allocate Interfund Loans on an equitable basis among Funds, without the intervention of any portfolio manager of any Fund. The Interfund Lending Team will not solicit cash for the Credit Facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Interfund Lending Team will invest amounts remaining after satisfaction of borrowing demand in accordance with standing instructions from portfolio managers or return remaining amounts for investment directly by the relevant Fund's portfolio managers.

13. The Interfund Lending Team will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to each Fund's Board concerning the participation of the Fund in the Credit Facility and the terms and other conditions of any extensions of credit under the Credit Facility.

14. Each Fund's Board, including a majority of the Independent Trustees: (i) Will review no less frequently than quarterly the Fund's participation in the Credit Facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (ii) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, and review no less frequently than annually the continuing appropriateness of such Bank Loan Rate formula; and (iii) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the Credit Facility.

15. If an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Interfund Lending Team promptly will refer such loan for arbitration to an independent arbitrator who has been selected by the Board of any Fund involved in the loan who will serve as

arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of the Funds involved in any such dispute setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any Interfund Loan occurred, the first two years in an easily accessible place, a written record of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the rate of interest on the loan, the OTD Rate, the rate of interest available at the time on overnight repurchase agreements and bank borrowings, and such other information presented to the Fund's Board in connection with the review required by conditions (13) and (14).

17. The Interfund Lending Team will prepare and submit to the Board of each Fund for review an initial report describing the operations of the Credit Facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the Credit Facility commences operations, the Interfund Lending Team will report to the Board quarterly on the operations of the Credit Facility.

In addition, for two years following the commencement of the Credit Facility, the independent public accountant for each Fund shall prepare an annual report that evaluates the Interfund Lending Team's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 10 and it shall be filed pursuant to Item 77Q3 of Form N-SAR, as such Statements or Form may be revised, amended, or superseded from time to time. In particular, the report shall address procedures designed to achieve the following objectives: (i) That the Interfund Rate will be higher than both the Repo Rate and the OTD Rate but lower than the Bank Loan Rate; (ii) compliance with the collateral requirements described in this application; (iii) compliance with the percentage limitations on interfund borrowing and lending; (iv) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board: and (v) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the Credit Facility for compliance with the conditions of the Application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N-SAR.

18. No Fund will participate in the Credit Facility unless it has fully disclosed in its prospectus or SAI or, in the case of a closed-end Fund in its registration statement or shareholder reports, all material facts about its intended participation.

19. The Board of each borrowing and lending Fund will satisfy the fund governance standards as defined in Rule 0–1(a)(7) under the Act by the compliance date for the rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–23492 Filed 11–29–05; 8:45 am]

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[3] If the dispute involves Funds with separate Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52825; File No. SR–NASD–2005–127]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASD Rule 7010 To Change the Fee Structure for the ''Browse/Query'' Function in the Trade Reporting Service of the Nasdaq Market Center

November 22, 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 National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by Nasdaq under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the fee structure for the ''Browse/Query'' function in the trade reporting service of the Nasdaq Market Center.[5] Nasdaq will implement the proposed rule change on November 1, 2005.

The text of the proposed rule change is available on the NASD's Web site at *http://www.nasd.com,* Office of the Secretary, NASD, 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 IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq customers using the trade reporting service of the Nasdaq Market Center can view a summary of their trade reporting activity by using the ''Browse/Query'' function of the Nasdaq Workstation.[6] The legacy ''Browse/Query'' function would only display 18 records per request. In order to view the next 18 records, Nasdaq customers would have to use the ''More'' function.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The proposed rule change applies only to NASD member firms.

[6] The ''Browse/Query'' function is also provided in Nasdaq Workstation II (NWII) and application protocol interface (API) services. NWII and API services, however, will be retired as of November 30, 2005 and December 31, 2005 respectively.

Nasdaq currently charges customers $.288 per initial request and per each subsequent use of the ''More'' function. Thus, Nasdaq customers would incur additional incremental costs as they increased their trade reporting activity.

Nasdaq has implemented new technology that modifies the ''Browse/Query'' function. The modified ''Browse/Query'' function has been renamed the ''Query'' function and each ''Query'' request now provides a complete summary of all trade reporting activity per request. Nasdaq customers no longer have to use the ''More'' function to view the next 18 records. Under the proposed rule change, users of the new ''Query'' function will be charged $.50 per request.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[7] in general, and with Section 15A(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Further, Nasdaq believes that the proposed fee structure for the new ''Query'' function is reasonable because the new ''Query'' function provides more information per request than the old ''Browse/Query'' function. Nasdaq believes the new fee structure is also equitable because it applies to all users of the ''Query'' function on an equal basis. Although the fee for the new ''Query'' function is more than the fee for the old ''Browse/Query'' function, Nasdaq believes its customers will benefit from an overall reduction in their costs because they will not incur additional incremental charges to view all of their trade reporting activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become immediately effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder,[10] in that it establishes or changes a due, fee or other charge imposed by Nasdaq. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–127 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–127. 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 the filing also will be available for inspection and copying at the principal office of 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–2005–127 and should be submitted on or before December 21, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 05–23495 Filed 11–29–05; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52826; File No. SR–NYSE–2005–67]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to iShares® Dow Jones U.S. Energy Sector Index Fund and iShares Dow Jones U.S. Telecommunications Sector Index Fund

November 22, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2005 the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II 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 and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to list and trade the iShares® Dow Jones U.S. Energy Sector Index Fund and iShares Dow Jones U.S. Telecommunications Sector Index Fund, both exchange-traded

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

funds, which the Exchange denominates as Investment Company Units (''ICUs'').

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. The text of these statements may be examined at the places specified in Item III, below, and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has adopted listing standards applicable to ICUs that are consistent with the listing criteria currently used by other national securities exchanges, and trading standards pursuant to which the Exchange may either list and trade ICUs, or trade such ICUs on the Exchange on an unlisted trading privileges (''UTP'') basis.[3]

The Exchange now proposes to list and trade under Section 703.16 of the NYSE Listed Company Manual (''Manual'') and NYSE Rule 1100 *et seq.* shares of the iShares®[4] Dow Jones U.S. Energy Sector Index Fund based on the Dow Jones U.S. Oil and Gas Index and iShares Dow Jones U.S. Telecommunications Sector Index Fund based on the Dow Jones Telecommunications Index (collectively, the ''Funds''). The Funds are a series of the iShares Trust (the ''Trust'').[5] The Funds are currently listed and traded on the American Stock Exchange LLC, and the issuer intends to move the listing of the Funds to the NYSE. As described below, the Funds do not meet the ''generic'' listing requirements of Section 703.16 of the Manual applicable to listing of ICUs (permitting listing in reliance upon Rule 19b–4(e) under the Act) and cannot be listed without a filing pursuant to Rule 19b–4[6] under the Act. Section 703.16(B)(2)(c) provides that the most heavily weighted component stock may not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks may not exceed 65% of the weight of the index or portfolio. As of September 23, 2005, one stock in the Dow Jones U.S. Oil and Gas Index— Exxon Mobil Corp.—accounted for 31.91% of the index weight and thus exceeded the 25% criterion. In addition, as of September 23, 2005, the five most heavily weighted stocks in the Dow Jones U.S. Telecommunications Sector Index exceeded the 65% weighting criterion. The following five stocks accounted for 83.24% of the index weight: Verizon Communications Inc. (24.17%), SBC Communications Inc. (21.32%), Sprint Nextel Corp. (18.60%), BellSouth Corp. (12.91%), and Alltel Corp. (6.24%).

As set forth in detail below, the Funds will hold certain securities (''Component Securities'') selected to correspond generally to the performance of the Dow Jones U.S. Oil and Gas Index and the Dow Jones U.S. Telecommunications Sector Index (the ''Underlying Indexes''), respectively. Each Fund intends to qualify as a ''regulated investment company'' (a ''RIC'') under the Internal Revenue Code (the ''Code''). Barclays Global Fund Advisors (the ''Advisor'' or ''BGFA'') is the investment advisor to the Funds. The Advisor is registered under the Investment Advisers Act of 1940.[7] The Advisor is the wholly owned subsidiary of Barclays Global Investors, N.A. (''BGI''), a national banking association. BGI is an indirect subsidiary of Barclays Bank PLC of the United Kingdom. SEI Investments Distribution Co. (''SEI '' or the ''Distributor''), a Pennsylvania corporation and broker-dealer registered under the Act, is the principal underwriter and distributor of Creation Unit Aggregations of iShares (*see* ''Issuance of Creation Units Aggregations,'' below). The Distributor is not affiliated with the Exchange or the Advisor. The Trust has appointed Investors Bank & Trust Co. (''IBT'') to act as administrator (the ''Administrator''), custodian, fund accountant, transfer agent, and dividend disbursing agent for the Funds. The Exchange expects that performance of the Administrator's duties and obligations will be conducted within the provisions of the Investment Company Act[8] and the rules thereunder. There is no affiliation between the Administrator and the Trust, the Advisor, or the Distributor.

(a) Operation of the Funds[9]

The investment objective of the Funds will be to provide investment results that correspond generally to the price and yield performance of the Underlying Indexes.[10] In seeking to achieve their investment objective, the Funds will utilize ''passive'' indexing investment strategies. The Funds utilize a ''representative sampling'' strategy to track the applicable Underlying Index. A Fund utilizing a representative sampling strategy generally will hold a basket of the Component Securities of

[3] In 1996, the Commission approved section 703.16 of the NYSE Listed Company Manual (''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 listing and trading, or the trading pursuant to UTP, of ICUs under section 703.16 of the Manual and NYSE Rule 1100. *See* Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (SR–NYSE–00–46).

[4] iShares is a registered trademark of Barclays Global Investors, N.A.

[5] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a), (the ''Investment Company Act''). On April 15, 2005, the Trust filed with the Commission a Registration Statement for the Funds on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the Investment Company Act relating to the Funds (File Nos. 333–92935 and 811–09729) (as amended, the ''Registration Statement'').

On March 3, 2004, the Trust filed with the Commission an Amended and Restated Application for an Amended Order under sections 6(c) and 17(b) of the Investment Company Act and on September 8, 2004, the Trust filed with the Commission a Second Amended and Restated Application to Amend Orders under sections 6(c) and 17(b) of the Investment Company Act for the purpose of exempting the Fund from various provisions of the Investment Company Act and the rules thereunder (the ''Application''). The Application requested that the Commission amend a prior Order received by the Advisor, the Trust and the Distributor on August 15, 2001, as amended (the ''Prior Order''). On October 5, 2004, the SEC acted on the Application by approving an order amending certain prior orders under section 6(c) of the Investment Company Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Investment Company Act and Rule 22c–1 under the Investment Company Act, and under sections 6(c) and 17(b) of the Investment Company Act for an exemption from sections 17(a)(1) and (a)(2) thereof. Investment Company Act Release No. 26626 (October 5, 2004) (''Amended Order''). *See also* In the Matter of iShares Trust, *et al.*, Investment Company Act Release No. 25111 (August 15, 2001) as amended by In the Matter of iShares, Inc., *et al.*, Investment Company Act Release No. 25623 (June 25, 2002) and In the Matter of iShares Trust, *et al.*, Investment Company Act Release No. 26006 (April 15, 2003). The Amended Order permits the Trust to offer the Funds and permits the Funds to invest in certain depository receipts.

[6] 17 CFR 240.19b–4.

[7] 15 U.S.C. 80b.

[8] 15 U.S.C. 80a–1.

[9] The Exchange states that the information provided herein is based on information included in the application, Prior Order and the Prior Application as well as on the prospectus and Statement of Additional Information for the Funds. (*See* note 5, *supra.*) While the Advisor would manage the Funds, the Funds' Board of Directors would have overall responsiblity 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. 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, 17 CFR 240.10A–3.

[10] The Funds' investment objectives, policiies and investment stategies will be fully disclosed in their prospectus (''Prospectus'') and statement of additional information (''SAI'').

its Underlying Index, but it may not hold all of the Component Securities of its Underlying Index. The Application states that the representative sampling techniques that will be used by the Advisor to manage the Funds do not differ from the representative sampling techniques it uses to manage the funds that were the subject of the Prior Order.

From time to time, adjustments may be made in the portfolio of the Funds in accordance with changes in the composition of the Underlying Indexes or to maintain compliance with requirements applicable to a ''registered investment company'' (''RIC'') under the Internal Revenue Code.[11] For example, if at the end of a calendar quarter a Fund would not comply with the RIC diversification tests, the Advisor would make adjustments to the portfolio to ensure continued RIC status. In order to maintain RIC status, the Funds may not hold Underlying Index stocks in the same percentage weightings as in the Underlying Index, and the individual stock weightings in such indexes could be more concentrated than the index securities held by the Funds.

The Exchange states that an index is a theoretical financial calculation, while each Fund is an actual investment portfolio. The performance of the Funds and the Underlying Indexes will vary somewhat due to transaction costs, market impact, corporate actions (such as mergers and spin-offs) and timing variances. It is expected that, over time, the correlation between each Funds' performance and that of its respective 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.''[12] As stated in the Application under the Investment Company Act applicable to the Funds, the Funds are expected to have a tracking error relative to the performance of the applicable Underlying Index of no more than 5%. The Funds' board of directors reviews the tracking error of the Funds on a quarterly basis and, based upon its review, will consider if any action might be appropriate.[13]

The Funds will not concentrate their investments (*i.e.*, hold 25% or more of their assets) in a particular industry or group of industries, except that the Funds will concentrate their investments to approximately the same extent that the respective 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.

Each Fund will invest at least 90% of its assets in the securities of its Underlying Index or in American Depositary Receipts (''ADRs'') based on securities in the Underlying Index. A fund may invest the remainder of its assets in securities not included in its Underlying Index, which BGFA believes will help the Fund track its Underlying Index. For example, a Fund may invest in securities not included in its Underlying Index in order to reflect various corporate actions (such as mergers) and other changes in its Underlying Index (such as reconstitutions, additions and deletions). A Fund also may invest its other assets in futures contracts, options on futures contracts, options, and swaps related to its Underlying Index, as well as cash and cash equivalents, including shares of money market funds affiliated with BGFA.

The Exchange believes that these requirements and policies prevent the Funds from being excessively weighted in any single security or small group of securities.[14]

(b) Description of the Funds and the Underlying Indexes

Index Description

The Dow Jones U.S. Oil and Gas Index measures the performance of the oil and gas sector of the U.S. equity market. The Index includes companies in the following sectors: oil and gas producers and oil equipment, services and distribution. The Fund will concentrate its investments in a particular industry or group of industries to approximately the same extent as the Index is so concentrated. As of the close of business on December 17, 2004, the Index was concentrated in the integrated oil and gas industry group which comprised 56% of the market capitalization of the Index.

As of September 23, 2005, the Dow Jones U.S. Oil and Gas Index's top three holdings were Exxon Mobil Corp., Chevron Corp., and ConocoPhillips. The Index's top industries were Energy Equipment and Services, and Oil, Gas & Consumable Fuels.

As of September 23, 2005, the Dow Jones U.S. Oil and Gas Index components had a total market capitalization of approximately $1.27 trillion. The average total market capitalization was approximately $15.3 billion; the lowest market capitalization figure was $529.6 million. The ten largest constituents represented approximately 68.2% of the Index weight while the five highest weighted stocks represented 56.4% of the Index weight. During the past two months (from September 23, 2005), the five highest weighted stocks had an average daily trading volume in excess of 8.1 million shares. From March 23, 2005 through September 23, 2005, 91.8% of the component stocks traded at least 1.8 million shares. During August 23, 2005 through September 23, 2005, the minimum monthly trading volume for the lowest performing Index component was at least 1.9 million shares.

The Dow Jones U.S. Telecommunications Sector Index measures the performance of the telecommunications sector of the U.S. equity market. The Index includes companies in the following sectors: fixed-line telecommunications and mobile telecommunications.

The Fund will concentrate its investments in a particular industry or group of industries to approximately the same extent as the Index is so concentrated. As of the close of business

[11] In order for the Funds to qualify for tax treatment as a RIC, they must meet several requirements under the Code. Among these is a requirement that, at the close of each quarter of the Funds' taxable year, (1) at least 50% of the market value of the Funds' total assets must be represented by cash items, U.S. government securities, securities of other RICs and other securities, with such other securities limited for the purpose of this calculation with respect to any one issuer to an amount not greater than 5% of the value of the Funds' assets and not greater than 10% of the outstanding voting securities of such issuer; and (2) not more than 25% of the value of their total assets may be invested in securities of any one issuer, or two or more issuers that are controlled by the Funds (within the meaning of section 851(b)(4)(B) of the Code) and that are engaged in the same or similar trades or business (other than U.S. government securities of other RICs).

[12] The Web site for the Funds, *http://www.iShares.com*, contains detailed information on the performance and the tracking error for each Fund. Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Michael Cavalier, Assistant General Counsel, NYSE, on November 15, 2005.

[13] 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.

[14] Both of the Funds hold securities and ADRs (for at least 90% of their assets) that are registered under Section 12 of the Exchange Act and listed on a national securities exchange or traded through the facilities of Nasdaq and that are ''NMS stocks'' as defined in Rule 600 of Regulation NMS of the Exchange Act. Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Michael Cavalier, Assistant General Counsel, NYSE, on November 22, 2005.

on December 12, 2004, the Index was concentrated in the fixed line telecommunications industry group, which comprised 84% of the market capitalization of the Index.

As of September 23, 2005, the Dow Jones U.S. Telecommunications Sector Index's top three holdings were Verizon Communications Inc., SBC Communications Inc., and Sprint Nextel Corp. The Index's top industry was Telecommunication Services.

As of September 23, 2005, the Dow Jones U.S. Telecommunications Sector Index components had a total market capitalization of approximately $368.2 billion. The average total market capitalization was approximately $16.7 billion; the lowest market capitalization figure was $209.3 million. The ten largest constituents represented approximately 93.5% of the Index weight while the five highest weighted stocks represented approximately 83.3% of the Index weight. For July 23, 2005 through September 23, 2005, the five highest weighted stocks had an average daily trading volume in excess of 7.1 million shares. From March 23, 2005 through September 23, 2005, 99.9% of the component stocks traded at least 850,000 shares. During August 23, 2005 through September 23, 2005, the minimum monthly trading volume for the lowest performing Index component was at least 1.2 million shares.

The Dow Jones Indexes

Component Selection Criteria. Securities of companies listed on a U.S. exchange (such as the NYSE, the Amex or the Nasdaq) are considered for inclusion in the indexes, with the following general rules and exceptions. Stocks must have a minimum trade history of six months on the rebalancing date to be eligible for inclusion. Foreign issues, including ADRs and GDRs, non-common equity issues such as preferred stocks, convertible notes, warrants, rights, closed-end funds, trust receipts, limited liabilities companies, royalty trusts, units, limited partnerships, over-the-counter bulletin boards and pink sheet stocks generally are not eligible for inclusion in the indexes.

Issue Changes. Each index is reviewed and rebalanced quarterly to maintain accurate representation of the market segment represented by the Index. Securities that leave an index between reconstitution dates are not replaced. Thus, the number of securities in an index between rebalancing dates fluctuates according to corporate activity. When a stock is acquired, delisted, or moves to the pink sheets or OTC bulletin board, the stock is deleted from the index. The only additions between rebalancing dates are as a result of spin-offs.

Index Maintenance. Maintaining the Dow Jones Indexes includes monitoring and completing the adjustments for additions and deletions to each Index, share changes, stock splits, stock dividends, and stock price adjustments due to restructuring and spin-offs. Generally, each component security in an Index is limited to a maximum market capitalization of 25% of the Index weight, and sum of the weights of all component securities greater than 5% of the index is limited to 50% of the Index total. If components fail either rule, their market capitalization will be reduced to meet the set guidelines. However, as noted, the Indexes (upon which the Funds are based) are subsets of the Dow Jones Total Market Index and contain components whose weighting exceeds these general parameters.[15]

The Dow Jones U.S. Oil & Gas Index is a subset of the Dow Jones U.S. Total Market Index. The Index is capitalization weighted and includes companies in the oil and gas industries of the Dow Jones U.S. Total Market Index.[16] The component stocks are weighted according to the total market value of their outstanding shares. The impact of a component's price change is proportional to the issue's total market value, which is the share price multiplied by the number of shares outstanding. The Index is adjusted to reflect changes in capitalization resulting from mergers, acquisitions, stock rights, substitutions and other capital events.

The Dow Jones U.S. Telecommunications Index is also a subset of the Dow Jones U.S. Total Market Index. The Index is capitalization-weighted and includes only companies in the telecommunications industry of the Dow Jones U.S. Total Market Index. The component stocks are weighted according to the total market value of their outstanding shares. The impact of a component's price change is proportional to the issue's total market value, which is the share price multiplied by the number of shares outstanding. The Index is adjusted to reflect changes in capitalization resulting from mergers, acquisitions, stock rights, substitutions and other capital events.

The Dow Jones Indexes are calculated continuously, and real-time index values are available from major data vendors at least every 15 seconds during the hours that the Shares trade on the Exchange.[17]

(c) Issuance of Creation Unit Aggregations

(i) *In General.* Shares of the Funds (the ''iShares'') will be issued on a continuous offering basis in groups of 50,000 iShares, or multiples thereof. These ''groups'' of shares are called ''Creation Unit Aggregations.'' The Funds will issue and redeem iShares only in Creation Unit Aggregations.[18]

As with other open-end investment companies, iShares will be issued at the net asset value (''NAV'') per share next determined after an order in proper form is received.

The NAV per share of the Funds is determined as of the close of the regular trading session on the Exchange on each day that the Exchange is open. The Trust sells Creation Unit Aggregations of the Funds only on business days at the next determined NAV of the Fund. Creation Unit Aggregations generally will be issued by the Funds in exchange for the in-kind deposit of equity securities designated by the Advisor to correspond generally to the price and yield performance of the Fund's Underlying Index (the ''Deposit Securities'') and a specified cash payment. Creation Unit Aggregations generally will be redeemed by the Fund in exchange for portfolio securities of the Fund (''Fund Securities'') and a specified cash payment. Fund Securities received on redemption may not be identical to Deposit Securities deposited in connection with creations of Creation Unit Aggregations for the same day.

All orders to purchase iShares in Creation Unit Aggregations must be placed through an Authorized Participant. An Authorized Participant must be either a ''Participating Party,'' *i.e.*, a broker-dealer or other participant in the clearing process through the National Securities Clearing Corporation (''NSCC'') Continuous Net Settlement System (the ''Clearing Process''), a clearing agency that is registered with the SEC, or a Depository Trust Company (''DTC'') participant, and in each case, must enter into a Participant Agreement.

The Funds impose a transaction fee in connection with the issuance and

[15] Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Michael Cavalier, Assistant General Counsel, NYSE, on November 22, 2005.

[16] *Id.*

[17] *See infra* note 24 and accompanying text.

[18] As of September 20, 2005, a Creation Unit Aggregation for the iShares Dow Jones Energy Sector Index Fund and the iShares Dow Jones Telecommunications Sector Index Fund had a value of approximately $4,536,000 and $1,179,500, respectively.

redemption of iShares to offset transfer and other transaction costs. The transaction fee in connection with the issuance and redemption of Creation Unit Aggregations of the Funds are estimated to be approximately $500–$2000 for the iShares Dow Jones Energy Sector Index Fund and between $250–$1000 for the iShares Dow Jones Telecommunications Sector Index Fund.

(ii) *In-Kind Deposit of Portfolio Securities.* Payment for Creation Unit Aggregations will be made by the purchasers generally by an in-kind deposit with the applicable Fund of the Deposit Securities together with an amount of cash (the ''Balancing Amount'') specified by the Advisor in the manner described below. The Balancing Amount is an amount equal to the difference between (1) the NAV (per Creation Unit Aggregation) of the Fund and (2) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities (such value referred to herein as the ''Deposit Amount''). The Balancing Amount serves the function of compensating for differences, if any, between the NAV per Creation Unit Aggregation and that of the Deposit Amount. The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to herein as a ''Fund Deposit.'' The Advisor will make available to the market through the NSCC on each business day, prior to the opening of trading on the Exchange (currently 9:30 a.m. Eastern Time), the list of the names and the required number of shares of each Deposit Security included in the current Fund Deposit (based on information at the end of the previous business day) for each Fund. The Fund Deposit will be applicable to the relevant Fund (subject to any adjustments to the Balancing Amount, as described below) in order to effect purchases of Creation Unit Aggregations of such Fund until such time as the next-announced Fund Deposit composition is made available.

The identity and number of shares of the Deposit Securities required for the Fund Deposit for each Fund will change from time to time. The composition of the Deposit Securities may change in response to adjustments to the weighting or composition of the Component Securities in the Underlying Index. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.*, a ''cash in lieu'' amount—to be added to the Balancing Amount to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not otherwise be eligible for transfer. The Trust also reserves the right to permit or require a ''cash in lieu'' amount where the delivery of the Deposit Security by the Authorized Participant would be restricted under the securities laws or where the delivery of the Deposit Security to the Authorized Participant would result in the disposition of the Deposit Security by the Authorized Participant becoming restricted under the securities laws, or in certain other situations. The adjustments described above will reflect changes known to the Advisor on the date of announcement to be in effect by the time of delivery of the Fund Deposit, in the composition of the applicable Underlying Index or resulting from certain corporate actions.

(d) Redemption of iShares

Creation Unit Aggregations of the Funds will be redeemable at the NAV next determined after receipt of a request for redemption. Creation Unit Aggregations of the Funds generally will be redeemed in-kind, together with a balancing cash payment (although, as described below, Creation Unit Aggregations may sometimes be redeemed for cash). The value of the Funds' redemption payments on a Creation Unit Aggregation basis will equal the NAV per the appropriate number of iShares of the Funds. Owners of iShares may sell their iShares in the secondary market, but must accumulate enough iShares to constitute a Creation Unit Aggregation in order to redeem through the Funds. Redemption orders must be placed by or through an Authorized Participant.

Shares may be redeemed only in Creation Unit Aggregations at their NAV next determined after receipt of a redemption request in proper form by the Fund through IBT and only on a business day. A Fund will not redeem shares in amounts less than Creation Unit Aggregations.

With respect to each Fund, BGFA, through the NSCC and through the Distributor, makes available prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time) on each business day, the identity of the Fund securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form (as described below) on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Unit Aggregations.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit Aggregation generally consist of Fund Securities—as announced on the business day of the request for redemption received in proper form—plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''), less a redemption transaction fee as noted above. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the difference is required to be made by or through an Authorized Participant by the redeeming shareholder.

(e) Availability of Information Regarding iShares and the Underlying Index

Prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time) on each business day, BGFA, through NSCC, will make available the list of names and amount of each security constituting the current Deposit Securities of the Fund Deposit (subject to possible amendment or correction) and the Balancing Amount effective as of the previous business day, per outstanding share of each Fund.[19]

The NAV for the Fund will be calculated and disseminated daily. The Funds' NAV will be published in a number of places, including *http://www.iShares.com* and on the Consolidated Tape.[20]

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. dollars, on a per iShare basis (the ''Intra-day Optimized Portfolio Value'' or ''IOPV'') will be calculated by a third party independent of the issuer (the ''Value Calculator''), at least every 15 seconds during the Exchange's regular trading hours and disseminated at least every 15 seconds on the Consolidated Tape. In addition, the values of the Underlying Indexes will be disseminated by one or more major market vendors at least every 15 seconds during the Exchange's regular trading hours.[21] The last sale prices of

[19] BGFA will similarly make available the identity of the Fund securities for redemption requests. *See* ''Redemption of iShares,'' *supra*.

[20] Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Michael Cavalier, Assistant General Counsel, NYSE, on November 15, 2005.

[21] The Exchange will commence delisting proceedings of a series of ICUs if the value of the index or portfolio of securities on which the series is based is no longer calculated or available. *See*

Fund shares traded in the secondary market will be disseminated on the Consolidated Tape on a real-time basis.

The IOPV reflects the current value of the Deposit Securities and the Balancing Amount. Since the Funds will utilize a representative sampling strategy, the IOPV may not reflect the value of all securities included in the Underlying Indexes. In addition, the IOPV does not necessarily reflect the precise composition of the current portfolio of securities held by the Funds at a particular point in time. Therefore, the IOPV on a per Fund share basis disseminated during the Exchange's trading hours should not be viewed as a real time update of the NAV of the Funds, which is calculated only once a day. While the IOPV disseminated by the Exchange at 9:30 a.m. is expected to be generally very close to the most recently calculated Fund NAV on a per Fund share basis, it is possible that the value of the portfolio of securities held by each Fund may diverge from the Deposit Securities values during any trading day. In such case, the IOPV will not precisely reflect the value of each Fund's portfolio.

However, during the trading day, the IOPV can be expected to closely approximate the value per Fund share of the portfolio of securities for each Fund except under unusual circumstances (*e.g.*, in the case of extensive rebalancing of multiple securities in a Fund at the same time by the Advisor).

The Exchange believes that dissemination of the IOPV based on the Deposit Securities provides additional information regarding the Funds that is not otherwise available to the public and is useful to professionals and investors in connection with Fund shares trading on the Exchange or the creation or redemption of Fund shares.

As noted, the Dow Jones Indexes are calculated continuously, and real-time index values are available from major data vendors at least every 15 seconds during the hours that the Shares trade on the Exchange.[22]

Other information on the Funds, regarding NAV, premium or discount to NAV, distributions, shares outstanding total returns, tracking error, holdings and other information is available on *http://www.iShares.com.*

(f) Dividends and Distributions

General Policies. Accrued dividends from net investment income, if any, are declared and paid at least annually by each Fund. Distributions of net realized securities gains, if any, generally are declared and paid once a year, but the Trust may make distributions on a more frequent basis for certain Funds. The Trust reserves the right to declare special distributions if, in its reasonable discretion, such action is necessary or advisable to preserve the status of each Fund as a RIC or to avoid imposition of income or excise taxes on undistributed income.

Dividends and other distribution in shares are distributed on a pro rata basis to Beneficial Owners of such shares. Dividend payments are made through DTC Participants and Indirect Participants to Beneficial Owners then of record with proceeds received from the Funds.

Dividend Reinvestment Service. No dividend reinvestment service is provided by the Trust. Broker-dealers may make available the DTC book-entry Dividend Reinvestment Service for use by Beneficial Owners of Funds for reinvestment of their dividend distributions. Beneficial Owners should contact their broker to determine the availability and costs of the service and the details of participation therein. Brokers may require Beneficial Owners to adhere to specific procedures and timetables. If this service is available and used, dividend distributions of both income and realized gains will be automatically reinvested in additional whole shares of the same Fund purchased in the secondary market.

Beneficial owners of the Funds will receive all of the statements, notices, and reports required under the Investment Company Act and other applicable laws. They will receive, for example, annual and semi-annual reports, written statements accompanying dividend payments, proxy statements, annual notifications detailing the tax status of distributions, IRS Form 1099–DIVs, etc. Because the Trust's records reflect ownership of iShares by DTC only, the Trust will make available applicable statements, notices, and reports to the DTC Participants who, in turn, will be responsible for distributing them to the beneficial owners.

(g) Other Issues

(i) *Criteria for Initial and Continued Listing.* The Funds are subject to the criteria for initial and continued listing of ICUs in section 703.16 of the Manual. A minimum of two Creation Units (100,000 iShares) was required to be outstanding at the start of trading. This minimum number of shares of each Fund required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously traded series of ICUs. The Exchange notes that the number of shares outstanding as of September 20, 2005 for the iShares Dow Jones U.S. Energy Sector Index Fund and the Dow Jones U.S. Telecommunications Sector Index Fund were 9,800,000 and 22,150,000 shares, respectively.

(ii) *Original and Annual Listing Fees.* The original listing fees applicable to the Funds for listing on the Exchange is $5,000 for each Fund, and the continuing fees will be $2,000 for each Fund.

(iii) *Stop and Stop Limit Orders.* Commentary .30 to NYSE 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 on 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. This rule applies to ICUs generally.

(iv) *Rule 460.10.* NYSE Rule 460.10 generally precludes certain business relationships between an issuer and the specialist or its affiliates in the issuer's securities. Exceptions in the Rule permit specialists in Fund shares to enter into Creation Unit transactions through the Distributor to facilitate the maintenance of a fair and orderly market. A specialist or affiliate 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 Fund shares. A specialist or affiliate may acquire a position in excess of 10% of the outstanding issue of the Funds' 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.

(v) *Prospectus or Product Description Delivery.* The Commission has granted the Trust an exemption from certain prospectus delivery requirements under section 24(d) of the Investment Company Act.[23] Any product description used in reliance on the section 24(d) exemptive order will

section 703.16 of the Manual. Section 703.16 requires that, for ICUs listed in reliance upon Rule 19b–4(e) under the Act, the underlying index value and the IOPV be disseminated by one or more major market data vendors or over the consolidated tape at least every 15 seconds. *See* Release No. 34–52081 (July 20, 2005), 70 FR 43488 (July 27, 2005) (SR–NYSE–2005–44).

[22] *See infra* note 24 and accompanying text.

[23] 15 U.S.C. 80a–24. *See In the Matter of iShares, Inc., et al.*, Investment Company Act Release No. 25623 (June 25, 2002).

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 NYSE Rule 1100(b).

(vi) *Information Memo.* The Exchange will distribute an Information Memo to its members in connection with the trading of the Funds. The Memo will discuss the special characteristics and risks of trading this type of security. Specifically, the Memo, among other things, will discuss what the Funds are, how the Funds' shares are created and redeemed, the requirement that members and member firms deliver a prospectus or product description to investors purchasing shares of the Funds prior to or concurrently with the confirmation of a transaction, applicable Exchange rules, dissemination information, trading information and the applicability of suitability rules (including NYSE Rule 405). The circular will also discuss exemptive, no-action and interpretive relief granted by the Commission certain rules under the Act.

(vii) *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 the Funds' shares is subject to trading halts caused by extraordinary market volatility pursuant to NYSE Rule 80B. The Exchange will halt trading in a Fund if the Index value or IOPV applicable to such Fund is no longer calculated or disseminated.[24]

(viii) *Due Diligence/Suitability.* The Exchange represents that the Information Memo to members will note, for example, Exchange responsibilities, including that before an Exchange member, member organization, or employee thereof recommends a transaction in the Funds, a determination must be made that the recommendation is in compliance with all applicable Exchange and Federal rules and regulations, including due diligence obligations under NYSE Rule 405 (Diligence as to Accounts).

(ix) *Purchases and Redemptions in Creation Unit Size.* In the Memo referenced above, members and member organizations will be informed that procedures for purchases and redemptions of shares of the Funds in Creation Unit Size are described in the Funds' Prospectus and SAI, and that shares of the Funds are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

(x) *Surveillance.* Exchange surveillance procedures applicable to trading in the proposed iShares are comparable to those applicable to other ICUs currently trading on the Exchange. The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Funds.

(xi) *Hours of Trading/Minimum Price Variation.* The Funds will trade on the Exchange until 4:15 p.m. (Eastern time). The minimum price variation for quoting will be $.01.

2. Statutory Basis

NYSE believes that the proposed rule change is consistent with section 6(b)(5) of the Act[25] requiring that an exchange have rules that are designed, among other things, 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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. 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–2005–67 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–NYSE–2005–67. 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 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–2005–67 and should be submitted on or before December 21, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder,

[24] In the even an Index value of IOPV is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances. Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Michael Cavalier, Assistant General Counsel, NYSE, on November 22, 2005.

[25] 15 U.S.C. 78f(b)(5).

applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act [27] and will promote just and equitable principles of trade, and facilitate transactions in securities, and, in general, protect investors and the public interest.

The Commission believes that the proposed rule change raises no issues that have not been previously considered by the Commission.[28] The Fund is similar in structure and operation to exchange-traded index funds that the Commission has previously approved for listing and trading on national securities exchanges under section 19(b)(2) of the Act.[29] Further, with respect to each of the following key issues, the Commission believes that the Fund satisfies established standards.

A. Surveillance

Given the market capitalization and liquidity of the Underlying Indexes and Funds' component securities, the Commission does not believe that the Funds' shares will be susceptible to manipulation, despite the concentration of individual components. Nevertheless, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Funds, taking into account the concentration of the individual components. The Commission expects the Exchange to employ adequate surveillance for detecting manipulations of both the Shares and the underlying components, especially given the concentration of individual components.

B. Dissemination of Fund Information

With respect to pricing, once each day, the NAV for the Fund will be calculated and disseminated by IBT, to various sources, including the NYSE, and made available on *http://www.iShares.com* and the Consolidated Tape. Also, during the Exchange's regular trading hours, the IOPV Calculator will determine and disseminate at least every 15 seconds the IOPV for each Fund, and the Index values will be calculated and disseminated at least every 15 seconds.

The Commission notes that a variety of additional information about each Fund will be readily available. Information with respect to recent NAV, shares outstanding, estimated cash amount and total cash amount per Creation Unit Aggregation will be made available prior to the opening of the Exchange. Information on the Funds, regarding NAV, premium or discount to NAV, distributions, shares outstanding total returns, tracking error, holdings and other information is available on *http://www.iShares.com.* Also, the closing prices of the Fund's Deposit Securities are available from, as applicable, the relevant exchanges, automated quotation systems, published or other public sources in the relevant country, or on-line information services.

Based on the representations made in the NYSE proposal, the Commission believes that pricing and other important information about the Fund is adequate and consistent with the Act.

C. Information Memorandum

The Exchange represents that it will circulate an Information Memorandum detailing applicable prospectus and product description delivery requirements. The memo will also discuss exemptive, no-action and interpretive relief granted by the Commission from certain rules under the Act. The memo also will address NYSE members' responsibility to deliver a prospectus or product description to all investors (in accordance with NYSE Rule 1100(b)) and highlight the characteristics of the Funds. The memo will also remind members of their suitability obligations, including NYSE Rule 405 (Diligence as to Accounts).[30] For example, the Information Memo will also inform members and member organizations that Fund shares are not individually redeemable, but are redeemable only in Creation-Unit-size aggregations or multiples thereof as set forth in the Fund Prospectus and SAI.[31] The Commission believes that the disclosure included in the information memo is appropriate and consistent with the Act.

D. Listing and Trading

The Commission finds that adequate rules and procedures exist to govern the listing and trading of the Fund's shares. Fund shares will be deemed equity securities subject to NYSE rules governing the trading of equity securities, including, among others, rules governing trading halts, responsibilities of the specialist, account opening and customer suitability requirements,[32] and the election of stop and stop limit orders.

In addition, the Exchange states that iShares are subject to the criteria for initial and continued listing of ICUs in section 703.16 of the NYSE Manual. The Commission believes that the listing and delisting criteria for Fund shares should help to ensure that a minimum level of liquidity will exist in the Fund to allow for the maintenance of fair and orderly markets.

E. Accelerated Approval

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,[33] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the listing and trading standards in NYSE Rule 703.16 (ICUs). The Funds are substantially identical in structure to other iShares Funds, which have an established and active trading history on the NYSE and other exchanges. The Commission does not believe that the proposed rule change raises novel regulatory issues.

Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[34] to approve the proposal on an accelerated basis.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2005–67), is hereby approved on an accelerated basis.[35]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

[26] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78f(b)(5).

[28] The Commission notes that, as is the case with similar previously approved exchange traded funds, investors in the Fund can redeem shares in Creation-Unit-size aggregations only. *See, e.g.*, Securities Exchange Act Release Nos. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (File No. SR–NYSE–00–46); 50505 (October 8, 2004), 69 FR 61280 (October 15, 2004) (File No. SR–NYSE–2004–55); 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (File No. SR–Amex–2004–05); 52178 (July 29, 2005), 70 FR 46244 (August 9, 2005) (File No. SR–NYSE–2005–41).

[29] 15 U.S.C. 78s(b)(2).

[30] NYSE Rule 405 generally requires that members use due diligence to learn the essential facts relative to every customer, order or account accepted.

[31] *See* discussion under section II.A.1(g)(vi) ''Operation of the Funds,'' above. The Exchange has represented that the information memo will also discuss exemptive, no-action, and interpretive relief granted by the Commission from certain rules under the Act.

[32] Prior to commencement of trading, the Exchange states that it will issue an Information Memo informing members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of NYSE Rule 405 (Diligence as to Accounts).

[33] 15 U.S.C. 78s(b)(2).

[34] 15 U.S.C. 78s(b)(5).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,
Secretary.
[FR Doc. 05–23496 Filed 11–29–05; 8:45 am]
BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In June 2005, there were six applications approved. This notice also includes information on three applications, two approved in November 2004 and one approved in May 2005, inadvertently left off the November 2004 and May 2005 notices, respectively. Additionally, 16 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Des Moines, Iowa.
Application Number: 04–07–C–00–DSM.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $3,957,500.
Earliest Charge Effective Date: April 1, 2008.
Estimated Charge Expiration Date: April 1, 2009.
Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxi/commercial operators.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Des Moines International Airport.
Brief Description of Projects Approved for Collection and Use:
Replace snow removal equipment and airfield snow broom.
Acquire snow removal equipment and airfield snow broom.
Replace aircraft rescue and firefighting vehicle.
Decision Date: November 30, 2004.
FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, Central Region Airports Division, (816) 329–2641.
Public Agency: City of Columbia, Missouri.
Application Number: 04–02–U–00–COU.
Application Type: Use PFC revenue.
PFC Level: $4.50.
Total PFC Revenue To Be Used in This Decision: $7,759.
Charge Effective Date: November 1, 2002.
Estimated Charge Expiration Date: October 1, 2012.
Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.
Brief Description of Project Approved for Use: Replacement snow plow/spreader truck.
Decision Date: November 30, 2004.
FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, Central Region Airports Division, (816) 329–2641.
Public Agency: Erie Municipal Airport Authority, Erie, Pennsylvania.
Application Number: 05–04–C–00–ERI.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $837,953.
Earliest Charge Effective Date: July 1, 2005.
Estimated Charge Expiration Date: August 1, 2006.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use:
Environmental assessment for runway 6/24 extension.
Site security phase II.
Command vehicle.
Airfield access road.
Acquire Orchard Park mobile home estates.
Replace high intensity runway lighting system.
9/11 security costs.
Construct two passenger loading bridges.
Aircraft rescue and firefighting vehicle (pumper).
Acquire runway friction tester vehicle.
Decision Date: May 31, 2005.
FOR FURTHER INFORMATION CONTACT: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.
Public Agency: Metropolitan Airports Commission, Minneapolis, Minnesota.
Application Number: 05–07–U–00–MSP.
Application Type: Use PFC revenue.
PFC Level: $4.50.
Total PFC Revenue to be Used in This Decision: $26,410,939.
Charge Effective Date: April 1, 2003.
Class of Air Carriers Not Required to Collect PFC'S: No change from previous decision.
Brief Description of Project Approved for Use: Fire/rescue replacement facility.
Decision Date: June 22, 2005.
FOR FURTHER INFORMATION CONTACT: Gordon Nelson, Minneapolis Airports District Office, (612) 713–4358.
Public Agency: City of Cody, Wyoming.
Application Number: 05–04–C–00–COD.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $220,000.
Earliest Charge Effective Date: September 1, 2005.
Estimated Charge Expiration Date: November 1, 2006.
Class of Air Carriers Not Required to Collect PFC'S: Non-scheduled, on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Yellowstone Regional Airport.
Brief Description of Projects Approved for Collection and Use:
Terminal area study (phase I).
Environmental assessment for midfield terminal.
PFC consulting services.
Decision Date: June 22, 2005.
FOR FURTHER INFORMATION CONTACT: 6 Chris Schaffer, Denver Airports District Office, (303) 342–1258.
Public Agency: County of Humboldt, Arcata, California.
Application Number: 05–07–C–00–ACV.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $392,265.
Earliest Charge Effective Date: July 1, 2005.
Estimated Charge Expiration Date: October 1, 2005.
Class of Air Carriers Not Required to Collect PFC'S: Non-scheduled, on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has

determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Arcata Airport (ACV).

Brief Description of Projects Approved for Collection at ACV and Use at ACV:

Benefit cost analysis for proposed runway extension.

Security enhancement/terminal modification.

Environmental assessment for proposed runway extension.

Rehabilitate runway 1/19.

Rehabilitate taxiways B and G.

Replace aircraft rescue and firefighting vehicle.

PFC administrative costs.

Brief Description of Project Approved for Collection at ACV and Use at Murray Field: Install perimeter wildlife fencing.

Brief Description of Projects Approved for Collection at ACV and Use at Dinsmore Airport:

Construct/improve airfield drainage.

Reconstruct/rehabilitate runway 9/27.

Brief Description of Project Approved for Collection at ACV and Use at Kneeland Airport: Environmental evaluation for airport drainage projects.

Brief Description of Project Approved for Collection at ACV and Use at Garberville Airport: Install airport perimeter fence and gates.

Decision Date: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: Clark County Department of Airports, Las Vegas, Nevada.

Application Number: 05–05–C–00–LAS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $622,726,100.

Earliest Charge Effective Date: January 1, 2017.

Estimated Charge Expiration Date: October 1, 2023.

Classes of Air Carriers Not Required to Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McCarran International Airport (LAS).

Brief Description of Projects Approved for Collection at LAS and Use at LAS at $4.50 PFC Level:

Pedestrian bridge from C gates to A/B gates.

In-line explosive detection system.

Taxiway B renovation/taxiway C extension.

Ramp rehabilitation.

Satellite D apron.

Brief Description of Projects Approved for Collection at LAS and Use at LAS at a $3.00 PFC Level:

Central plant upgrade.

Heating, ventilation, and air conditioning upgrades in concourse A/B.

Brief Description of Projects Approved for Collection at LAS and USe at Henderson Executive Airport at a $3.00 PFC Level:

Construct terminal and ramp.

Airport traffic control tower.

Brief Description of Project Approved for Collection at LAS and Use at North Las Vegas Airport at a $3.00 PFC Level: East side basing improvements.

Brief Description of Project Approved for Collection at LAS and Future Use at LAS at a $4.50 PFC Level:

Design of terminal 3.

Russell Road relocation.

Brief Description of Project Approved for Collection at LAS for Future Use at LAS at a $3.00 PFC Level: Russell Road park.

Decision Date: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: City of Colorado Springs, Colorado.

Application Number: 05–08–C–00–COS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $10,850,868.

Earliest Charge Effective Date: October 1, 2005.

Estimated Charge Expiration Date: July 1, 2009.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved For Collection And Use: Rehabilitation of runway 17L/35R.

Security infrastructure project.

Airport operations area vehicle service roads.

Resurfacing entry/exit roads.

Security checkpoint expansion.

Building modifications—explosive trace detection equipment relocation.

Pavement condition survey—taxiways E, E1–8, G, and H.

Brief Description of Disapproved Project: Terminal circulation road.

Determination: This project was not included in an approved security plan and was not justified based on traffic volumes.

Brief Description of Withdrawn Projects: Construct taxiway C north from C2 to taxiway B2.

Taxiway H.

Determination: These projects were withdrawn by the public agency by letter dated April 25, 2005. Therefore, the FAA did not rule on these projects in this decision.

Decision Date: June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Town of Islip, New York.

Application Number: 05–03–C–00–ISP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $37,133,218.

Earliest Charge Effective Date: September 1, 2005.

Estimated Charge Expiration Date: May 1, 2015.

Class of Air Carriers Not Required to Collect PCF'S: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Long Island MacArthur Airport (ISP).

Brief Description of Projects Approved For Collection at ISP and Use at ISP:

Airfield service roadway.

Security access road and fencing—phase II.

2005 terminal improvements.

Closed-circuit television system and bomb-blast analysis—phase II.

Purchase snow removal equipment.

Acquisition of a hazardous materials vehicle/mobile command vehicle.

Snow removal equipment building.

Terminal area roadway improvements.

Study for technology-based security improvements.

Purchase four patrol cars.

Terminal heating, ventilation, and air conditioning upgrades.

East side expansion of aircraft apron.

Environmental assessment—concourse.

East concourse security expansion.

Glycol storage facility.

Construct service road.

Terminal baggage claim upgrades.

Brief Description of Projects Approved for Collection at ISP and Use at Bayport Airport:

Snow removal equipment building.

Improve airport access road—north end.

Brief Description of Project Partially Approved For Collection at ISP and Use at ISP: Improvements to security and emergency systems.

Determination: The security offices in the east concourse and upper level conference/situation rooms have been determined to be ineligible due to the lack of endorsement by the Transportation Security Administration. In addition, the project cost for the central command dispatch center was reduced from that requested because the office equipment was determined to be ineligible.

Brief Description of Disapproved Project: Runway 6/24 safety area enhancements.

Determination: Based on the FAA runway safety area determination, the proposed project would not be economical and practical for runway 6/24 between the existing runway safety area and the FAA-standard runway safety area.

Runway 10/28 rehabilitation.

Determination: This runway was determined to be ineligible.

Decision Date: June 29, 2005.

FOR FURTHER INFORMATION CONTACT: Dan Vornea, New York Airports District Office, (516) 227–3812.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–01–C–01–GTF, Great Falls, MT	04/04/05	$3,010,900	$3,059,263	07/01/02	07/01/02
93–02–U–01–GTF, Great Falls, MT	04/04/05	NA	NA	07/01/02	07/01/02
98–03–C–04–DSM, Des Moines, IA	04/21/05	12,782,783	12,882,783	05/01/04	05/01/04
03–06–C–01–DSM, Des Moines, IA	04/21/05	8,543,039	11,060,000	04/01/08	04/01/08
94–01–C–01–RKS, Rock Springs, WY	04/05/05	332,500	382,300	01/01/06	01/01/07
*95–01–C–05–MCI, Kansas City, MO	04/26/05	300,111,676	295,096,669	07/01/13	02/01/12
99–02–C–04–MCI, Kansas City, MO	04/26/05	9,556,186	9,556,186	03/01/14	07/01/12
00–03–C–02–MCI, Kansas City, MO	04/26/05	63,402,166	63,402,166	10/01/17	11/01/14
00–02–C–01–DEN, Denver, CO	06/08/05	211,990,000	80,386,000	09/01/30	02/01/29
02–05–C–01–GRB, Green Bay, WI	06/08/05	23,319,000	37,216,486	01/01/16	10/01/20
95–03–C–06–MKE, Milwaukee, WI	06/08/05	42,613,864	42,739,428	12/01/04	12/01/04
02–07–C–02–MKE, Milwaukee, WI	06/08/05	22,885,818	24,453,678	03/1/17	11/01/17
96–02–C–01–TEX, Telluride, CO	06/27/05	786,773	778,287	05/01/01	06/01/01
94–01–C–03–ISP, Islip, NY	06/27/05	21,221,043	21,956,043	08/01/05	09/01/05
00–06–C–03–MKE, Milwaukee, WI	06/29/05	107,395,131	116,372,706	10/01/17	11/01/14
02–02–C–02–BFD, Bradford, PA	06/30/05	337,179	329,504	12,01/09	07/01/13

Note: The amendment denoted by an asterisk (*) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Kansas City, MO, this change is effective on August 1, 2005.)

Dated: Issued in Washington, DC, on November 23, 2005.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 05–23480 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–22727]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces FMCSA's receipt of applications from 22 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR § 391.41(b)(10).

DATES: Comments must be received on or before December 30, 2005.

ADDRESSES: You may submit comments by any of the following methods. Please label your comments with DOT DMS Docket Number FMCSA–2005–22727.

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. To read background documents or comments received, go to *http://dms.dot.gov* or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Public Comments: The DMS is generally available 24 hours each day, except when announced system maintenance requires a brief interruption in service. You can get electronic submission and retrieval help guidelines under the ''help'' section of the DMS web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard. An acknowledgement page appears after submitting comments on-line and can be printed to document submission of comments.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 22 individuals listed in this notice each have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Kerry L. Baxter

Mr. Baxter, 52, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/25 and in the left, 20/200. His optometrist examined him in 2005 and noted, ''In my professional opinion, Mr. Baxter has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Baxter reported that he has driven tractor-trailer combinations for 31 years, accumulating 4.7 million miles. He holds a Class A CDL from Utah. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Donald J. Bierwirth, Jr.

Mr.Bierwirth, 35, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/140. Following an examination in 2005, his optometrist noted, ''In my medical opinion, Donald has sufficient vision to drive commercial vehicles safely.'' Mr. Bierwirth reported that he has driven straight trucks for 4 years, accumulating 180,000 miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 10 mph.

Arthur L. Bousema

Mr. Bousema, 48, has had ambloyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/700 and in the left, 20/25. His optometrist examined him in 2005 and noted, ''In my medical opinion you have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bousema reported that he has driven straight trucks for 30 years, accumulating 300,000 miles and tractor-trailer combinations for 30 years, accumulating 300,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Curtis F. Caddy, III

Mr. Caddy, 40, has had retinal detachment in his right eye since 2002. The best corrected visual acuity in his right eye is hand motion at 6 feet and in the left eye, 20/20. Following an examination in 2005, his ophthalmologist noted, ''In my professional opinion, Mr. Caddy has sufficient vision to perform the visual tasks necessary for a commercial driver.'' Mr. Caddy reported that he has driven straight trucks for 18 years, accumulating 812,000 miles. He holds a Class B CDL from California. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Paul D. Crouch

Mr. Crouch, 52, has had a congenital cataract is his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2005, his optometrist noted, ''He has sufficient vision, in my opinion, to perform the driving tasks required to operate a commercial vehicle as he has displayed in the past.'' Mr. Crouch reported that he has driven straight trucks for 14 years, accumulating 72,000 miles. He holds a Class C operators license from Oregon. His driving record for the last 3 years shows no crashes or convictions for moving violation in a CMV.

Matthew Daggs

Mr. Daggs, 45, lost his left eye due to a traumatic injury he sustained seven years ago. The best corrected visual acuity in his right eye is 20/20. His optometrist examined him in 2005 and noted, ''In my opinion, the patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Daggs reported that he has driven straight trucks for 18 years, accumulating 387,000 miles and tractor-trailer combinations for 15 years, accumulating 30,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Donald R. Date, Jr.

Mr. Date, 42, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2005, his optometrist noted, ''I certify that Mr. Date has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Date reported that he has driven straight trucks for 20 years, accumulating 200,000 miles and tractor-trailer combinations for 17 years, accumulating 765,000 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Douglas M. Fuller

Mr. Fuller, 55, is blind in his right eye due to a retinal detachment that occurred in 1993. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2005, his optometrist noted, ''In my opinion, Mr. Fuller has sufficient vision to operate a commercial vehicle.'' Mr. Fuller reported that he has driven straight trucks for 38 years, accumulating 1.9 million miles, and tractor-trailer combinations for 15 years, accumulating 600 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Michael Grzybowski

Mr. Grzybowski, 39, has had refractive amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is light perception and in the left, 20/20. His optometrist examined him in 2005 and noted, ''This patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Grzybowski reported that he has driven straight trucks for 20 years, accumulating one million miles. He holds a Class C operator's license from Maryland. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

David L. Jones

Mr. Jones, 60, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2005, his optometrist noted, ''Because this has been a lifelong condition, Mr. Jones

functions well with his situation and can perform his commercial driving tasks with a standard visual correction.'' Mr. Jones reported that he has driven tractor-trailer combinations for 14 years, accumulating 823,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and 2 convictions for moving violations-speeding—in a CMV. He exceeded the speed limit by 13 and 12 mph—and had one seat belt violation in a CMV.

John E. Kimmet

Mr. Kimmet, 35, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. His optometrist examined him in 2005 and noted that ''Mr. Kimmet's condition seems stable and he has adapted very well for his visual requirements. Visually he seems functional to fulfill the demands of a CMV license.'' Mr. Kimmett reported that he has driven straight trucks for 4 years, accumulating 110,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and one conviction for a moving violation—failure to obey a traffic sign—in a CMV.

Jason L. Light

Mr. Light, 26, has an aphakia right eye, as a result of an injury that occurred when he was 15 years old. The best corrected visual acuity in his right eye is count-finger-vision at 3 feet and in the left, 20/20. His optometrist examined him in 2005 and noted, ''Mr. Light has sufficient vision to perform driving tasks, and operate commercial vehicles.'' Mr. Light reported that he has driven straight trucks for 3 years, accumulating 88,000 miles and tractor-trailer combinations for 2½ years, accumulating 5,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Douglas J. Mauton

Mr. Mauton, 56, has had retinal vein occlusion in his left eye since 1996. The best corrected visual acuity in his right eye is 20/20 and in the left, count-finger-vision at 5 feet. Following an examination in 2005, his optometrist noted, ''In my medical opinion, Mr. Mauton has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Mauton reported that he has driven straight trucks for 30 years, accumulating 3,000 miles and tractor-trailer combinations for 25 years, accumulating 425,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Dennis L. Maxcy

Mr. Maxcy, 47, has optic nerve damage in his left eye as a result of a childhood injury. The visual acuity in his right eye is 20/20 and in the left, peripheral vision only. Following an examination in 2005, his optometrist noted, ''I feel Mr. Maxcy has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Maxcy reported that he has driven straight trucks for 10 years, accumulating 450,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Robert Mollicone

Mr. Mollicone, 35, has an open globe injury from childhood and a retinal detachment, repaired 8 years ago, both in his left eye. The best corrected visual acuity in his right eye is 20/15 and in the left, 20/100. Following an examination in 2005, his ophthalmologist noted, ''I certify in my medical opinion that Mr. Mollicone has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Mollicone reported that he has driven straight trucks for 2 years, accumulating 60,000 miles and tractor-trailer combinations for 12 years, accumulating 280,000 miles. He holds a Class CA CDL from Michigan, which allows him to operate a vehicle with a gross weight of 26,001 pounds or more, as well as a vehicle with a gross weight of 26,001 pounds or less. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

William P. Murphy

Mr. Murphy, 65, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/80 and in the left, 20/20. Following an examination in 2005, his ophthalmologist noted, ''In my medical opinion, William Murphy has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Murphy reported that he has driven straight trucks for 44 years, accumulating 1.8 million miles and tractor-trailer combinations for 17 years, accumulating 510,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

John V. Nehls

Mr. Nehls, 53, has had refractive ambloypia in his left eye since birth. The best corrected visual acuity in his right eye is 20/15 and in the left, 20/200. Following an examination in 2005, his optometrist noted, ''In my medical opinion, Mr. Nehls has sufficient vision to operate a commercial vehicle.'' Mr. Nehls reported that he has driven tractor-trailer combinations for 32 years, accumulating 4 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Dean B. Ponte

Mr. Ponte, 37, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15 and in the left, 20/60. Following an examination in 2005, his optometrist noted, ''It is my opinion that he has sufficient vision to operate a commercial vehicle.'' Mr. Ponte reported that he has driven straight trucks for 15 years, accumulating 300,000 miles and tractor-trailer combinations for 3 years, accumulating 90,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

John P. Rodrigues

Mr. Rodrigues, 58, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/100 and in the left, 20/20. Following an examination in 2005, his optometrist noted, ''It is my medical opinion that Mr. Rodrigues has sufficient vision to operate a commercial vehicle.'' Mr. Rodrigues reported that he has driven straight trucks for 20 years, accumulating 1 million miles and tractor-trailer combinations for 20 years, accumulating 1.5 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Paul D. Schnautz

Mr. Schnautz, 57, has had a central scotoma in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/400. His optometrist examined him in 2005 and noted, ''It is my opinion, Mr. Schnautz has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schnautz reported that he has driven straight trucks for 14 years, accumulating 560,000 miles, and

tractor-trailer combinations for 38 years, accumulating 3 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and one conviction—failure to use his seat belt properly—in a CMV.

Robert A. Sherry

Mr. Sherry, 48, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/15. His optometrist examined him in 2005 and noted ''Uncorrected visual acuity meets criteria to operate a commercial vehicle.'' Mr. Sherry reported that he has driven straight trucks for 5 years, accumulating 25,000 miles and tractor-trailer combinations for 30 years, accumulating 1.95 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Thomas E. Voyles, Jr.

Mr. Voyles, 53, has had histoplasmosis retinitis in his left eye since 1999. The best corrected visual acuity in his right eye is 20/15 and in the left, count-finger-vision at 10 feet. His optometrist examined him in 2005 and noted ''It is my opinion that Thomas E. Voyles, Jr. has adequate vision to safely operate a commercial motor vehicle.'' Mr. Voyles reported that he has driven straight trucks for 30 years, accumulating 150,000 miles. He holds a Class M chauffer license from Indiana. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Issued on: November 21, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 05–23490 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the new Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for emergency processing. The Maritime Administration (MARAD) is requesting approval of this collection for the period December 9, 2005 to September 30, 2006. With this one-time survey, MARAD has made a concerted effort to keep the burden on the public to an absolute minimum.

DATES: Comments must be submitted on or before December 30, 2005.

FOR FURTHER INFORMATION CONTACT: Gilda Lee, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–3971; FAX: 202–366–3746; or E-MAIL: *gilda.lee@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Great Lakes/St. Lawrence Seaway Survey for the New Cargoes/New Vessels Study.

OMB Control Number: 2133–NEW.

Type of Request: Emergency approval of a one-time collection.

Affected Public: Great Lakes/St. Lawrence Seaway shippers.

Forms: Great Lakes/St. Lawrence Seaway System Shipper Survey (Un-numbered)

Abstract: The United States and Canada are jointly undertaking a multi-year assessment of the Great Lakes/St. Lawrence Seaway (GLSLS) System. This assessment will evaluate the ongoing maintenance and long-term capital requirements to ensure the GLSLS system is a competitive, reliable and sustainable component of North America's transportation infrastructure.

Annual Estimated Burden Hours: 433 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street Northwest, Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC, on November 23, 2005.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 05–23477 Filed 11–29–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 228X)]

Union Pacific Railroad Company—Abandonment Exemption—in Imperial County, CA

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon segments of the Holtville Industrial Lead from milepost 711.90 near El Centro to milepost 703.26 at Holtville, and from milepost 702.72 to milepost 703.46 near Holtville, for a total distance of 9.38 miles, in Imperial County, CA.[1] The line traverses United States Postal Service Zip Codes 92243, 92244, and 92250.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] In 1995, Southern Pacific Transportation Company (SPT) was granted authority to discontinue rail service on the line. *See Southern Pacific Transportation Company—Discontinuance of Service Exemption—in Imperial County, CA,* Docket No. AB–12 (Sub-No. 157X) (ICC served Nov. 3, 1995). The line became a line of UP on February 1, 1998, when SPT was merged into UP pursuant to the Board's decision in *Union Pacific/Southern Pacific Merger,* 1 S.T.B. 233 (1996).

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 30, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 9, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 20, 2005, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 5, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 30, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 22, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–23424 Filed 11–29–05; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34777]

Blackwell Northern Gateway Railroad Company—Change in Operators Exemption—Oklahoma Department of Transportation and Blackwell Industrial Authority

Blackwell Northern Gateway Railroad Company (BNGR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate 35.26 miles of the rail line, owned by the State of Oklahoma by and through the Oklahoma Department of Transportation and Blackwell Industrial Authority. The rail line extends: (1) Between milepost 34.3 at Blackwell, OK, and milepost 18 + 1712.9 feet at the Oklahoma/Kansas State line near Hun Newell, KS; (2) between milepost 35 + 1848 feet, west of Blackwell, OK, and milepost 34.3 at Blackwell, OK; and (3) between milepost 18 + 1712.9 feet at the Oklahoma/Kansas State line near Hun Newell, KS, and milepost 0 + 466.3 feet, at Wellington, KS. BNGR will replace Blackwell & Northern Railway Company, which has been operating over the line, and will become a class III rail carrier.[1] BNGR certifies that its projected revenues as a result of this transaction will not exceed those that would quality it as a Class III carrier and that such revenues would not exceed $5 million.

The transaction was scheduled to be consummated no earlier than November 7, 2005, the effective date of the exemption (7 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 34777, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 22, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E5–6678 Filed 11–29–05; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Blackwell & Northern Railway Company, Inc.—Operation Exemption—Oklahoma Department of Transportation and Blackwell Industrial Authority*, STB Finance Docket No. 34265 (STB served Nov. 4, 2002).

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: C. Richard D'Amato, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will be holding a public hearing in Washington, DC on December 8, 2005.

Background

This event is the first in a series of public hearings the Commission will hold during its 2005–2006 report cycle to collect input from leading experts in academia, business, industry, government and the public on the impact of U.S-China trade and economic relations. The December 8 hearing is being conducted to secure commentary about issues connected to the Hong Kong Ministerial Conference of the Doha Round of the World Trade Organization's trade expansion negotiations that will occur on December 13–18, 2005. Information on

upcoming hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web site *http://www.uscc.gov.*

The December 8 hearing will be co-chaired by Commissioners George Becker of Pittsburgh and Professor June Teufel Dreyer of The University of Miami.

Purpose of Hearing

The hearing is designed to assist the Commission in fulfilling its mandate by examining the issues to be addressed at the Hong Kong Ministerial Conference of the Doha Round of the World Trade Organization's Trade Expansion Negotiations. Invited witnesses include international trade law experts, administration officials, and labor and industry representatives.

The hearing will focus on the process whereby U.S. trade objectives are determined and pursued. It will also address the results of the U.S. trade policies toward China, discuss the results of the Doha Round of WTO negotiations, and provide an assessment of the Administration's fulfillment of Congressional objects as defined under the Trade Promotion Authority.

Copies of the hearing agenda will be made available on the Commission's Web site at *http://www.uscc.gov.* Any interested party may file a written statement by December 8, 2005, by mailing to the contact below.

Date and Time: Thursday, December 8, 2005, 9 a.m. to 12 p.m. eastern standard time inclusive. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held in the Capitol Hill complex, Washington, DC, in a hearing room to be announced. Public Seating is limited to about 70 people on a first come, first served basis.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone 202–624–1409, or via e-mail at *kmichels@uscc.gov.*

Authority: The Commission was established in October 2000 pursuant to the Floyd D. Spence National Defense Authorization Act Section 1238, Pub. L. 106–398, 114 STAT. 1654A–334 (2000) (codified at 22 U.S.C. Section 7002 (2001), as amended, and the ''Consolidated Appropriations Resolution of 2003,'' Pub. L. No. 108–7 dated February 20, 2003.

Dated: November 23, 2005.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 05–23494 Filed 11–29–05; 8:45 am]

BILLING CODE 1137–00–P

Corrections

Federal Register
Vol. 70, No. 229
Wednesday, November 30, 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.

Postal Service

39 CFR Part 20

International Mail: New Postal Rates and Fees

Correction

In rule document 05–23007 beginning on page 70964 in the issue of Wednesday, November 23, 2005, make the following correction:

PART 20—[CORRECTED]

On page 70969, the table titled ''AIRMAIL PARCEL POST'' is corrected in part to read as follows:

AIRMAIL PARCEL POST

Weight not over (lbs.)	Group 6	Group 7	Group 8	Group 9	Group 10	Group 11	Group 12	Group 13
*	*	*	*	*	*	*	*	*
8	33.15	38.20	42.65	46.70	37.40	46.90	30.30	39.80
*	*	*	*	*	*	*	*	*
12	45.35	50.85	59.10	63.15	50.05	61.65	40.85	53.50
13	48.45	54.00	63.20	67.25	53.25	65.35	43.50	56.90
*	*	*	*	*	*	*	*	*
43	140.15	148.90	186.50	190.55	148.10	176.00	122.55	159.70
*	*	*	*	*	*	*	*	*

[FR Doc. C5–23007 Filed 11–29–05; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
November 30, 2005

Part II

Department of Health and Human Services

42 CFR Parts 70 and 71
Control of Communicable Diseases; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Parts 70 and 71

RIN 0920–AA03

Control of Communicable Diseases

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: CDC is committed to protecting the health and safety of the American public by preventing the introduction of communicable disease into the United States. Having updated regulations in place is an important measure to ensure swift response to public health threats. CDC proposes to update existing regulations related to preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the U.S. and from one State or possession into another.

DATES: Written comments must be received on or before January 30, 2006. Written comments on the proposed information collection requirements should also be submitted on or before January 30, 2006. Comments received after January 30, 2006 will be considered to the extent practicable.

ADDRESSES: You may submit written comments to the following address: Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, ATTN: Q Rule Comments, 1600 Clifton Road, NE., (E03), Atlanta, GA 30333. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m. at 1600 Clifton Road, NE., Atlanta, GA 30333. Please call ahead to 1–866–694–4867 and ask for a representative in the Division of Global Migration and Quarantine to schedule your visit. Comments also may be viewed at *http://www.cdc.gov/ncidod/dq.* You may submit written comments electronically via the Internet at *http://www.regulations.gov* or via e-mail to *qrulepubliccomments@cdc.gov.* To download an electronic version of the rule, you may access *http://www.regulations.gov.*

Mail written comments on the proposed information collection requirements to the following address: Office of Information and Regulatory Affairs, OMB, New Executive Office Building, 725 17th Street, NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for CDC.

FOR FURTHER INFORMATION CONTACT: Jennifer Brooks, Centers for Disease Control and Prevention, Division of Global Migration and Quarantine,1600 Clifton Road, NE., (E03), Atlanta, GA 30333; telephone (404) 498–2395.

SUPPLEMENTARY INFORMATION: The Preamble to this notice of proposed rulemaking is organized as follows:

I. Legal Authority
II. Background and Purpose
III. Legal Basis of Federal Quarantine Authority
IV. Summary of Proposed Changes to 42 CFR Part 70
V. Summary of Proposed Changes to 42 CFR Part 71
VI. Required Regulatory Analyses Under Executive Order 12866, the Unfunded Mandates Reform Act, and the Regulatory Flexibility Act
A. Objectives and Basis for the Proposed Regulation
B. The Nature of the Impacts
C. Need for the Rule
D. Baseline
E. Alternatives
F. Cost Analysis of Proposed Option and Alternatives
G. Impacts on Industry
H. Benefits
I. Comparison of Costs and Benefits
J. Regulatory Flexibility Analysis
K. References for Part VI
VII. Other Administrative Requirements
A. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
B. Paperwork Reduction Act of 1995
C. Environmental Assessment
D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
E. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights
F. Executive Order 13132: Federalism
G. Executive Order 13211: Energy Effects
H. National Technology Transfer and Advancement Act
I. Family Policy Analysis
J. Executive Order 12988: Civil Justice Reform
K. Plain Language
VIII. Solicitation of Comments

I. Legal Authority

These regulations are proposed under the authority of 25 U.S.C. 198, 231, and 1661; 42 U.S.C. 243, 248, 249, 264–272, and 2001.

II. Background and Purpose

The primary authorities supporting this rulemaking are §§ 361–368 of the Public Health Service Act (42 U.S.C. 264–271). Section 361 authorizes the Secretary to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the United States and from one State or possession into another.

Recent experiences with emerging infectious diseases such as West Nile Virus, SARS, and monkeypox have illustrated the rapidity with which disease may spread throughout the world and the impact communicable diseases, when left unchecked, may have on the global economy. As noted by the Institute of Medicine, National Academy of Sciences in a recent study, ''Whether naturally occurring or intentionally inflicted, infections can cause illness, disability, and death in persons while disrupting whole populations, economies, and governments. And because national borders offer trivial impediment to such threats, especially in the highly interconnected and readily traversed ''global village'' of our time, one nation's problem soon becomes every nation's problem.'' (Microbial Threats to Health: Emergence, Detection and Response'', Institute of Medicine, March, 2003). As diseases evolve naturally or as a result of human intervention, it is important to ensure that containment procedures reflect new threats and uniform ways to respond to them.

Stopping an outbreak—whether it is naturally occurring or intentionally caused—requires the use of the most rapid and effective public health tools available. These tools include basic public health practices such as disease reporting requirements and identification and notification of contacts who may have been exposed to a communicable disease so that they may receive preventive measures. Quarantine is defined as the restriction of the movement of persons exposed to infection to prevent them from infecting others, including family members, friends, and neighbors. Quarantine of exposed persons may be the best initial way to prevent the uncontrolled spread of highly dangerous biologic agents such as smallpox, plague, and Ebola fever—especially when combined with other health strategies such as vaccination, prophylactic drug treatment, patient isolation, and other appropriate infection control measures. Quarantine may be particularly important if a biologic agent has been rendered contagious, drug-resistant, or vaccine-resistant through bioengineering, making other disease control measures less effective.

The Secretary's authority to quarantine persons is limited to those communicable diseases published in an Executive Order of the President. This list currently includes cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, and viral hemorrhagic fevers, such as

Marburg, Ebola and Congo-Crimean, Severe Acute Respiratory Syndrome, and influenza caused by novel or reemergent influenza viruses that are causing or have the potential to cause a pandemic (see Executive Order 13295, as amended by Executive Order 13375 on April 1, 2005).

Regulations that implement federal quarantine authority are currently promulgated in 42 CFR parts 70 and 71. Part 71 deals with foreign arrivals and part 70 deals with interstate matters. The Secretary has delegated to the Director of the Centers for Disease Control and Prevention the authority for implementing 42 CFR part 71, which was last substantively updated in 1985. On August 16, 2000, the Secretary transferred the authority for interstate quarantine over persons from FDA to CDC, which became 42 CFR part 70. FDA retained, pursuant to 21 CFR part 1240, regulatory authority over animals and other products that may transmit or spread communicable diseases. The Secretary took this action in order to consolidate regulations designed to control the spread of communicable diseases, thereby increasing the agencies' efficiency and effectiveness. This proposed rule is not intended to have any effect upon FDA's authority in 21 CFR part 1240. In 2003, in response to the emergence of Severe Acute Respiratory Syndrome (SARS), Health and Human Services (HHS) amended 42 CFR 70.6 and 71.3 to incorporate by reference the Executive Order listing the communicable diseases subject to quarantine, thereby eliminating the administrative delay involved in separately publishing the list of diseases through rulemaking. Also in 2003, CDC published an interim final rule that added § 71.56 African rodents and other animals that may carry the monkeypox virus. Finally, on January 25, 2005, the Secretary added section 70.9 to establish vaccination clinics and a user fee in connection with administration of vaccine services and vaccine.

The intent of the proposed updates to 42 CFR parts 70 and 71 is to clarify and strengthen existing procedures to enable CDC to respond more effectively to current and potential communicable disease threats.

III. Legal Basis of Federal Quarantine Authority

The primary statutory authority to enact regulations for the purpose of communicable disease control is found at section 361 (42 U.S.C. 264) of the Public Health Service Act. Section 361 is divided into four subsections. Subsection (a) authorizes the Secretary [1] to make and enforce such regulations ''as in his judgment are necessary to prevent the introduction, transmission, and spread of communicable diseases'' from foreign countries and from one state or possession into any other state or possession. Subsection (a) also authorizes a variety of public health measures, including destruction of articles determined to be sources of communicable disease. Subsection (b) authorizes the ''apprehension, detention, or conditional release'' of individuals to prevent the spread of communicable diseases as specified in Executive Orders of the President. Subsection (c) provides the basis for foreign quarantine of persons, while subsection (d) provides the basis for interstate quarantine of persons.

As prescribed in 42 U.S.C. 271 and 18 U.S.C. 3559 and 3571(c), criminal sanctions exist for violating regulations enacted under section 361. Specifically, individuals in violation of such regulations are subject to a fine of no more than $250,000 or one year in jail, or both. Violations by organizations are currently subject to a fine no greater than $500,000 per event. Federal district courts also have jurisdiction to enjoin individuals and organizations from violating regulations implemented under section 361. *See* 28 U.S.C. 1331. Furthermore, section 311 (42 U.S.C. 243) of the PHSA, authorizes the Secretary to accept state and local assistance in the enforcement of quarantine regulations and to assist states and their political subdivisions in the control of communicable diseases.

Prevention of communicable diseases has long been the subject of federal regulation. In 1796, Congress enacted the first federal quarantine law in response to a yellow fever epidemic, which gave federal officials the authority to assist states in the enforcement of quarantine laws. In 1799, Congress repealed the 1796 Act and replaced it with one establishing the first federal inspection system for maritime quarantines. In 1878, Congress amended the Quarantine Act to assign responsibilities to the Marine Hospital Service, which had been established in 1798 to provide for the health needs of merchant seaman. The 1878 Quarantine Act, however, was extremely limited and provided that federal quarantine regulations could not conflict with those of state or municipal authorities.

In 1893, Congress expanded the role of the Marine Hospital Service by enacting ''An Act Granting Additional Quarantine Powers and Imposing Additional Duties upon the Marine Hospital Service.'' *See Compagnie Francaise de Navigation a Vapeur* v. *State Board of Health, Louisiana,* 186 U.S. 380, 395–96 (1902). While the 1893 Act did not abrogate the role of the states, it nonetheless granted the Secretary of the Treasury the authority to enact additional rules and regulations to prevent the introduction of diseases, both foreign and interstate, where state and municipal ordinances were deemed insufficient. *Id.* at 396. The Act also authorized direct federal enforcement of communicable disease regulations where state and municipal authorities refused to act. *Id.* Section 361 was enacted in 1944, and last amended in 2002.

Acknowledging the critical importance of protecting the public's health, long-standing court decisions uphold the ability of Congress and the States to enact quarantine and other public health laws, and to have them executed by public health officials. *United States* v. *Shinnick,* 219 F.Supp.789 E.D.N.Y. (1963). *Kroplin* v. *Truax,* 165 N.E. 498 (1929); *Jacobson* v. *Massachusetts,* 197 U.S. 11 (1905); *North American Cold Storage Co.* v. *City of Chicago,* 211 U.S. 306 (1908); *Compagnie Francaise de Navigation a Vapeur* v. *Board of Health,* 186 U.S. 380 (1902). Whereas the States derive public health authorities from the police power reserved to them by the 10th Amendment to the U.S. Constitution, the authority of the federal government to enact quarantine rules and regulations is based on the Commerce Clause, which grants to Congress the exclusive authority to regulate foreign and interstate commerce. *See* U.S. Const. Art. I, section 8, cl.3 (granting to Congress the power ''to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.'').

In addition to Congress' authority to regulate foreign commerce, the U.S. Supreme Court has identified three broad categories of interstate activity that Congress may regulate under its Commerce Clause authority: (1) The use of the channels of interstate commerce (e.g., prohibitions on the shipment in interstate commerce of noxious articles or kidnapped persons); (2) the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat to interstate commerce may come only from intrastate activities (e.g., regulations on railway rates); and (3)

[1] The Office of the Surgeon General was abolished by section 3 of the 1966 reorganization plan, effective June 25, 1966, 31 FR 8855. Accordingly, statutory references to the Surgeon General should be understood as referring to the Secretary.

activities that substantially affect interstate commerce (e.g., labor standards). *United States* v. *Lopez,* 514 U.S. 549, 558–559 (1995). The proposed regulation is consistent with the scope of the federal government's commerce power because it seeks to regulate the uses of the channels of foreign and interstate commerce (i.e., by protecting against the introduction, transmission, and spread of communicable diseases) and the instrumentalities of foreign and interstate commerce (e.g., airlines with flights arriving into the U.S. or traveling from one state or possession into another).

The proposed regulation also is consistent with the ''search and seizure'' requirements of the Fourth Amendment. Authority to ''search and seize'' in the form of inspections, detentions, and quarantine has long existed under the Public Health Service Act and the current regulations. The Fourth Amendment to the U.S. constitution provides that ''[t]he right of the people to be secure in their persons, houses, papers, and effects, shall not be violated, and no warrants shall issue, but upon probable cause. * * *'' Courts have held, however, that not all types of searches and seizures necessarily require probable cause and a warrant. Searches and seizures conducted with the consent of an authorized person and those searches and seizures that are conducted to avert an imminent threat to health or safety do not run afoul of the Fourth Amendment even when conducted without probable cause and a warrant. *See Lenz* v. *Winburn,* 51 F.3d 1540, 1548 (11th Cir. 1995) (''Anyone who possesses common authority over or other sufficient relationship to the premises or effects sought to be inspected may consent to the search of another's property.'') (internal quotations marks omitted); *North American Cold Storage,* 211 U.S. at 315 (upholding seizure of food unfit for human consumption). Similarly, individuals at points of entry and who are in transit have a substantially reduced expectation of privacy concerning their persons and effects and thus courts have not required that searches and seizures be conducted pursuant to probable cause and a warrant. *See United States* v. *McDonald,* 100 F.3d 1320, 1324–25 (7th Cir. 1996) (noting that it is generally recognized that people who are in transit on common thoroughfares, i.e., on a bus, train, or airplane, have a substantially reduced expectation of privacy compared to persons in a fixed dwelling); *United States* v. *Berisha,* 925 F.2d 791, 795 (5th Cir. 1991) (noting that both incoming and outgoing border searches have features in common including the need to protect U.S. citizens, the likelihood of smuggling contraband, and the fact that individuals are placed on notice that their privacy may be invaded when they cross the border).

The U.S. Supreme Court has also recognized a reduced expectation of privacy concerning commercial industries that are ''closely regulated'' and thus searches and seizures of such commercial industries do not require probable cause and a warrant. *See New York* v. *Burger,* 482 U.S. 691, 702 (1987) (noting that the warrant and probable-cause requirements of the Fourth Amendment have lessened application in this context); *Lesser* v. *Espy,* 34 F.3d 1301, 1308 (1994) (upholding warrantless inspections of rabbit farms by the Animal Plant Health Inspection Program pursuant to the Animal Welfare Act). Specifically, warrantless inspections of ''closely regulated'' businesses are deemed reasonable provided that (1) there is a substantial government interest that informs the regulatory scheme pursuant to which the inspection is made; (2) the warrantless inspection is necessary to further the regulatory scheme; and (3) the inspection program, in terms of the certainty and regularity of its application, provides an adequate substitute for a warrant. *Burger,* 482 U.S. at 702–703.

Section 361(a) of the PHS Act (42 U.S.C. 264(a)) provides that regulations enacted by the Secretary may provide for inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated to be sources of dangerous infection to human beings, and other measures that in the Secretary's judgment may be necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States or from one state or possession into another. The statute also authorizes the apprehension, detention, and conditional release of persons reasonably believed to be infected with specified communicable diseases and arriving into the United States or traveling from one state into another. In carrying out this statutory authority, the proposed regulations authorize the Director to detain and inspect carriers and articles on board carriers for purposes of determining whether they may require the application of sanitary measures to prevent the introduction, transmission, or spread of communicable diseases.

The Director's delegated authority under section 361 is distinct from legal authority afforded to other federal agencies, such as USDA, which, among other things, includes the legal authority to prohibit or restrict the importation or entry of any animal, article, or means of conveyance, or the use of any means of conveyance or facility, if the USDA Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock. See 7 U.S.C. 8303. In implementing measures necessary to prevent the introduction, transmission, and spread of communicable diseases that affect both human and livestock health, e.g., avian influenza, CDC would work collaboratively with USDA.

As previously noted, there are circumstances where courts have held that the Fourth Amendment does not require probable cause and a warrant, including searches conducted upon the consent of the individual and those necessary to avert an imminent threat to human health or safety. Inspections conducted by quarantine officers at ports of entry and other locations will most often fall into one of these two categories. In addition, under the proposed regulations, the Director may compel inspections of carriers and the application of sanitary measures through written order. Furthermore, the proposed regulations provide the owners with an opportunity for a written appeal in the event that the Director orders the detention of a carrier or the destruction of animals, articles, or things, on board the carrier. Regarding individuals, the proposed regulation authorizes the provisional quarantine of persons arriving into the United States reasonably believed to be infected with or exposed to a quarantinable disease and persons who the Director reasonably believes to be in the qualifying stage of a quarantinable disease and traveling from one state into another or who are a probable source of infection to others who may be traveling from one state into another.

The routine inspection of persons or property for purposes of determining the presence of communicable disease is authorized by statute and does not run afoul of the Fourth Amendment because of the reduced expectation of privacy inherent in travel and at border crossings. *See United States* v. *Flores-Montano,* 541 U.S. 149, 152 (2004) (noting that the Government's interest in preventing the entry of unwanted persons and effects is at its zenith at the international border and that border searches conducted pursuant to the

longstanding right of the sovereign to protect itself by stopping and examining persons and property crossing into this country are reasonable simply by virtue of the fact that they occur at the border); *McDonald,* 100 F.3d at 1324 n.5 (''This diminished interest derives from, among other factors, the myriad legitimate safety concerns that pertain to those who travel by common carrier.''). Air travel and shipping are also closely regulated industries in the United States because these industries must comply with myriad regulatory requirements relating to safety, immigration, and homeland security. *See United States* v. *Dominguez-Prieto,* 923 F.2d 464, 468 (6th Cir. 1991) (holding that common carriers in the trucking industry are pervasively regulated industries for purposes of warrantless inspections because of extensive federal and state regulations). Courts have also long recognized a substantial government interest in preventing the introduction, transmission, and spread of communicable diseases. *See Jacobson,* 197 U.S. at 11. Unsanitary carriers, as well as contaminated goods, may pose a threat to human health or safety, as well as lead to further contamination of other articles, if not immediately inspected and sanitized. The issuance of a written order by the Director, when necessary to compel compliance, accompanied by an opportunity for a written appeal, in the case of carriers ordered detained or animals, articles, or things ordered destroyed, also provides protections analogous to those of a warrant. *See Burger,* 482 U.S. at 711 (ruling that the administrative inspection program provided an adequate substitute for a warrant because it placed appropriate restraints on the discretion of the inspecting officers).

It is well recognized that freedom from physical restraint is a ''liberty'' interest protected by the Due Process Clause of the 14th Amendment to the U.S. Constitution. *See Kansas* v. *Hendricks,* 521 U.S. 346, 356 (1997) (noting that while freedom from physical restraint is at the core of the liberty protected by the Due Process Clause, that liberty interest is not absolute). In circumstances where due process is required, courts determine the process that is due by balancing the private interest affected by the official action against the government's asserted interest and the burdens that the government would face in providing greater process. *See Hamdi* v. *Rumsfeld,* 124 S.Ct. 2633, 2646 (2004) (relying on *Mathews* v. *Eldridge,* 424 U.S. 319, 335 (1976)). Due process is a flexible concept requiring that the level of process granted be commensurate with the degree of deprivation and the circumstances of the event. *See Parham* v. *J.R.,* 442 U.S. 584, 608 (1979) (''What process is constitutionally due cannot be divorced from the nature of the ultimate decision that is being made.''). Furthermore, due process does not always require judicial-type hearings or quasi-criminal proceedings before curtailing an individual's physical liberty for public health purposes. *See id.* at 609 (''Although we acknowledge the fallibility of medical and psychiatric diagnosis, we do not accept the notion that the shortcomings of specialists can always be avoided by shifting the decision from a trained specialist using the traditional tools of medical science to an untrained judge or administrative hearing officer after a judicial-type hearing.'') (internal citation omitted); *Addington* v. *Texas,* 441 U.S. 418, 431 (1979) (holding that states need not apply the strict criminal standard of proof beyond a reasonable doubt before committing the mentally ill); *Morales* v. *Turman,* 562 F.2d 993, 998 (5th Cir. 1977) (noting *in dicta* that ''[a] state should not be required to provide the procedural safeguards of a criminal trial when imposing a quarantine to protect the public against a highly communicable disease.''). The basic elements of due process include: Reasonable and adequate notice of the action that the government is purporting to take (typically through a written order); an opportunity to be heard in a reasonable time and manner; access to legal counsel; and review of the government's actions by an impartial decision-maker. *See Goldberg* v. *Kelly,* 397 U.S. 254, 267–268 (1970) (discussing due process in the context of terminating welfare benefits). Because quarantine implicates an individual's liberty interest to remain free from physical restraint, CDC in carrying out quarantine actions is obliged to act in a manner consistent with these basic elements of due process.

The proposed regulation establishes administrative procedures that afford individuals with due process commensurate with the degree of deprivation and the circumstances of controlling the spread of communicable disease. CDC quarantine officers are typically the first line of defense in preventing the importation of communicable diseases into the United States. Quarantine officers routinely conduct rapid assessments of ill passengers at airports and other ports of entry to assess the presence of communicable disease. Such assessments generally occur on a voluntary basis with the consent of the ill passenger. Where the quarantine officer reasonably believes that an ill passenger has a quarantinable disease, and the passenger is otherwise non-compliant, the quarantine officer may order the provisional quarantine of the passenger by serving the passenger with a written order, verbally ordering that the passenger be provisionally quarantined, or by ordering that actual restrictions be placed on a non-compliant passenger. The quarantine officer's reasonable belief would be informed by objective scientific evidence such as clinical criteria indicative of one of the specified quarantinable diseases, e.g., high fever, respiratory distress, and/or chills, accompanied by epidemiologic criteria such as travel to or from an affected area and/or contact with known cases. Provisionally quarantined individuals are provided with a written order in support of the agency's determination at the time that provisional quarantine commences or as soon thereafter as the circumstances reasonably permit. The written provisional quarantine order provides the individual with notice regarding the legal and scientific basis for their provisional quarantine, the location of detention, and the suspected quarantinable disease. Under the proposed regulations, CDC may provisionally quarantine an individual for up to three business days unless the Director determines that the individual should be released or served with a quarantine order. CDC does not intend to provide individuals with administrative hearings during this initial three-day period of provisional quarantine, but rather will afford an opportunity for a full administrative hearing in the event that the individual or group of individuals is served with a quarantine order, which potentially would involve a longer period of detention.

While there are no federal cases establishing a specific time period for holding persons in quarantine-type detentions, there are several analogous federal cases dealing with ''alimentary canal'' smugglers, i.e., persons who smuggle drugs in their intestines by swallowing balloons. In *United States* v. *Montoya de Hernandez,* 473 U.S. 531 (1985), the U.S Supreme Court analogized holding a suspected alimentary canal smuggler to detaining someone for suspected tuberculosis, noting that ''both are detained until their bodily processes dispel the suspicion that they will introduce a harmful agent into this country.''

Federal courts have upheld detention periods ranging from 16 hours to 20 days based on ''reasonable suspicion'' for suspected alimentary canal smugglers. CDC believes that the provisional quarantine of individuals for up to three business days without an administrative hearing is reasonable because such a time frame is necessary to determine whether the individual has one of the specified quarantinable diseases. A provisional quarantine order is likely to be premised on the need to investigate based on reasonable suspicion of exposure or infection, whereas a quarantine order is more likely to be premised on a medical determination that the individual actually has one of the quarantinable diseases. Thus, during this initial three business day period, there may be very little for a hearing officer to review in terms of factual and scientific evidence of exposure or infection. Three business days may be necessary to collect medical samples, transport such samples to laboratories, and conduct diagnostic testing, all of which would help inform the Director's determination that the individual is infected with a quarantinable disease and that further quarantine is necessary. In addition, because provisional quarantine may last no more than three business days, allowing for a full hearing, with witnesses, almost guarantees that no decision on the provisional quarantine will actually be reached until after the provisional period has ended, thus making such a hearing virtually meaningless in terms of granting release from the provisional quarantine. In the event that further quarantine or isolation is necessary, the Director would issue an additional order based on scientific principles such as clinical manifestations, diagnostic or other medical tests, epidemiologic information, laboratory tests, physical examination, or other available evidence of exposure or infection. The length of quarantine or isolation would not exceed the period of incubation and communicability for the communicable disease as determined by the Director.

Under 28 U.S.C. 2241, an opportunity for judicial review of the agency's decision exists via the filing of a petition for a writ of habeas corpus. This judicial review mechanism affords individuals under quarantine with the full panoply of due process rights typical of a court hearing. A petition for a writ of habeas corpus is the traditional mechanism by which individuals may contest their detention by the federal government. *See Hamdi*, 124 S.Ct. at 2644 (noting that absent suspension, the writ of habeas corpus remains available to all individuals detained within the United States); *United States* v. *Shinnick,* 219 F.Supp.789 (E.D.N.Y. 1963) (upholding the U.S. Public Health Service's medical isolation of an arriving passenger because she had been in Stockholm, Sweden, a city declared by the World Health Organization to be a smallpox infected local area and could not show proof of vaccination).

In addition to this judicial review mechanism, as previously mentioned, the proposed regulations establish a procedure for individuals under quarantine to request an administrative hearing. The purpose of the administrative hearing is not to review any legal or constitutional issues that may exist, but rather only to review the factual and scientific evidence concerning the agency's decision, e.g., whether the individual has been exposed to or infected with a quarantinable disease. Such an administrative hearing would comport with the basic elements of due process. Under the proposed regulations, the Director would notice the hearing and designate a hearing officer to review the available evidence of exposure or infection and make findings as to whether the individual should be released or remain in quarantine. The proposed regulations authorize the Director to take such measures as the Director determines to be reasonably necessary to allow an individual in quarantine to communicate with their authorized representative to participate in the hearing.

In addition to section 361 of the PHS Act (42 U.S.C. 264), HHS also relies on the following legal authorities with respect to this notice of proposed rulemaking: 25 U.S.C. 198, 231, and 1661; 42 U.S.C. 243, 248, 249, 265–272, and 2001. 25 U.S.C. 198, 231, 1661 and 42 U.S.C. 2001 contain legal authorities primarily relevant to public health measures taken with respect to Indian country. 42 U.S.C. 265–272 contain legal authorities primary relevant to HHS operations and activities with respect to quarantine and other public health measures. These authorities are discussed in depth in Section IV.

IV. Summary of Proposed Changes to 42 CFR Part 70

Several new sections have been added to 42 CFR Part 70. Most of these sections are provided to update and streamline practices to reflect modern quarantine practice. Imposition of quarantine needs to be based on clear legal authorities and applied safely and effectively while according respect to the individual.

The following is a section-by-section analysis:

Section 70.1 Scope and Definitions

Section 70.1 is renamed scope and definitions. Section 70.1 explains that, except where otherwise stated, regulations to prevent the spread of disease among possessions or from a possession to a State are contained in 42 CFR Part 71.

A number of terms have been added or modified to be consistent with modern quarantine concepts and current medical principles and practice. Specifically, definitions for ''aircraft commander,'' ''airline,'' ''airline agent,'' ''business day,'' ''carrier,'' ''detention,'' ''emergency contact information,'' ''flight information,'' ''hearing officer,'' ''Indian country,'' ''Indian tribe,'' ''infectious agent,'' ''interstate traffic,'' ''medical monitoring,'' ''military service,'' ''possession,'' ''provisional quarantine'', ''public health emergency,'' ''qualifying stage,'' ''quarantine,'' ''quarantinable disease,'' ''sanitary measure,'' ''Secretary,'' ''State'' and ''vector'' have been added or modified. The definition of an ill person has been modified to include the signs or symptoms commonly associated with diseases for which provisional quarantine or quarantine may be necessary. This definition is of particular importance because it determines the scope of the reporting requirement specified in § 70.2. Because reporting is dependent on recognition of an ill passenger by non-medical personnel and without the benefit of a medical examination, such as by the flight crew, this definition relies on descriptive terms that are overt and commonly understood by lay persons. The definition is broad by design for two reasons: (1) To ensure that all situations for which the Director must take action in order to prevent the introduction and spread of communicable diseases are reported, and (2) the reporting of ill passengers relies on personnel without medical training. While a narrower definition might reduce the number of situations reported for which action by the Director is unnecessary, such a definition would necessarily include findings or terms that cannot be accurately assessed by those without medical training. Moreover, a narrower definition would likely exclude situations of public health significance thus circumventing the very purpose for which the reporting requirement is designed. Therefore, the more prudent course has been chosen, whereby reporting is required for a broad range of signs and symptoms, allowing the

Director to use her professional judgment to determine which situations require additional action.

Section 70.2 Report of Death or Illness on Board Flights

As noted previously, the Director has a responsibility to prevent the spread of communicable diseases between states. The purpose of the disease reporting requirement is to ensure that CDC can mobilize appropriate personnel to respond efficiently to the arrival of an ill person with a communicable disease. This response may require evaluation of the ill passenger by trained medical personnel, evaluation of other passengers who may have been exposed to the disease en route, and secure transport of individuals to a designated isolation facility where they may receive appropriate care while minimizing the risk of transmission to others. Because the entire panel of responders may not be onsite at the airport it is imperative that notification be received by CDC as soon as the illness is identified and, whenever possible, at least one hour prior to arrival.

Under current regulations (§ 70.4), the person in charge of any carrier engaged in interstate traffic on which a case or suspected case of a communicable disease develops, as soon as practicable, is required to notify the local health authorities at the next port of call, station, or stop and take such measures as the local health authority directs. Paragraph (a) of § 70.2 in the proposed revision eliminates the requirement that carriers report to local health authorities, requiring instead that reports be made to the Director. By providing a single point of contact for disease reports, the burden on carriers to identify and maintain points of contact with local health authorities is significantly reduced. The Director would assume responsibility for notifying local health authorities as indicated. It is common, but not universal, that FAA officials (e.g., air traffic control) are included among those notified by the airline of an ill passenger. Current CDC procedure dictates that FAA personnel and other emergency response personnel are notified by Quarantine Station staff of the impending arrival of a plane carrying a passenger with other than routine illness. However, this notification is contingent on CDC awareness of the situation prior to flight arrival, as this provision requires.

The regulation was drafted to afford the carrier maximum flexibility in establishing a system to ensure that the advance reporting requirement is met. We do not intend to mandate a particular pathway of communication as long as a report is made by the designated airline official within the specified time frames. Individuals typically involved in the notification process include the crew, including the pilot or captain, flight operations on the ground, air traffic controllers, other ground personnel, and other airline representatives.

Paragraph (b) of this section enables the Director to order airlines engaged in interstate traffic to distribute to passengers and crew, at a time specified by the Director, public health notices and other materials that describe recommended measures for preventing spread of communicable diseases. During SARS and in the time since the outbreak was controlled, CDC has distributed Health Alert Notices to advise passengers on international flights who may have been exposed to a communicable disease as to how to monitor their health and how to proceed should certain symptoms develop. These notices were an important component of the CDC response to SARS. The effectiveness of this measure, however, was limited by CDC's inability to ensure that all passengers received the notices, a goal that was particularly difficult if distribution occurred after passengers already had entered the terminal and were focused on getting to distant gates or their final destinations. The routine delay in passenger dispersal following disembarkation that accompanies international arrivals (i.e., while they undergo immigration and customs processing) is absent from interstate arrivals, thereby making distribution of this information post-disembarkation even more challenging. By requiring airline staff to distribute these materials prior to disembarkation, for example, Director can better ensure that potentially exposed passengers have access to information critical to maintaining their own health and to preventing spread in the community. CDC expects to exercise this requirement in situations where a significant outbreak of a quarantinable disease is detected abroad and there is the potential for exposure among interstate travelers. CDC might also require airlines to distribute notices in the period between the outbreak of a new communicable disease and the addition of the disease to the list of quarantinable diseases.

Section 70.3 Written Plan for Reporting of Deaths or Illness on Board Flights and Designation of an Airline Agent

In order to ensure that all parties are aware of the appropriate lines of communication between airlines and CDC for reporting, and that policies and procedures are in place to facilitate such communication, this section requires airlines engaged in interstate travel to develop a written plan sufficient to ensure the reporting of ill passengers and deaths on board flights and submit it to the Director within 90 days of the final publication of this rule. Airlines that intend to commence operation of flights in interstate traffic after this effective date shall submit a written plan to the Director before commencing operations.

The plan may be submitted electronically to an e-mail address or permanent address that will be provided in the final rule. This plan would identify the designated airline ''point of contact'' or ''agent'' for issues related to reporting of any deaths or ill passengers. In addition, the plan would identify the members of the flight team (e.g., cabin crew, captain, airline flight operations, flight controllers, or other airline-designated agent for reporting) who will be responsible for making the required report to the Director.

The plan must be implemented within 180 days of the final publication of the rule. CDC believes that a 90-day time frame for development of a written plan and an additional 90 days for implementation to be appropriate because airlines should already have such procedures in place to satisfy the existing ill passenger reporting requirement currently contained in 42 CFR 70.4. Airlines commencing operations after the rule is in effect must implement their written plans by the later of the following: 180 days after the final publication of the rule or upon commencement of operations. CDC solicits comment on whether these timeframe are appropriate. During the phase-in period established in this section, airlines are still expected to comply with the reporting requirements contained in current § 70.4.

Airlines are required to review the plan one year after implementation and annually thereafter and make revisions as necessary. Airlines that have not reported ill passengers or deaths on board a flight under the requirements in 70.2 in the prior 365 days are required to conduct drills or exercises to test and evaluate the effectiveness of the plan. Any revisions as a result of the annual review or the drills or exercises must be

submitted to the Director within 60 days.

Section 70.4 Passenger Information

Among the fundamental components of the public health response to the report of a person with a communicable disease is the identification and evaluation of those who may have been exposed. Public health authorities may then offer these individuals treatment, vaccination, or other preventive measures as may be available. These treatments, by preventing the development or progress of the disease, serve the dual purpose of providing direct benefit to those exposed along with benefit to the community at large by preventing further person-to-person spread. Thus, in order to carry out her delegated responsibility to control spread of communicable diseases between states, the Director must, for a limited time, be able to efficiently identify and locate persons who may have been exposed to a communicable disease during travel. The identification and notification of those exposed is an essential first step in providing the exposed access to potentially life-saving medical follow-up and disease prevention measures, including vaccination. Preventing secondary cases among contacts, in turn, helps prevent further propagation and spread of disease within the community. As such, travelers and the public at large derive direct benefit from a system, such as is proposed, that ensures that, if an exposure has occurred, affected passengers can be identified, located, and notified within the incubation period of the disease. If notification does not occur by the conclusion of the incubation period, the effectiveness of medical follow-up and disease prevention measures and, therefore, the benefit to the public is severely reduced.

The worldwide outbreak of SARS, an illness that was originally reported in Asia in late 2002 and quickly spread to North America and Europe, provided a clear example of the rapidity with which an infectious disease may spread through air travel, while exposing clear limitations in the current system of identifying and notifying those who may have been exposed during travel. During this outbreak, CDC attempted to gather contact information on persons exposed and received significant cooperation from the airlines. CDC met flights containing suspected contagious passengers and obtained location and contact data from both passengers and crew members before disembarkation. Ill passengers on planes from affected areas were met by CDC staff members for evaluation and referred for medical care when appropriate. However, if a suspected case of SARS was identified after disembarkation, CDC staff had to manually gather, compile, and process data from flight manifests, customs declarations, and any other available sources relevant to the case.

Utilizing this manual process, CDC staff encountered the following difficulties:

- Manifests provided by carriers contained only the name and the seat number.
- Custom declarations were completed by the passenger by hand and were often illegible.
- Names on the customs declarations did not necessarily match those on the manifests.
- Phone numbers were not included on customs forms, and only one customs form was filled out per family.

Since the data gathered from manifests and customs declarations were only available in hard copy, it often took several days to obtain. Photocopies were sent by express mail to CDC where the data were keyed into a database. Entering the data and verifying the addresses usually took several more days. The time required to track passengers was routinely longer than the incubation period of the SARS virus.

While CDC received good cooperation from the industry, the primary responsibility for locating passengers rests with public health authorities as recognized by International Air Transport Association (IATA) Recommended Practices 1788, as shown in the following excerpts:

> When a Member is advised by a health authority that it may have transported a passenger with an infectious disease, it shall co-operate with such health authority, with the understanding that it is not the Member's responsibility to trace and notify other passengers who may have been exposed to the infectious disease.
>
> If the health authority requests a list of other passengers who may have been exposed to the infectious disease, the health authority should be advised to first utilize immigration records of the arriving passengers, such as landing cards, in order to determine the names and addresses of such passengers. If the health authority advises the Member that it was unable to determine from immigration records, the names of other passengers who may have been exposed to the infectious disease, the Member should ask the health authority to make a formal request for a list of passengers.

In the aftermath of SARS, CDC has continued to enjoy good overall cooperation from airline industry partners. However, citing information privacy concerns, some airlines have increasingly required that CDC accompany its request for passenger information with a written order explaining CDC's legal authority for requesting such information.

In November 2003, the University of Louisville School of Medicine prepared a report entitled ''Quarantine and Isolation: Lessons Learned from SARS,'' that recommended:

> In the event that an international traveler develops an infectious disease, there is an urgent need to be able to locate crew members and other passengers from the same flight or ship. Public health officials must have immediate access to passenger manifests or be able to require all arriving passengers to complete a public health form containing, for example, the individual's health status, seat number, countries visited, and contact information. This information must be in electronic form.

Collection of this information finds strong support in public opinion. While a significant number of air passengers expressed concerns with increased reservation or check-in time, a Harvard School of Public Health study, Project on the Public and Biological Security, finds that 94% of air travelers would want public health authorities to contact them if they might have been exposed to a serious contagious disease on an airplane. In addition, 93% of domestic air travelers and 89% of international air travelers expressed a willingness to provide some type of contact information.

In its April 2004 report on Emerging Diseases, GAO–04–564, the U.S. Government Accountability Office concluded:

> The Centers for Disease Control and Prevention * * * tried to contact passengers from flights and ships on which a traveler was diagnosed with SARS after arriving in the United States. However, these efforts were hampered by airline concerns and procedural issues.

On the basis of that conclusion, the GAO recommended that the

> Secretary of HHS complete steps to ensure that the agency can obtain passenger contact information in a timely manner, including, if necessary, the promulgation of specific regulations.

This provision seeks to address this recommendation by GAO.

As stated previously, under 42 U.S.C. 264, the Secretary of HHS is authorized to make and enforce regulations necessary to prevent the introduction, transmission, and spread of communicable diseases from foreign countries into the United States and from one state or possession into another. The Director has been delegated the responsibility for carrying out these regulations. The Director's authority to investigate suspected cases

and potential spread of communicable disease among foreign and interstate travelers is thus not limited to those known or suspected of having a quarantinable disease (any of the communicable diseases listed in an Executive Order, as provided under Section 361 of the Public Health Service Act (42 U.S.C. 264). Executive Order 13295, of April 4, 2003, as amended by Executive Order 13375 of April 1, 2005, contains the current revised list of quarantinable diseases, and may be obtained at *http://www.cdc.gov* and *http://www.archives.gov/federal_register).* Rather, the authority encompasses all communicable diseases that may necessitate a public health response. An order for transmission of passenger information is more likely to follow exposure to a non-quarantinable communicable disease than to one listed as quarantinable under the current Executive Order as the former occur much more commonly. Examples of situations where manifest data may be requested for communicable diseases would be following exposure to an individual with suspected measles or bacterial meningitis. When to order transmission of data from airlines would, by necessity, have to be decided on a case-by-case basis depending on the facts and circumstances of the particular disease occurrence. However, any order to transmit passenger information to CDC would be done so when necessary for the protection of the vital interests of an individual or other persons, in regard to significant health risks.

The proposed regulation requires that airlines operating interstate flights arriving in or departing from any of the airports listed in Appendix A to request certain information from passengers, maintain it in an electronic database for 60 days from the end of the flight, and transmit the information to CDC within 12 hours of a request. This information includes, as specified in paragraph (e), full name (first, last, middle initial, suffix); current home address (street, apartment number, city, state/province, postal code); at least one of the following current phone numbers in order of preference: (mobile, home, pager, or work); e-mail address; passport or travel document, including the issuing country or organization; traveling companions or group; flight information; returning flight (date, airline number, and flight number); and emergency contact information as defined in § 70.1. The following table summarizes the data elements that would be collected under the proposed NPRM, those items currently collected by airlines and the frequency of collection, and items which the Department of Homeland Security collects under its Advanced Passenger Information System (APIS). Based on CDC's experience with previous contact tracing efforts using passenger data, the data elements are ordered according to the relative utility of each piece of data with respect to contract tracing.

Data elements required by CDC NPRM	Currently collected by airlines	Required by DHS/APIS for international flights
Name	Yes	Yes.
Emergency contact	Intermittent to rarely for domestic flights, more frequently for international flights.	No.
Flight information	Yes	Yes.
Phone number	Intermittent	No.
Email address	Intermittent—usually only for Internet, phone, or travel agent reservations.	No.
Current home address	Intermittent—usually only for Internet or travel agent reservations.	No.
Passport or travel document number and country (for foreign nationals for domestic and international flights).	Only for international flights	Yes.
Traveling companions	No	No.
Returning flight information	Usually only if booked at same time or with same airline	No.

The data are to be collected from each crewmember and passenger or head of household if the passenger is a minor and must be maintained by the airline for 60 days from the end of the voyage. Upon request of the Director, the data are to be transmitted to CDC within 12 hours. This time period is considered longer than will actually be necessary once the plan for data transmission developed pursuant to § 70.5 has been implemented. In addition, paragraph (f) enables the Director to compel, through order, transmittal of additional information in the airline's possession that may be necessary to prevent the introduction, transmission, or spread of communicable diseases. For example, information regarding the airline's food service provider may be relevant to an investigation of a foodborne outbreak on board an airline.

The provision does not require airlines to verify the accuracy of the information collected from passengers. Airlines, however, are expected to accurately transmit information collected from passengers. Based in part on data from a public opinion survey, it is believed likely that passengers will voluntarily provide this information so that CDC could contact the passenger in the case of that passenger's exposure to a communicable disease. However, passengers who decline to provide contact information will not be prohibited from traveling.

CDC invites comments on any and all aspects of this data collection. Specifically, CDC solicits comments on the following subjects:

- Although we assume travelers will be willing to provide accurate information in the interest of being contacted for public health reasons, we are interested in further strategies that may increase the likelihood of receiving accurate information from travelers
- Whether a shorter list of contact data would improve the willingness to provide information or the accuracy of the information provided.
- The degree to which airlines and shiplines currently collect each proposed data element, the feasibility and cost of collecting each data element, and the extent that the additional data collection would require changes in IT systems or operating procedures.
- The utility of each proposed data element for the purposes of contact tracing.

Information and records provided to CDC will be maintained and stored in accordance with HHS and CDC policies and in accordance with Privacy Act (5 U.S.C. 552a) and its implementing regulations (45 CFR Part 5b), which

require that the records only be used for authorized purposes by authorized personnel. Paper records will be kept in locked storage containers and access will only be allowed for authorized personnel; electronic records will be inaccessible to all CDC employees except those that are authorized to use them in accordance with Federal law. After the legal retention period for these records has expired, they will be destroyed (shredding or maceration for paper files; wiping of electronic files) to ensure that the information is not recoverable and to ensure the privacy and confidentiality of those involved. CDC has a long history of managing sensitive data in a manner that protects the confidentiality and privacy of the public. This positive track record will continue with the management of these records.

The Federal Records Management retention guidelines require that we develop a specific approved records control schedule through the established records disposition process. CDC intends to propose a records control schedule for these records that would establish a legal retention period of one year. This would allow CDC to properly respond to outbreaks, and to ensure the health of airline passengers and the American public. The review process (as defined in 36 CFR part 1228) will involve significant internal CDC review (including substantive legal review), a review by HHS and the National Archives and Records Administration (NARA), and finally the publishing of a proposed retention schedule for these records in the **Federal Register** for public comment. CDC anticipates that this process will take 12–18 months. We are confident that after this process all relevant interests and concerns from health, privacy and legal perspectives, and those representing the interests of passengers, the airline industry, and the general public will be taken into consideration. Current standard records retention policy requires that we keep data for 10 years. Until we can create a new records schedule for these data, CDC will follow this policy.

Airlines are expected to safeguard the confidentiality of the information collected. Under the proposed regulation, information collected solely in order to comply with this rule may only be used for the purposes for which it is collected. Airlines shall ensure that passengers are informed of the purposes of this information collection at the time passengers arrange their travel. CDC solicits comments on the privacy aspects of collecting information to be used solely in order to comply with this rule, including the practicality of informing passengers of the purposes of the information collection and the safeguarding of passenger information.

The airports listed in Appendix A are derived from a list that the Federal Aviation Administration uses to apportion its Airport Improvement Program grants base. As part of this program, FAA assigns the status of airport hubs based upon that airport's passenger boardings as a percent of total U.S. passenger boardings. CDC has listed in Appendix A the 67 large and medium hubs assigned by FAA in 2004, which is the latest list published by FAA. CDC is focusing upon the 67 large and medium hubs because this captures a majority (approximately 90%) of annual passenger boardings without burdening airlines that operate only in small hubs where passenger boardings are considerably lighter. CDC may revise this list in the future through notice and comment rulemaking.

Section 70.5 Written Plan for Passenger Information and Designation of an Airline Agent

This provision as outlined in paragraph (a) requires airlines engaged in interstate commerce to designate an agent as a CDC single point of contact for communications related to passenger manifests. In addition, airlines must develop, within six months of the final publication of this rule, a written plan sufficient to ensure the electronic transmission to the Director of data that are collected from passengers and crew pursuant to § 70.4. Paragraph (f) explains that airlines meeting the provisions in (a) that intend to commence operations after the effective date in (a) shall submit a written plan to the Director prior to commencing operations.

The plan may be submitted electronically to an e-mail address or permanent address that will be provided in the final rule. The written plan must include policies and procedures for the transmission of the data in an electronic format available to both the airline and the Director using industry standards for data encoding, transmission, and security. Airlines are required to submit their written plans for transmission of passenger manifest information to the Director and implement the plan within 2 years of the final publication of this rule. Airlines commencing operations after the effective date in (a) are required to implement the plan on the later of these two dates: 2 years after the final publication of this rule or upon commencement of operations. CDC is soliciting comments specifically in regard to these timeframes.

Upon implementation of the plan, airlines are required to conduct drills or exercises to test and evaluate the effectiveness of the plan. Airlines are required to review the plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the airline has transmitted passenger and crewmember information under § 70. 4 in the prior 365 days. Airlines shall make revisions as necessary as result of the review and submit them to the Director within 60 days.

Section 70.6 Travel Permits

This provision requires any person who knows that he or she is in the qualifying stage, as defined in § 70.1, of any quarantinable disease to obtain a travel permit from the Director if he/she intends to travel in interstate traffic or from one state or possession into any other state or possession.

Section 70.6 prohibits interstate carriers from knowingly transporting or accepting for transport any person in the qualifying stage of a quarantinable disease without a travel permit issued by the Director. If a person possesses a travel permit, the carrier is required to take all steps necessary to prevent spread of the disease during transport.

Persons who know that they are in the qualifying stage of a quarantinable disease are prohibited from traveling in interstate traffic or from one state or possession into another without a permit issued by the Director. The person issued a permit is required to maintain possession of the permit at all times during travel, and to comply with its conditions. Persons whose application for a travel permit has been denied may submit a written appeal within two business days in accordance with 70.31.

An order of the CDC Director is not necessary for travel permits to be required under this section, rather these are ongoing requirements. CDC expects that the need to issue a travel permit will arise infrequently. CDC envisions that the circumstances under which the use of travel permits would be necessary include (1) to prevent spread of quarantinable disease in interstate traffic or from one state or possession into any other state or possession; (2) upon request of a health authority; and (3) in the event of inadequate local control. The requirement of travel permits pertains to individuals who know they are in the qualifying stage of quarantinable disease and thus requires actual knowledge of one's condition. Similarly, section 70.6 provides that a

carrier may not knowingly transport a traveler in the qualifying stage of a quarantinable disease without a permit.

The Director may additionally apply the provisions of this section to persons and carriers traveling entirely within the boundaries of a state or possession upon the request of a cognizant health authority or in the event of inadequate local control if the Director determines that such persons' travel or the operations of the carrier have an effect on interstate commerce. In such cases, the Director will issue an order advising persons of the application of this provision to intrastate traffic that affects interstate commerce. CDC believes that travel permits may be an important public health tool in the event of a public health emergency that necessitates the control of intrastate movement or the orderly evacuation of infected individuals to other locations within a state or possession.

Section 70.7 Responsibility With Respect to Minors, Wards, and Patients

This section clarifies that parents, guardians, physicians, nurses, and other persons may not procure transportation for children, wards, or patients whom they know to be in the qualifying stage of a quarantinable disease without obtaining a travel permit from the Director if such a permit is required under this part. Because minor children, wards, and hospitalized persons may not be able to procure transportation on their own, the responsibility for obtaining the travel permit falls to their guardians and/or other persons in whom their care is entrusted. This provision is a carryover from existing § 70.7, with the exception that the provision has been changed to specifically reference travel permits. Persons whose application for a travel permit has been denied may submit a written appeal within two business days in accordance with 70.31.

Section 70.8 Military Services

Under section 361 of the PHS Act (42 U.S.C. 264), the HHS Secretary has broad authority to enact regulations to prevent the introduction, transmission, and spread of communicable diseases. This is a statute of general applicability and thus applies to the military and its service members traveling on military carriers. Section 70.8, however, exempts the military services and their members traveling on military carriers from certain provisions of Part 70. Specifically, the military services and their members traveling on military carriers are exempt from the following provisions: § 70.6(a) (travel permits requirements relating to carriers), § 70.11 (sanitary measures), and § 70.12 (detention of carriers affecting interstate commerce). A limited exemption is also created with respect to § 70.6(c) (travel permit requirements relating to persons who know that they are in the qualifying stage of a quarantinable disease) and § 70.7 (Responsibility with respect to minors, wards, and patients), provided that the person authorizing the service member's travel on a military carrier takes measures consistent with those prescribed by the Director to prevent the possible transmission of infection to others during travel. This section is largely carried over from existing § 70.8. Furthermore, while not specifically exempt, carriers belonging to the military services are not subject to requirements relating to reporting of deaths or illness on board flights (§ 70.2 & § 70.3) and passenger information (§ 70.4 & § 70.5) because aircraft operated by the military services do not operate ''commercially.'' These exemptions exist because the U.S. military has established mechanisms to prevent disease spread on board its carriers and among its personnel. HHS also wishes to minimize any potential disruption of military activities.

Section 70.9 Vaccination Clinics

This provision replaces current § 70.9, recently promulgated as an interim final rule. The current section authorizes the Director to establish vaccination clinics and to charge persons not enrolled in Medicare Part B a user fee to cover costs associated with administration of vaccine. The proposed regulation contains similar authority, and additionally requires vaccination clinics to comply with recordkeeping and other instructions issued by the Director to ensure safe administration, handling, monitoring and storage of vaccines. These requirements include collection and maintenance of information on vaccine recipients including age, gender, date of vaccination, vaccine lot number, prior vaccination, concurrent vaccinations, Vaccine Adverse Events Reporting System Report/Adverse Event Report Number (if applicable), and verification that the vaccination conferred immunity. In addition, the reason for vaccination (*e.g.* post exposure, pre-exposure prophylaxis, military, administrative requirement [pre-employment, school entry], member of high risk group, pre-travel, general vaccination, or other reason) must be stated. The Director may waive or modify these requirements in the event of a public health emergency.

Section 70.10 Establishment of Institutions, Hospitals and Stations

This provision authorizes the Director to enter into voluntary agreements with public or private institutions for the purpose of establishing places for care and treatment. This provision is based upon legal authority provided in 42 U.S.C. 267. With the approval of the Secretary, the Director may select suitable sites for the establishment of quarantine stations and places for care and treatment. Additional legal authorities relevant to the control, management, and control of institutions, hospitals, and stations established by the Secretary are also contained in 42 U.S.C. 248.

Section 70.11 Sanitary Measures

Section 361(a) of the PHS Act (42 U.S.C. 264(a)) provides that in carrying out regulations, the Secretary

> may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

Section § 70.11 implements this statutory provision by authorizing the Director, in consultation with other Federal agencies as appropriate, to inspect and order the application of such sanitary measures (as that term is defined) to any carrier affecting interstate commerce or to things on board the carrier that the Director reasonably believes to be infected or contaminated by a communicable disease.

Paragraph (a) updates, consolidates and makes applicable to interstate situations the ''disinfection,'' ''disinfestations,'' ''disinsection,'' and other provisions contained in current 42 CFR Part 71. It explains that the Director, in consultation with other federal agencies as appropriate, may inspect and order the carrier, or other entity specified in the order, as the party responsible for applying such measures as the Director deems necessary to prevent the introduction, transmission, or spread of communicable diseases.

Paragraph (b) explains that CDC shall not bear the expense of applying the sanitary measure or, expenses related to things on board. While the preceding paragraph states that CDC shall not bear related expenses, paragraph (c) indicates that CDC does not intend to prevent an entity conducting sanitary measures required by the Director from seeking reimbursement ''through contractual arrangements or other available means from entities other than the CDC.''

A written order to the carrier operator or owner of the cargo would be one method that CDC could use for ordering the application of sanitary measures, but would not be the exclusive method. Depending on the circumstances of the disease, CDC, for example, could notify carrier operators through publication in the **Federal Register** when the occurrence of a communicable disease outbreak in a foreign country increases the likelihood of the importation of infected persons or goods into the United States, and thus may affect interstate travel. In time-sensitive situations that present an imminent threat to human health and require the immediate application of sanitary measures, a CDC quarantine officer could also verbally order that such measures be carried out. Typically, an order to carry out sanitary measures would explain the risk to human health posed by the infected or contaminated carrier or article and contain instructions on which measures should be employed to abate the human health risk. Which sanitary measures should be employed in a given circumstance would be determined based on scientific and public health principles applicable to the threat to human health.

Under paragraph (c), the Director may apply sanitary measures to persons who are not in the qualifying stage of a quarantinable disease. Provisions specifically dealing with respect to persons who may be in the qualifying stage of a quarantinable disease may be found in §§ 70.6, and 70.14 through 70.24. When applied to a person or group of persons, a sanitary measure involves the application or direct exposure to such chemical, physical, or other processes that are designed to destroy the presence of infectious agents that may be outside the body. Under paragraph (c), such procedures may be carried out only with the consent of the person. Sanitary measures applied to a person or group of persons are intended to kill agents (or vectors capable of conveying infectious agents) outside the body by direct exposure to a chemical, physical or other process designed to destroy such infectious agents or vectors. During an outbreak of avian influenza, for example, persons exiting a farm containing infected birds would have all visible organic matter removed from their shoes with disposable towels. Those persons would then transit through a foot bath containing an effective virucidal solution. As an additional example, persons infected with body lice during an outbreak of epidemic typhus would be treated with appropriate antibiotics and an effective topical pediculocidal agent, and would have their clothing washed in hot water and detergent. The sanitary measures applicable to carriers, animals or things include detention, destruction, seizure, disinfection, disinfestations, disinsection and any other measures deemed necessary to prevent the introduction, transmission or spread of communicable diseases. If the Director orders the destruction or export of animals, articles, or things in accordance with this section, the owner of such animals, articles, or things may appeal the measure, within two business days, in accordance with Section 70.31.

CDC invites comments on any and all aspects of the proposed process for issuing orders to conduct sanitary measures and the appeals process.

Section 70.12 Detention of Carriers Affecting Interstate Commerce

In addition to the provisions listed in Section 70.11, this provision further authorizes the Director, in consultation with such other federal agencies as appropriate, to detain a carrier until the necessary measures outlined in Section 70.11 have been completed. The expense of applying sanitary measures and detention shall not be borne by CDC. If the Director orders the detention of a carrier in accordance with this section, the carrier owner may appeal the detention, within two business days, in accordance with Section 70.31.

CDC invites comments on any and all aspects of the proposed process for issuing orders to conduct sanitary measures and the appeals process.

Section 70.13 Screenings to Detect Ill Persons

This section authorizes the Director at airports and other locations to conduct screenings to detect the presence of ill persons. The definition of ''ill persons'' appears in the definitions section. Methods of screening may include visual inspection, electronic temperature monitors, and other methods determined appropriate by the Director to detect the presence of ill persons.

Section 70.14 Provisional Quarantine

Quarantine officers routinely conduct short term examinations of ill passengers at airports and other ports of entry to assess the presence of disease. Such examinations generally occur on a voluntary basis with the consent of the ill passenger. In situations where a passenger withholds his or her consent though those situations are few in number, the Director may nevertheless need to detain that person to determine whether the person may be in the qualifying stage of a quarantinable disease. This section is primarily intended to deal with those situations.

Section 361(b) of the Public Health Service Act (42 U.S.C. 264(b)) authorizes the ''apprehension, detention, or conditional release'' of persons to prevent the introduction, transmission, and spread of specified communicable diseases from foreign countries into the United States and from one State or possession into another. Section 70.1 3(a) authorizes the Director to provisionally quarantine a person or group of persons believed to be in the qualifying stage of a quarantinable disease. Ordinarily, provisional quarantine will be ordered by the quarantine officer at the port of entry, but may also be ordered by other authorized agents of the Director. In accordance with sections 311 and 365 of the PHS Act (42 U.S.C. 243 and 268), the Director may seek the assistance of state and local authorities and of U.S. Customs and Coast Guard officials, respectively, in the enforcement of quarantine rules and regulations.

Under § 70.14, paragraph (b), provisional quarantine commences on the occurrence of any one of three events: (i) Service of a written provisional quarantine order on the person or group of persons; (ii) a verbal order from an authorized party (typically the quarantine officer at the port of entry) that the person or group of persons are being provisionally quarantined; or (iii) placement of actual movement restrictions on the person or group of persons. ''Actual movement restrictions'' occur when, as determined by the Director, a person under the same circumstances would understand that he or she is being detained and thus is not free to leave. In most circumstances, provisional quarantine is a brief detention lasting only as long as necessary for the quarantine officer (or other authorized agent) to ascertain whether the person or groups of persons are a possible carrier of disease. Under paragraph (c), however, provisional quarantine may continue for up to three business days, provided that persons subject to provisional quarantine may be released sooner if the Director determines that detention is no longer necessary. In the event it is necessary to quarantine an individual beyond three business days, the Director will serve the individual with a quarantine order.

A time frame of up to three business days for provisional quarantine is necessary to confirm whether certain disease-causing microorganisms are present in samples that may be obtained from ill or deceased persons.

Confirmation generally requires in vitro cultivation of the organism followed by identification, direct visualization of the organism in tissue samples, amplification of organism-specific nucleic acid sequences (e.g. PCR confirmation), or detection of organism-specific antibodies generated in response to the infection. Before these tests can be performed, samples must be collected and shipped to CDC, a process likely to take 24 hours. Once received, completion of culture and identification of bacteria requires a minimum of 24–48 hours. Direct visualization in tissue samples typically requires 12–24 hours. Quicker methods (amplification or antibody detection) may be available for some diseases. Even under optimal circumstances, however, the most modern testing methods require a minimum of 12 hours. In addition to the time required for sample collection, shipping and testing, the Director may need up to an additional 24 hours to assimilate test results with the findings of other investigations before arriving at a well-informed determination on the need for a quarantine order.

A time frame of up to three business days comports with the requirements of due process. While there are no federal cases establishing a bright line for quarantine-type detentions, there are several federal cases dealing with ''alimentary canal'' smugglers, *i.e.,* persons who smuggle drugs in their intestines by swallowing balloons. In *United States* v. *Montoya de Hernandez,* 473 U.S. 531 (1985), the U.S Supreme Court analogized holding a suspected alimentary canal smuggler to detaining someone for suspected tuberculosis, noting that ''both are detained until their bodily processes dispel the suspicion that they will introduce a harmful agent into this country.'' Federal courts have upheld detention periods ranging from 16 hours to 20 days based on ''reasonable suspicion'' for suspected alimentary canal smugglers. Accordingly, provisionally quarantining a person suspected of carrying a specified communicable disease and affording that individual an opportunity for an administrative hearing during that period is consistent with due process requirements. Under paragraph (d), in the event that the Director determines that it is necessary to continue to detain such persons beyond three business days, the Director may serve the person or group of persons with a quarantine order in accordance with §§ 70.16–70.18.

Under paragraph (e), persons subject to provisional quarantine may be offered medical treatment, prophylaxis, or vaccination as the Director deems necessary to prevent the transmission or spread of disease. Medical treatment, prophylaxis, or vaccination will typically occur in a hospital setting, but may occur in other settings as the Director deems necessary. Medical treatment, prophylaxis, or vaccination shall occur on a voluntary basis, provided that persons who refuse remain subject to provisional quarantine. Medical treatment, prophylaxis, or vaccination may be provided in accordance with the provisions set forth in § 70.21.

Paragraph (f) explains that nothing in § 70.14 shall be construed to limit the Director's ability to detain a person or group of persons on a voluntary basis or offer such persons medical treatment, prophylaxis, or vaccination on a voluntary basis.

Section 70.15 Provisional Quarantine Orders

This section explains the content of a provisional quarantine order issued in accordance with § 70.11 and the process for serving an order on a person or group of persons. Paragraph (a) explains that the provisional quarantine order shall be served by the Director at the time that provisional quarantine commences or as soon thereafter as the Director determines that the circumstances reasonably permit. Service will typically occur through personal service, for example, by the quarantine officer or another authorized representative serving the person or group of persons with a copy of the provisional quarantine order at the port of entry or hospital facility, but may also occur through other methods of personal service. Due process requires that the method of serving the order in any case be reasonably designed to accomplish actual service. Because personal service may be impracticable or undesirable in certain circumstances, for example, when it is necessary to provisionally quarantine a large group of persons on a very short time-frame, paragraph (b) authorizes service through posting or publishing the order in a conspicuous location when the Director deems it necessary. Under paragraph (c), in circumstances where the Director deems public posting or publishing necessary or desirable, the Director may omit the names and/or identities of the persons and take other measures respecting the privacy of persons, for example, using initials, instead of full names, or other pseudonyms.

Paragraph (d) describes the information contained in the provisional quarantine order and states that the order shall be in writing and signed by the Director. While due process is a flexible concept that varies depending upon the particular circumstances of the event, a key element of due process is a written order that provides sufficient notice to the person of the actions that the government proposes to take and describes how to contest the government's decision. In order to comply with this fundamental concept of due process, paragraph (d) requires that the order advise the person or group of persons of the following:

- The Director's reasonable belief that the person or group of persons is in the qualifying stage of a quarantinable disease based on information available to the Director at the time, such as travel history, clinical manifestations, or any other evidence of infection or exposure;
- The Director's reasonable belief that either: (i) the person or group of persons is moving or about to move from a State to another State; or (ii) is a probable source of infection to persons who will be moving from a State to another State;
- The suspected quarantinable disease;
- That the person or group of persons may be provisionally quarantined for three business days and that at the end of such period the person or group shall be released or, if determined by the Director, served with a quarantine order;
- That the person or group of persons may be released earlier if the Director determines that provisional quarantine is no longer warranted;

Section 70.16 Quarantine

The Director has historically recommended medical isolation and/or home quarantine of persons with suspected quarantinable diseases. Isolation and quarantine have generally been carried out with the consent of persons or their authorized representatives. This section is primarily intended to deal with the small number of situations where the person refuses to comply on a voluntary basis with the Director's instructions, or in situations where the Director otherwise believes that the mandatory quarantine is necessary. It describes the Director's authority to quarantine persons that the Director believes are in the qualifying stage of a quarantinable disease.

The quarantine of persons believed to be infected with communicable diseases is a prevention measure that has been used effectively to contain the spread of disease. Quarantine differs from provisional quarantine in its potentially longer duration, generally determined by the disease's periods of incubation and communicability. Under paragraph (a), the Director may issue a quarantine

order whenever the Director reasonably believes that a person or group of persons are in the qualifying stage of a quarantinable disease. In general, the Director's belief that a person is in the qualifying stage of a quarantinable disease will be based on scientific principles such as clinical manifestations, diagnostic tests or other medical tests, epidemiologic information, laboratory tests, physical examination, or other available evidence of exposure or infection. For interstate quarantine only, the Director will make an additional determination that either (i) the person or group of persons are moving or about to move from a State to another State; or (ii) that the person or group of persons are a probable source of infection to persons who will be moving from a State to another State.

Under paragraphs (b), (c), and (d), as with provisional quarantine, the Director may offer medical treatment, prophylaxis, or vaccination to persons subject to quarantine as the Director deems necessary to prevent the transmission or spread of disease. Medical treatment, prophylaxis, or vaccination may occur in a hospital or other settings, including homes, as the Director deems necessary. Medical treatment, prophylaxis, or vaccination will occur on a voluntary basis, provided that persons who refuse remain subject to quarantine until the period of incubation and communicability have passed. In the event such persons are quarantined, they may request an administrative hearing.

Under paragraph (d), the Director may also order quarantine where examination, medical treatment, prophylaxis, or vaccination is medically contra-indicated or not reasonably available.

Under paragraph (e), the length of quarantine shall not exceed the period of incubation and communicability, as determined by the Director, for the quarantinable disease. While flexibility regarding the length of quarantine must be maintained by the Director in order to allow for the possibility of new variant or bioengineered strains of specified communicable diseases, in general the periods of incubation and communicability are as follows:

Disease	Incubation period following exposure	Period of communicability following onset of illness
Cholera	Few hours—5 days	7–14 days.
Diphtheria	2–5 days	30 days.
Infectious Tuberculosis	Primary: 4–6 weeks; Secondary: variable	14–60 days.
Influenza	1–4 days	5–14 days.
Plague	Pneumonic: 1–7 days (usually 2–4)	48 hours–14 days.
Yellow Fever	3–14 days	Viremia documented as long as 14 days into illness.
SARS	2–10 days	21 days.
Marburg	2–16 days	60–90 days.
Ebola	2–21 days	60 days.
Crimean-Congo	2–12 days	12 days.
Smallpox	7–17 days	10 days.

The periods of incubation and communicability are intended to provide an estimate of the time an individual might be placed in quarantine or isolation, respectively. These time frames are based on accepted medical facts related to these diseases and would be considered part of the basic knowledge possessed by physicians familiar with the diagnosis and treatment of these diseases. For many of the diseases, such as tuberculosis and viral hemorrhagic fever, the range of possible periods of incubation and communicability, based on published individual case reports, is significantly longer. To provide a more realistic sense of the time during which isolation or quarantine may be necessary, CDC listed ranges that, in the opinion of subject matter experts, encompass the vast majority of cases of these diseases. In all cases, the listed ranges are shorter than the upper limit of documented periods of incubation or communicability.

For this purpose, it is important to distinguish between the two terms: Quarantine and isolation. Quarantine refers to the restriction of movement of persons who have been exposed to a communicable disease, but have not yet become ill or able to transmit that disease to others. Isolation, on the other hand, is the restriction of movement of persons ill with a communicable disease in a stage where transmission is possible. In general, when a person is exposed to one of the diseases listed in this table, existing authority allows the Director to place that person under quarantine up to the length of time listed under the incubation period for each disease. If, during the time of quarantine, the person becomes ill, the authorities allow for them to be isolated for a period up to that listed under period of communicability.

For example, a person with a potential exposure to SARS could be under quarantine for up to 10 days. However, if that person became ill, he or she would no longer be in quarantine, but would be isolated for the duration of illness or period of communicability (up to 21 days). If the person under quarantine for the incubation period did not become ill within 10 days of the time the exposure was thought to have occurred, he or she would be released.

An opportunity to request an administrative hearing for purposes of reviewing the quarantine order is provided for under these regulations. The person or group may also seek judicial review of the quarantine order through a petition for writ of habeas corpus pursuant to 28 U.S.C. 2241. Habeas corpus is the traditional legal mechanism for contesting detention by the government. *See Hamdi,* 124 S.Ct. at 2644. There is one litigated case involving the exercise of federal quarantine authority to quarantine an exposed person, *United States* v. *Shinnick,* 219 F.Supp.789 (E.D.N.Y. 1963).

In *Shinnick,* the U.S. Public Health Service medically isolated an arriving passenger in a hospital for 14 days because she had been in Stockholm, Sweden, a city that the World Health Organization had declared to be a smallpox-infected local area. The patient, moreover, could not show proof of vaccination. The district court upheld the detention, finding that health authorities had acted in good faith because there had been an opportunity for exposure while the patient had been in Stockholm. The court further noted that there was no way of determining for 14 days whether the patient was actually infected with smallpox and that she was especially susceptible to infection because there was a history of unsuccessful vaccinations.

Paragraph (g) explains that nothing in § 70.16 shall be construed to limit the

Director's ability to quarantine a person or group of persons on a voluntary basis.

Section 70.17 Content of Quarantine Order

This section requires that quarantine orders issued by CDC be signed by the Director and describes the content of the order. A written order that provides sufficient notice to the person of the actions that the government proposes to take and describes how to contest the government's decision is a key element of due process. In order to comply with this fundamental concept of due process and the requirements of Section 361 of the Public Health Service Act (42 U.S.C. 264), this section requires that the quarantine order contain the following information:

- The identity of the person or group of persons to be quarantined, if known;
- The location where such person or group of persons is to be quarantined;
- The date and time at which quarantine commences and ends;
- The suspected quarantinable disease;
- A statement that the Director reasonably believes that (i) such person or group of persons is in the qualifying stage of a quarantinable disease; and that either (ii) such person or group of persons will move or is about to move from one State to another State; or (iii) is a probable source of infection to persons who will be moving from a State to another State;
- A statement regarding the basis for the Director's belief that such person or group of persons is in the qualifying stage of a quarantinable disease, *e.g.,* clinical manifestations, physical examination, laboratory tests, diagnostic tests or other medical tests, epidemiologic information, or other evidence of exposure or infection available to the Director at the time;
- A statement that persons shall comply with conditions of quarantine, including, but not limited to, examination, medical monitoring, medical treatment, prophylaxis, or vaccination, or other conditions of quarantine deemed by the Director to be necessary to prevent the transmission or spread of communicable disease;
- A statement that persons may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but that if they choose to do so they remain subject to quarantine;
- A statement that persons under quarantine, any time while the quarantine order is in effect, may request that the Director hold a hearing to review the quarantine order.

Section 70.18 Service of Quarantine Order

This section explains the process for serving a quarantine order on a person or group of persons. Paragraph (a) explains that a copy of the quarantine order shall be served at the time that quarantine commences or as soon thereafter as the Director determines that the circumstances reasonably permit. Service will typically occur through personal service, for example, by an agent authorized to enforce quarantine serving the person or group of persons with a copy of the quarantine order at home or at a hospital or other quarantine facility, but may also occur through other methods of service. Because personal service may be impracticable in certain circumstances, for example, when it is necessary to quarantine a large group of persons, paragraph (b) also authorizes service through posting or publishing the order in a conspicuous location when the Director deems it necessary or desirable. In any case, due process requires that the method of serving the order be reasonably designed to accomplish actual service. Under paragraph (b), in circumstances where the Director deems public posting or publishing necessary or desirable, the Director may omit the names and/or identities of the persons and take other measures respecting the privacy of persons, for example, using initials, instead of full names, or pseudonyms.

Section 70.19 Medical Examination and Monitoring

This provision authorizes the Director to order medical examination or monitoring of persons believed to be in the qualifying stage of a quarantinable disease. Production of information concerning familial and social contacts, travel itinerary, medical history, place of work and vaccination status may also be ordered by the Director. This information will permit determinations to be made concerning the scope of potential exposure, the identity of those in recent contact with the person, and the potential vulnerability of the person to the disease. Persons may refuse medical examination and monitoring, but remain subject to provisional quarantine or quarantine. In the event that persons who refuse medical examination or monitoring are served with a quarantine order, they may request an administrative hearing.

Section 70.20 Hearings

This section describes the procedures for an administrative hearing relating to a quarantine order. An administrative review by the agency is in addition to and apart from any judicial review of the Director's determination that may be available, for example, through the filing of a petition for a writ of habeas corpus under 28 U.S.C. 2241. The opportunity to contest the government's actions in a meaningful time, place, and manner is a fundamental element of due process. An administrative hearing under this section is an informal proceeding conducted by the agency where the hearing officer reviews the determination to quarantine a person or group of persons. Under paragraph (a), a person or group of persons (or an authorized representative) must specifically request that the CDC Director hold an administrative hearing. The CDC Director will then schedule the administrative hearing to take place within one business day of the request for a hearing. As part of the quarantine order, the CDC Director will provide the person or group with information concerning how to request an administrative hearing, *e.g.*, contact information, telephone numbers as stated in paragraph (c). Typically, requests can be made by informing the quarantine officer, either verbally or in writing, or by calling a telephone number established by the CDC Director for that purpose. Notice of the administrative hearing will be provided to the person or group of persons under quarantine (or to an authorized representative) through any method the CDC Director determines to be reasonably designed to provide notice that the administrative hearing has been scheduled. The method may include, for example, e-mail, telephone, or written notice.

Under paragraph (d), the CDC Director may designate a hearing officer to review the available medical or other evidence of exposure or infection available and make findings as to whether the person or group of persons are in the qualifying stage of a quarantinable disease and recommendations as to whether the person or group of persons should be released or remain in quarantine. Under section 369 of the Public Health Service Act (42 U.S.C. 272), medical officers of the United States, when performing duties as quarantine officers at any port or place within the U.S., are authorized to take declarations and administer oaths in matters pertaining to the administration of quarantine laws and regulations.

The hearing officer may be someone within the agency, but will not be the same person who ordered the quarantine. While the hearing officer retains ultimate discretion regarding

matters to be heard, the hearing will be limited to genuine and substantial issues of fact, *e.g.*, regarding whether the person or group of persons is in the qualifying stage of a quarantinable disease and whether the person or group should be released or remain in quarantine. Matters not subject to a hearing may include questions relating to the legality or constitutionality of statutes or regulations and matters that are neither genuine nor substantial, *e.g.*, quality of food, availability of entertainment.

The administrative hearing will ordinarily be closed to the public to protect the medical privacy of the person or group of persons under quarantine, unless the person or group of persons request that the hearing be open. The hearing officer, however, may record the hearing through transcription, audio or video tape, summary notes of the proceeding, or other means. At the discretion of the hearing officer, the administrative hearing may be based on written submission. A hearing involving live testimony should, to the extent practicable, provide opportunity for participation via telephone or other remote means. Under paragraph (e), a person or group of persons in quarantine may authorize a representative to appear at the hearing. Under paragraph (f), the CDC Director shall take such measures as the CDC Director determines to be reasonably necessary to allow a person or group of persons under quarantine to communicate with their authorized representatives. Measures may, for example, include establishment of video-conferencing facilities, e-mail terminals, telephone or cellular phone services, and other similar devices or technologies.

During the administrative hearing, the person or group of persons subject to quarantine will be given an opportunity to call witnesses and present testimony. Within the discretion of the hearing officer, administrative hearings may be consolidated when the number of persons or other factors renders individual participation impracticable or when factual issues affecting the group are typical of those affecting the individual. The hearing officer retains ultimate discretion to determine the conduct of hearings, but will generally follow these procedures:

- The hearing officer will ask the parties if they wish to make a short statement outlining their concerns and desired outcomes. This is not part of the testimony, but a summary preview of the testimony and evidence for the hearing officer;
- The hearing officer will ask the parties to present evidence to support their positions and desired outcomes of the hearing. Witnesses may be called and the parties may ask questions. The hearing officer will swear in any witnesses offering testimony;
- The hearing officer will ask each party for comments regarding the evidence or testimony presented by the other party and for a short summary of reasons for the desired outcome;
- The hearing officer will inform the parties that a report and recommendation outlining the hearing officer's findings regarding the evidence of exposure or infection will be presented to the CDC Director for final agency determination.

Under paragraph (g), the hearing officer may order a medical examination of the person or group of persons under quarantine when a medical examination would assist in reasonably determining whether the person or group is in the qualifying stage of a quarantinable disease. Persons requested to undergo a medical examination by the hearing officer may refuse, but remain subject to quarantine.

Under paragraph (h), at the conclusion of the administrative hearing, the hearing officer will, based upon his or her review of the evidence of exposure or infection made available to the hearing officer, make findings and a written recommendation to the CDC Director whether the person or group of persons should be released or remain in quarantine. The hearing officer will provide the CDC Director with the hearing report and recommendation as soon as possible after the conclusion of the hearing. Under paragraph (h), the CDC Director, based upon the hearing officer's findings and written recommendation and the administrative record, shall within one business day after the conclusion of the hearing, order the release or continued quarantine of the person or group of persons. The CDC Director's order will be carried out without delay. Furthermore, because it is difficult to foresee all of the circumstances under which persons may request to be heard, paragraph (h)(2) permits the CDC Director to issue additional instructions and guidelines considered necessary to govern the conduct of hearings.

Paragraph (k) states that the quarantine order will be deemed final administrative action either when the Director has accepted or rejected the hearing officer's written recommendation or three business days after the request for a hearing, whichever comes first.

Section 70.21 Care and Treatment of Persons

Under section 322(a) of the PHS Act (42 U.S.C. 249) persons detained in accordance with quarantine laws may be treated and cared for by HHS. Such persons may receive care and treatment at the expense of HHS at a public or private medical or hospital facility, when authorized by the officer in charge of the quarantine station at which the application is made. CDC, in its sole discretion and subject to available appropriations, is authorized to pay, as a payer of last resort, expenses of care and treatment for persons detained in accordance with quarantine laws. For quarantinable diseases, eligible expenses are limited to those for costs and items reasonable and necessary for the care and treatment of the person from the time the person is referred to a hospital or other medical facility for treatment until the time that quarantine expires. For other diseases, eligible expenses are limited to those associated with services and items relating to care and treatment prior to diagnosis; expenses associated with care and treatment following diagnosis will not be paid by CDC.

Section 70.22 Foreign Nationals

This section sets forth procedures for notifying consular offices of the provisional quarantine or quarantine of their foreign nationals. These procedures are consistent with requirements found in the Vienna Convention on Consular Relations regarding consular notification. In general, U.S. government requirements regarding the detention of foreign nationals may be accessed at: *http://travel.state.gov/law/consular/consular_636.html.*

Section 70.23 Administrative Record

Another key element of due process is the existence of a record describing the agency's actions for a court to review. This section describes the content of a person's administrative record. An administrative record will consist of the following, where applicable:

- Provisional quarantine and/or quarantine order;
- Any medical, laboratory, epidemiologic, or other information in support thereof;
- Evidence submitted by the person under provisional quarantine and/or quarantine;
- Written findings and recommendation of the hearing officer; and
- Hearing transcript, if any, or summary notes of the hearing.

Section 70.24 Requests by State (including political subdivisions thereof), Possession, or Tribal Health Authorities

This provision authorizes the Director to take whatever steps necessary to prevent the introduction, transmission or spread of communicable diseases upon the request of a health authority. Expressly referred to in the provision are requests for issuance of a provisional quarantine order or a quarantine order. Under section 311 of the PHS Act (42 U.S.C. 243), the Secretary is authorized to cooperate with and aid states and local authorities in the enforcement of their quarantine and other health regulations. Paragraph (c) clarifies that nothing in this section is intended to impose a condition or limit the ability of the Director to exercise any of the public health measures provided for in part 70, or in the case of possessions, part 71.

Section 70.25 Measures in the Event of Inadequate Local Control

This section is a carryover from existing § 70.2 which authorizes the CDC Director to take measures to prevent the spread of communicable diseases between States or between States and possessions whenever the Director determines that the measures taken by any State or possession (including political subdivisions) are insufficient. Under Section 361(a) of the PHS Act, the measures that the Director may take include inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection, and other measures. The proposed regulatory language is consistent with that appearing in Section 361(a) of the PHS Act. The proposed section also makes clear that the Director may make a determination of inadequate local control with respect to public health measures taken by Indian Tribes in Indian country. While a determination of inadequate local control under this section does not require the concurrence of the IHS Director, to the extent practicable, when taking actions in Indian Country the Director will consult with the IHS Director prior to such action and once a determination has been made, the Director will send notification to both the Director, IHS and to the Tribe or tribes affected.

Section 70.26 Federal Facilities

This section clarifies that, in addition to the public health measures outlined in part 70, the Director may take whatever further public health measures or combination of measures the Director deems necessary with respect to facilities owned or operated by the federal government. The federal government has a variety of different jurisdictional and proprietary arrangements with State and local governments, as well as with private entities, concerning federal facilities. In some cases, the federal government maintains exclusively federal campuses, while in other cases, jurisdiction with respect to activities occurring on federal facilities is shared with State and local governments. This section simply clarifies that the Director may take public health measures with respect to federal facilities. Pursuant to 42 U.S.C. 243, the Director may request the assistance of State and local authorities in enforcing federal quarantine rules and regulations. Paragraph (b) clarifies that this section does not preclude the Director from requesting such assistance with respect to facilities owned or operated by the federal government.

Section 70.27 Indian Country

This section is intended to implement provisions appearing in 25 U.S.C. 198 and 231; 25 U.S.C. 1661; and 42 U.S.C. 2001.

Pursuant to 25 U.S.C. 198, the Secretary of the Interior may quarantine any Indian found to be afflicted with ''tuberculosis, trachoma, or other contagious or infectious disease.'' The Secretary of the Interior, through 25 U.S.C. 231, may also permit State agents and employees to enter upon Tribal lands for the purposes of making inspections of health and educational conditions and enforcing sanitation and quarantine regulations.

42 U.S.C. 2001 transferred all functions, responsibilities, authorities, and duties relating to the conservation of the health of Indians, including 25 U.S.C. 198 and 231, from the Secretary of the Interior to the Secretary of HHS, which were redelegated to the Director of the Indian Health Service (IHS) by 25 U.S.C. 1661. Any action the Director of CDC takes under these sections must be in concurrence with the Director of IHS after consultation with the affected Tribe or Tribes.

The grant of authority in 25 U.S.C. 198 and 231 is in addition to the Director's authority under 42 U.S.C. 264, and this section of the proposed rule supplements the Director's authority to impose public health measures to prevent interstate disease transmission. In other words, with respect to carriers in Indian country, the Director may apply any of the public health measures appearing in this part if such carriers have an effect on interstate commerce. Similarly, with respect to a person or group of persons in Indian country, the Director may exercise public health measures appearing in this part provided that such person or group of persons is in the qualifying stage of a quarantinable disease and either (i) moving or about to move from a State to another State; or (ii) a probable source of infection to persons who will be moving from a State to a State.

Under this section, the Director, with the concurrence of the IHS Director and after consulting with the affected Tribes or Tribes may enter onto Indian country for the purpose of enforcing federal quarantine rules and regulations. This section provides that, in addition to the public health measures outlined in Part 70, the Director may impose public health measures with regard to provisional quarantine under § 70.14 and § 70.15, quarantine under § 70.16–§ 70.18, § 70.20, and medical examination and monitoring under § 70.19, in Indian country without making a finding that such person or group of persons is moving or about to move from a State to another State or is a probable source of infection to persons who will be moving from a State to another State. In such circumstances, a finding that such persons are in the ''qualifying stage of a quarantinable disease'' would be required.

Paragraph (b) provides that any quarantine authorized by paragraph (a) must take place in a hospital or other place for treatment and that any person who is subject to provisional quarantine or quarantine may refuse medical examination, monitoring, treatment, prophylaxis, or vaccination, but remain subject to provisional quarantine or quarantine. Paragraph (c) further explains that any person who is the subject of a provisional quarantine order or quarantine order authorized by paragraph (a) has the same rights as provided for elsewhere in this part.

Furthermore, under paragraph (d), the Director, with the concurrence of the IHS Director and after consulting with the affected Tribes or Tribes, may authorize agents and employees of any State to enter Indian country for the sole purpose of enforcing federal quarantine rules and regulations. This authority is subject to any rules or regulations the IHS Director may choose to promulgate under 25 U.S.C. 231.

Section 70.28 Special Powers in Time of War

This section implements statutory authority contained in section 363 of the PHS Act (42 U.S.C. 266). Under this authority, the Director, in consultation

with the Secretary of the Department of Defense or his/her designee and without making a finding of interstate movement, may, in time of war, apprehend, detain, or conditionally release persons: (1) In the qualifying stage of a quarantinable disease; and (2) to be a probable source of infection to members of the military services or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the military services. Any person who is the subject of a provisional quarantine order or quarantine order authorized under this section has the same rights as provided for provisional quarantine or quarantine elsewhere in this part.

Section 70.29 Penalties

This section describes the penalties for violating federal quarantine rules and regulations. Under 42 U.S.C. 271, criminal penalties exist for violating regulations enacted under the authority of Section 361 of the PHS Act (42 U.S.C 264). Under the sentencing classification provisions of 18 U.S.C. 3559 and 3571, violations of the quarantine regulations, classified as Class A misdemeanors, are subject to greater penalties. Violation by an individual is punishable by a fine of up to $250,000 or one year in jail, or both. Organizations may be fined up to $500,000 per violation.

Section 70.30 Implementation Through Order

This section explains that the Director may implement any of the provisions of this part through an order issued and signed by the Director. In the recent past, the Director has issued a variety of orders to deal with urgent public health threats, including: Notice of embargo of civets (January 13, 2004); Notice of embargo of birds (Class: Aves) from specified Southeast Asian countries (February 4, 2004); Order lifting the ban of bird and bird products from specified Southeast Asian countries (March 10, 2004), and Joint Order (issued with the FDA) prohibiting transportation or distribution of certain rodents associated with the monkeypox outbreak (June 11, 2003) followed by promulgation of an Interim Final Rule (November 4, 2003). This section codifies the preexisting practice of the agency with respect to implementation through an order.

Section 70.31 Appeals of Actions Required Pursuant to 70.6, 70.7, 70.11 or 70.12

A new 70.31 would allow a written appeal to the Director within two business days in the event that the Director denies an application for a travel permit pursuant to 70.6 or 70.7, orders the destruction of animals, articles, or things, pursuant to 70.11, or the detention of a carrier pursuant to 70.12. The Director may nevertheless immediately implement the actions allowed in 70.6, 70.7, 70.11 and 70.12.

Following is a summary of changes to the current regulations:

Sections Cancelled:
70.3 All communicable diseases
70.6 Apprehension and detention of persons with specific diseases

Sections Moved:
70.2 Measures in the event of inadequate local control moved to 70.22

Sections Added:
70.4 Passenger information
70.5 Written plan for passenger information and designation of an airline agent
70.6 Travel permits
70.9 Vaccination clinics
70.10 Establishment of institutions, hospitals and stations
70.11 Sanitary measures
70.12 Detention of carriers affecting interstate commerce
70.13 Screenings to detect ill persons
70.14 Provisional quarantine
70.15 Provisional quarantine orders
70.16 Quarantine
70.17 Content of quarantine order
70.18 Service of quarantine order
70.19 Medical examination and monitoring
70.20 Hearings
70.21 Care and treatment of persons
70.22 Foreign nationals
70.23 Administrative record
70.24 Requests by State (including political subdivisions thereof), possession, or tribal health authorities
70.25 Measures in the event of inadequate local control
70.26 Federal facilities
70.27 Indian country
70.28 Special powers in time of war
70.29 Penalties
70.30 Implementation through order
70.31 Appeals of actions required pursuant to 70.6, 70.7, 70.11 or 70.12

TABLE IV–1.—SECTIONS UPDATED AND/OR RECODIFIED IN 42 CFR PART 70

Current regulation	Proposed regulation
Section	Section
70.1 General definitions	70.1 Scope and definitions.
70.2 Measures in the event of inadequate local control	70.2 Report of death or illness on board flights.
	70.3(new) Written plan for reporting of deaths or illness on board flights and designations of an airline agent.
70.3 All communicable diseases	70.4(new) Passenger information.
	70.5(new) Written plan for passenger information and designation of an airline agent.
70.4 Report of disease	70.6(new) Travel permits.
70.5 Certain communicable diseases; special requirements	70.7 Responsibility with respect to minors, wards, and patients.
70.6 Apprehension and detention of persons with specific diseases	70.8 Military services.
70.7 Responsiblity with respect to minors, wards, and patients.	70.9(new) Vaccination clinics.
70.8 Members of military and naval forces	70.10(new) Establishment of institutions, hospitals and stations.
	70.11(new) Sanitary measures.
	70.12(new) Detention of carriers affecting interstate commerce.
	70.13(new) Screenings to detect ill persons.
	70.14(new) Provisional quarantine.
	70.15(new) Provisional quarantine orders.
	70.16(new) Quarantine.
	70.17(new) Content of quarantine order.
	70.18(new) Service of quarantine order.
	70.19(new) Medical examination and monitoring.
	70.20(new) Hearings.

TABLE IV–1.—SECTIONS UPDATED AND/OR RECODIFIED IN 42 CFR PART 70—Continued

Current regulation	Proposed regulation
Section	Section
	70.21(new) Care and treatment of persons. 70.22(new) Foreign nationals. 70.23(new) Administrative record. 70.24(new) Requests by State (including political subdivisions thereof), possession or tribal health authorities. 70.25 Measures in the event of inadequate local control. 70.26 Federal facilities. 70.27 Indian country. 70.28 Special powers in time of war. 70.29 Penalties. 70.30(new) Implementation through order. 70.31 Appeals of actions required pursuant to 70.6, 70.7, 70.11 or 70.12.

V. Summary of Proposed Changes to 42 CFR Part 71

The foreign quarantine regulations are used to control and prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. Sections of this regulation are used in the day-to-day activities of quarantine officers. The proposed rule reduces the number of subparts from six to two. Many of the new sections further clarify current activities. Proposed subpart B, Importations, contains the restrictions on importation of nonhuman primates, certain kinds of animals, etiological agents, hosts, and vectors, and dead bodies. CDC proposes to change only § 71.55 in subpart B.

The following is a section-by-section analysis:

Subpart A—Definitions and General Provisions

Section 71.1 Scope and Definitions

This section explains that 42 CFR Part 71 contains regulations to prevent the introduction, transmission, and spread of communicable diseases from foreign countries into the United States. This part also contains the regulations to prevent the spread of disease among possessions of the United States and from a possession into a State. The definitions contained in this part are comparable to those appearing in Part 70. The following definitions have been added or modified to be consistent with modern quarantine concepts and current medical principles and practice: ''airline,'' ''airline agent,'' ''business day,'' ''bill of health,'' ''commander,'' ''deratting certificate,'' ''deratting exemption certificate,'' ''detention,'' ''Director,'' ''emergency contact information'', ''flight information,'' ''hearing officer,'' ''ill person,'' ''infectious agent,'' ''International Health Regulations,'' ''medical monitoring,'' ''military services,'' ''possession,'' ''provisional quarantine,'' ''quarantine,'' ''quarantinable disease,'' ''sanitary measures,'' ''State,'' ''ship,'' ''shipline,'' ''shipline's agent,'' and ''United States.''

The definition of an ill person as it applies to this part was modified to be consistent to that which applies to Part 70.

In contrast with the requirement in Section 361(d)(1) (42 U.S.C. 264(d)(1)) of the PHS Act that the Director make findings under Part 70 that a person is (1) in a qualifying stage of a quarantinable disease and (2) is moving or about to move from a State to another State or who is a probable source of infection to persons so moving or about to move, there are no such requirements when a person is entering the United States from a foreign country or a possession of the United States.

Section 71.2 Designation of Yellow Fever Vaccination Centers; Yellow Fever or Other Validation Stamps

This section contains provisions comparable to those contained in current § 71.3.

According to Annex 7 of the WHO International Health Regulations, member states must designate yellow fever vaccination centers authorized to administer yellow fever vaccine. Licensed medical providers become certified as centers through issuance of a Uniform Stamp Number by a designated health authority. CDC, pursuant to current § 71.3, delegated this authority to state and territorial health departments (SHDs). SHDs file duplicate listings of all certified vaccination centers with CDC. The authorization requirements and certification processes are determined by each SHD, and are not the same in every State.

Upon certification, the SHD sends a notice of the new certification to the vaccine manufacturer and to CDC. Upon receipt, CDC sends a letter to the new center, confirming contact information and offering inclusion on CDC's secure Web-based registry of certified vaccination centers. The Web site is maintained by CDC and SHDs, and is updated upon notice of certification termination or changes in contact information. Several SHDs now file duplicated listings via the website.

Section 71.3 Vaccination Clinics

This section contains provisions comparable to those contained in § 70.9.

Section 71.4 Bills of Health

Section 366 of the PHS Act (42 U.S.C. 269) provides that, except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States, Public Health Service officer, or other medical officer of the U.S., a bill of health setting forth the sanitary history of the vessel. Under existing § 71.11, carriers at any foreign port clearing or departing for any U.S. port are not required to obtain or deliver a bill of health. Under proposed § 71.4, the Director, to the extent permitted by law and in consultation with such other federal agencies as the Director may deem necessary, may require a carrier at any foreign port clearing or departing for any U.S. port to obtain a bill of health. While the Director does not intend to require a bill of health for carriers engaged in routine traffic, concern over bioterrorism and rapidly emerging infectious diseases makes inclusion of this important public health tool imperative.

Section 71.5 Suspension of Entries and Imports from Designated Places

This section implements statutory authority contained in section 362 of the PHS Act (42 U.S.C. 265). Under this authority, the Director, to the extent permitted by law and in consultation with such other federal agencies as the Director may deem necessary, may prohibit, in whole or in part, the introduction of persons and property from foreign countries or places whenever the Director determines that the risk of introduction of a disease into the United States is increased by the introduction of persons or property from such foreign countries or places. In carrying out this section, the Director, through order, would designate the persons and property from the foreign countries or places subject to the prohibition on introduction, as well as the period of time that such prohibition would remain in effect.

Section 71.6 Report of Death or Illness on Board Flights

This section contains provisions applicable to airlines operating flights on an international voyage, destined for a U.S. port, comparable to those established for airlines engaged in interstate traffic under § 70.2.

Section 71.7 Written Plan for Reporting of Deaths or Illness on Board Flights and Designation of an Airline Agent

This section contains provisions applicable to airlines operating flights on an international voyage, destined for a U.S. port, comparable to those established for airlines engaged in interstate traffic under § 70.3

Section 71.8 Report of Death or Illness on Board Ships

Paragraph (a) of this section establishes requirements applicable to a shipline operating ships on an international voyage comparable to the requirements applicable to airlines in section 71.6. Ships operating between Canadian ports and ports on the Puget Sound or on the Great Lakes and connected waterways are not covered by this section.

Paragraphs (b)–(e) of this section require any shipline operating ships on an international voyage destined for a U.S. port to report to the quarantine station nearest the port of arrival any death or ill person as soon as made known to the ship's commander and, where possible, at least 24 hours before arrival. The shipline shall also report any deaths or ill persons onboard ships during the 15-day period prior to expected arrival, or since departure from a U.S. port (whichever period of time is shorter). Cases or suspected cases of communicable disease during an international voyage from one U.S. port to another are required to be reported to the quarantine station, and the ship must take measures to prevent spread of the disease as directed by the Director. Any death or ill person during a stay in port must be reported. The number of cases (including zero) of diarrhea, febrile respiratory disease, febrile rash illness, or febrile neurologic illness during an international voyage must be reported through a method designated in the shipline's written plan under § 71.9.

Paragraph (f) enables the Director to order shiplines with ships on an international voyage destined for a U.S. port to disseminate to passengers and crew public health notices and other information deemed necessary to prevent the introduction, transmission, or spread of communicable diseases. This provision is comparable to that described for airlines on in international voyage in § 71.6.

Section 71.9 Written Plan for Reporting of Deaths or Illness on Board Ships and Designation of a Shipline's Agent

This provision creates a requirement for shiplines with ships on an international voyage destined for a U.S. port comparable to that created for airlines on an international voyage in § 71.7. Ships operating between Canadian ports and ports on the Puget Sound or on the Great Lakes and connected waterways are not covered by this section. CDC believes that a 90-day time frame for development of a written plan and an additional 90 days for implementation after the final publication of this rule to be appropriate because ships should already have such procedures in place. CDC is soliciting comment on whether this timeframe is appropriate. During the phase-in period established by new § 71.7, ships are still expected to comply with the reporting requirements contained in current 71.21(a) and (c) (Radio report of death or illness) and 71.35 (Report of death or illness on carrier during stay in port).

Section 71.10 Passenger Information

This section contains provisions comparable to those contained in § 70.4, except that this section is also applicable to ships on an international voyage. Ships operating between Canadian ports and ports on the Puget Sound or on the Great Lakes and connected waterways are not covered by this section.

Section 71.11 Written Plan for Passenger Information and Designation of an Airline or Shipline Agent

This section contains provisions comparable to those contained in § 70.5, except that this section is also applicable to shiplines operating ships on an international voyage destined for a U.S. port. Ships operating between Canadian ports and ports on the Puget Sound or on the Great Lakes and connected waterways are not covered by this section.

Section 71.12 Inspections

This section consolidates provisions contained in current 42 CFR Part 71.

Section 71.13 Sanitary Measures

This section contains provisions comparable to those contained in § 70.11.

Section 71.14 Detention of Carriers

This section contains provisions comparable to those contained in § 70.12 and current § 71.31(b).

Section 71.15 Carriers of U.S. Military Services

This section carries over provisions contained in current § 71.34.

Section 71.16 Screenings to Detect Ill Persons

This section contains procedures comparable to those contained in § 70.13 at U.S. ports.

Section 71.17 Provisional Quarantine of Arriving Persons

This section contains procedures comparable to those contained in § 70.14.

Section 71.18 Provisional Quarantine Orders

This section contains procedures comparable to those in § 70.15.

Section 71.19 Quarantine

This section contains procedures comparable to those in § 70.16.

Section 71.20 Content of Quarantine Order

This section contains procedures comparable to those in § 70.17.

Section 71.21 Service of Quarantine Order

This section contains procedures comparable to those in § 70.18.

§ 71.22 Medical Examination and Monitoring

This section contains provisions comparable to those contained in § 70.19.

Section 71.23 Hearings

This section contains procedures comparable to those in § 70.20.

Section 71.24 Care and Treatment of Arriving Persons

This section contains provisions comparable to those contained in § 70.21.

Section 71.25 Arriving Foreign Nationals

This section contains provisions comparable to those contained in § 70.22. In general, U.S. government requirements regarding the detention of foreign nationals may be accessed at: *http://travel.state.gov/law/consular/consular_636.html.*

Section 71.26 Administrative Record

This section contains procedures comparable to those in § 70.23.

Section 71.27 Food, Potable Water, and Waste: U.S. Seaports and Airports

This section carries over provisions contained in current § 71.45.

Section 71.28 Health Documents in International Traffic

This section carries over provisions contained in current § 71.46.

Section 71.29 Special Provisions Relating to Airports: Office, Examination, and Quarantine Facilities

Under 8 CFR 234.4, in order to be designated an ''international airport,'' an airport must fulfill requirements established by the Secretaries of Commerce, Transportation, Health and Human Services, and Homeland Security. The list of airports designated as ''international airports'' may be found at 19 CFR 122.13. The proposed section carries over existing authority requiring each U.S. airport which receives international traffic to provide, without cost to the Government, suitable office, isolation, and other exclusive space for carrying out the federal responsibilities under this part. The proposed section also adds a new provision requiring U.S. airports receiving international traffic to provide suitable quarantine space. The specifications for space requirements to carry out quarantine activities are incorporated into the Federal Inspection Service manual. In carrying out this provision, CDC intends to collaborate closely with the U.S. Department of Homeland Security.

Section 71.30 Establishment of Institutions, Hospitals and Stations

This section contains provisions comparable to those in § 70.10.

Section 71.31 Penalties

The penalties listed in this section are the same as those listed in § 70.29.

Section 71.32 Implementation Through Order

This section contains measures comparable to those in § 70.30.

Section 71.33 Appeals of Actions Required Pursuant to 71.13 or 71.14

A new 71.33 would allow a written appeal to the Director within 2 business days in the event that the Director orders the export or destruction of animals, articles, or things, pursuant to 71.13 or the detention of a carrier pursuant to 71.14. The Director may nevertheless immediately implement the actions provided in 71.13 and 71.14.

Subpart B—Importations

Section 71.51 Dogs and Cats

This section remains unchanged. The text has been set out for the convenience of the reader, however, CDC does not invite comments on this section.

Section 71.52 Turtles, Tortoises, and Terrapins

This section remains unchanged. The text has been set out for the convenience of the reader, however, CDC does not invite comments on this section.

Section 71.53 Nonhuman Primates

This section remains unchanged. The text has been set out for the convenience of the reader, however, CDC does not invite comments on this section.

Section 71.54 Etiological Agents, Hosts, and Vectors

This section remains unchanged. The text has been set out for the convenience of the reader, however, CDC does not invite comments on this section.

Section 71.55 Dead Bodies

Embalming is no longer an option for avoiding a permit when importing dead bodies. Additionally, the Director can impose additional conditions.

Section 71.56 African Rodents and Other Animals that May Carry the Monkeypox Virus

This section remains unchanged. The text has been set out for the convenience of the reader, however, CDC does not invite comments on this section.

Following is a summary of changes to the current regulations:

Sections cancelled:
71.3 Designation of yellow fever vaccination centers: Validation stamps
71.21 Radio report of death or illness
71.27 Issuance of Deratting Certificates and Deratting Exemption Certificates
71.33 Persons: isolation and surveillance
71.35 Report of death or illness on carrier during stay in port
71.41 General provisions
71.42 Disinsection of imports
71.43 Exemption for mails
71.44 Disinsection of aircraft
71.48 Carriers in intercoastal and interstate traffic

Sections modified:
71.1 Scope and definitions
71.4 Bills of health
71.29 Special provisions relating to airports: Office, examination, and quarantine facilities
71.31 Penalties
71.55 Dead bodies

Sections redesignated:
71.14 Carriers of U.S. military services
71.26 Food, potable water, and waste: U.S. seaports and airports

Sections added:
71.2 Designation of yellow fever vaccination centers; Yellow fever or other validation stamps
71.3 Vaccination clinics
71.5 Suspension of entries and imports from designated places
71.6 Report of death or illness on board flights
71.7 Written plan for reporting of deaths or illness on board flights and designation of an airline agent
71.8 Report of death or illness on board ships
71.9 Written plan for reporting of deaths or illness on board ships and designation of a shipline agent
71.10 Passenger information
71.11 Written plan for passenger information and designation of an airline or shipline agent
71.12 Inspections
71.13 Sanitary measures
71.14 Detention of carriers
71.16 Screenings to detect ill persons
71.17 Provisional quarantine of arriving persons
71.18 Provisional quarantine orders
71.19 Quarantine
71.20 Content of quarantine order
71.21 Service of quarantine order
71.22 Medical examination and monitoring
71.23 Hearings
71.24 Care and treatment of arriving persons
71.25 Arriving foreign nationals
71.26 Administrative record
71.28 Health documents in international traffic
71.30 Establishment of institutions, hospitals and stations
71.32 Implementation through order
71.33 Appeals of actions required pursuant to 71.13 or 71.14

TABLE V–1.—SECTIONS UPDATED AND/OR RECODIFIED IN 42 CFR PART 71

Current regulation	Proposed regulation
Subpart A—Definitions and General Provisions Proposed Regulation	A. Subpart A—General Provisions
71.1 Scope and definitions	71.1 Scope and definitions.
71.2 Penalties	71.2 (modified) Designation of yellow fever vaccination centers; yellow fever or other validation stamps.
71.3 Designation of yellow fever vaccination centers; Validation stamps.	71.3 (new) Vaccination clinics.
	71.4 Bills of health.
	71.5 (new) Suspension of entries and imports from designated places.
	71.6 (new) Report of death or illness on board flights.
	71.7 (new) Written plan for reporting of deaths or illness on board flights and designation of an airline agent.
Subpart B—Measures at Foreign Ports	
71.11 Bills of Health	71.8 (new) Report of death or illness on board ships.
	71.9 (new) Written plan for reporting of deaths or illness on board ships and designation of a shipline's agent.
Subpart C—Notice of Communicable Disease Prior to Arrival	
71.21 Radio report of death or illness	71.10 (new) Passenger information.
	71.11 (new) Written plan for passenger information and designation of an airline or shipline agent.
Subpart D—Health Measures at U.S. Ports: Communicable Diseases	
	71.12 (new) Inspections.
71.31 General provisions	71.13 (new) Sanitary measures.
71.32 Persons, carriers, and things	71.14 (new) Detention of carriers.
71.33 Persons: isolation and surveillance	71.15 (modified) Carriers of U.S. military services.
71.34 Carriers of U.S. military services	71.16 (new) Screenings to detect ill persons.
71.35 Report of death or illness on carrier during stay in port	71.17 (new) Provisional quarantine of arriving persons.
	71.18 (new) Provisional quarantine orders.
Subpart E—Requirements Upon Arrival at U.S. Ports: Sanitary Inspections	
	71.19 (new) Quarantine.
	71.20 (new) Content of quarantine order.
	71.21 (new) Service of quarantine order.
	71.22 (new) Medical examination and monitoring.
	71.23 (new) Hearings.
71.41 General provisions	71.24 (new) Care and treatment of arriving persons.
	71.25 (new) Arriving foreign nationals.
71.42 Disinsection of imports	71.26 (new) Administrative record.
71.43 Exemption for mails	71.27 Food, potable water, and waste: U.S. seaports and airports.
71.44 Disinsection of aircraft	71.28 (new) Health documents in international traffic.
71.45 Food, potable water, and waste: U.S. seaports and airports	71.29 (modified) Special provisions relating to airports: Office, examination, and quarantine facilities.
	71.30 (new) Establishment of institutions, hospitals and stations.
71.46 Issuance of deratting certificates and deratting exemption certificates.	71.31 (new) Penalties.
71.47 Special provisions relating to airports: Office and isolation facilities.	71.32 (new) Implementation through order.
71.48 Carriers in intercoastal and interstate traffic	71.33 (new) Appeals of actions required pursuant to 71.13 or 71.14.
Subpart F—Importations	Subpart B—Importations
71.51 Dogs and cats	71.51 Dogs and cats.
71.52 Turtles, tortoises, and terrapins	71.52 Turtles, tortoises, and terrapins.
71.53 Nonhuman primates	71.53 Nonhuman primates.
71.54 Etiological agents, hosts, and vectors	71.54 Etiological agents, hosts, and vectors.
71.55 Dead bodies	71.55 (modified) Dead bodies.
71.56 African rodents and other animals that may carry monkey pox virus.	71.56 African rodents and other animals that may carry monkey pox virus.

VI. Required Regulatory Analyses Under Executive Order 12866, the Unfunded Mandates Reform Act, and the Regulatory Flexibility Act

We have examined the impacts of the proposed regulation under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). Unless we certify that the rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act,

as amended by the Small Business Regulatory Flexibility Act (SBREFA), requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. Section 202 of UMRA requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). We have conducted analyses of the proposed rule, and have determined that the rule is consistent with the principles set forth in the Executive Order and in these statutes.

We believe that the proposed regulation is a significant regulatory action under the Executive Order. We also believe that it is a major rule under the Congressional Review Act. At this time we are not certifying that the proposed rule would not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act and have prepared an Initial Regulatory Flexibility Analysis, as required.

A ''significant regulatory action'' is defined in the Executive Order in the relevant part as:

> Any regulatory action that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The Regulatory Flexibility Act and the Congressional Review Act (Subtitle E of SBREFA) similarly define ''significant impact'' and ''major rule,'' respectively.

Finally, our Unfunded Mandates Reform Act analysis concludes that the proposed rule will not have any significant economic impact on State, local, or Tribal governments. However, the proposed rule would have a significant impact on the private sector, particularly air carriers. This impact is more than offset by the benefits of the proposed rule, which is designed to enhance our ability to effectively counter the threat of introduction, transmission, and spread of infectious disease via travel. The benefits accruing to public health and safety will also extend to the airline industry and the economy generally.

The analyses undertaken to meet the above requirements are presented in detail in the report titled Regulatory Impact Analysis of Proposed 42 CFR part 70 and 42 CFR part 71, which can be found in the Rulemaking Record (CDC, 2005) (hereinafter referred to as the RIA).

A. Objectives and Basis for the Proposed Regulation

The rule is necessary to minimize the risk of introduction, transmission, and spread of infectious disease via travel. In a recent study, the Institute of Medicine, National Academy of Sciences, found:

> Whether naturally occurring or intentionally inflicted, infections can cause illness, disability, and death in persons while disrupting whole populations, economies, and governments. And because national borders offer trivial impediment to such threats, especially in the highly interconnected and readily traversed ''global village'' of our time, one nation's problem soon becomes every nation's problem (Institute of Medicine, 2003).

Stopping an outbreak—whether it is naturally occurring or caused intentionally—requires the use of the most rapid and effective public health tools available. One of those tools is quarantine—restricting the movement of persons exposed to infection to prevent them from infecting others, including family members, friends, and neighbors. Quarantine of exposed persons may be the best initial way to prevent the uncontrolled spread of highly dangerous biologic agents such as smallpox, plague, and Ebola fever—especially when combined with other health strategies such as vaccination, prophylactic drug treatment, patient isolation, and other appropriate infection control measures.

B. The Nature of the Impacts

We commissioned the Volpe National Transportation Systems Center (2005) to undertake a study concerning the need for access to data enabling us to rapidly identify and locate at-risk persons to control the spread of infectious diseases. In the course of the study, airlines expressed concern over business and cost considerations associated with future data sharing. We would pursue collection of this vital data with a commitment to minimize the effect on airline operations. Full advantage would be taken of the trend toward online booking and passenger information input. Every effort would be made to merge our data collection efforts with those already undertaken by the airlines for national security and other purposes. During the course of rule development, we will seek comment from the airlines and their passengers concerning the most efficient means of data collection.

Failure to efficiently address the health-related effects of infectious disease spread through travel poses substantial adverse economic consequences. Reliable estimates are that the SARS' economic impacts in Asia in 2003 might have totaled as much as U.S. $28.4 billion, as discussed in Fan (2003). In Toronto, after SARS was detected, hotel occupancy rates were cut in half, and conventions were cancelled. CBS News Online (2003) reported that the Canadian Government spent $40M (CAN) to counteract both the medical impacts (surgical backlogs) of SARS quarantines and the public concern about safe travel into Ontario. To the extent that economic activity shifts from on region to another, estimates of regional impacts overstate national or international impacts. Nevertheless, the SARS experience proves that fear of contagion and the reaction to that fear can have severe economic impacts on nations where such contagions are detected.

Airlines were severely affected by SARS, with the St. Louis Business Journal (2003) stating ''the outbreak of SARS has had a greater impact on the global airline industry than the war in Iraq, according to a study by OAG, a firm that provides flight schedule information.''

Since the mere threat of an outbreak can affect the public health system and damage the economies of affected nations and the travel industry, it must be contained promptly to mitigate public reaction. Automated tools to acquire passenger information would enable CDC to more effectively employ its staff in tracing and identifying travelers.

The major impacts of this rule will fall on the airlines and the global distribution systems (GDSs), travel agencies, and other reservation booking operations to gather the data from passengers and submit the proposed required crew manifest and passenger data, as needed. It will also fall on the passengers themselves, who must take time to supply the information (see Sections F and G below for more detail). Our current belief is that any data collection-related costs borne by these entities will be substantially outweighed by avoidance of public health and economic costs associated with infectious disease outbreaks spread via travel.

The other requirements of the proposed rule are primarily clarifications or cover tasks that are currently being performed by agencies at the state and local levels. In particular, for sanitary measures, the proposed regulation duplicates CDC regulatory language from 42 CFR part 71, related to international commerce in

part 70, which relates to interstate commerce. Although this may appear to be an expansion of authority, we argue that there is no economic impact from this change in language for two reasons. First, the regulation will not change historical practice during an outbreak. In lieu of CDC action, State and local public health authorities have the power to order sanitary measures or destruction of cargo to prevent the spread of illness. For example, during the 2003 monkeypox event, the state of Wisconsin banned the sale, importation, and display of prairie dogs to stop the spread of the disease. Thus, the additional language will change the authority under which sanitary measures are taken from State to Federal jurisdictions, but the measures would be taken in any event, so there is no economic effect.

Second, the economic impact of a sanitation order may differ significantly depending on the circumstances. Experience shows that, in some cases, public health officials' sanitation orders do not generate costs over and above the costs that the outbreak itself creates. Affected markets often respond immediately to health risk information. For example, demand for pet prairie dogs collapsed virtually overnight when they were identified as potential carriers of monkeypox. Thus, the value of the pet prairie dog inventory was destroyed by the loss of a market even before health authorities sequestered them. In other cases, such as a sanitation order affecting a standard commodity such as chicken or beef, whose price would likely not collapse in the presence of an outbreak, the order itself may be the vehicle that destroys at least part of the value of the shipment. Because a sanitation order restricts the supply of a product, in yet other cases it may even cause prices to rise. Regardless, government intervention ensures that those with less information are not made vulnerable to the disease and can reestablish safe conditions and public trust in the product.

We invite comment concerning the economic impact of this proposed regulation.

C. Need for the Rule

As discussed in more detail above, we believe that the rule is necessary to minimize the risk of introduction, transmission, and spread of infectious disease via travel. The need for the regulation is driven by a demonstrated market failure. An externality exists when one person's or party's actions impose uncompensated costs to other parties. By exposing fellow travelers to potential illness and possible death, an ill traveler imposes uncompensated costs on the fellow travelers, travel providers, and the individuals that they, in turn, might expose. Due to the national and international nature of travel and the transmission of communicable diseases, regulation at the Federal level is the most appropriate mechanism for protecting public health.

D. Baseline

A first step in economic analysis of a regulatory action is the identification of a baseline, a depiction of the world in the absence of any action, from which to calculate the effects of the regulation. In the absence of the changes proposed in this regulation, we would continue to use the approaches taken during the SARS outbreak. We would meet flights containing suspected contagious passengers and attempt to obtain location and contact data from both passengers and crew members before disembarkation. Ill passengers on planes from affected areas would be evaluated and referred for medical care when appropriate.

As with SARS, data concerning cases identified after disembarkation would have to be manually gathered, compiled, and processed from flight manifests, customs declarations, and any other available sources relevant to the case. This manual process has the following shortcomings:

- Manifests contain only the passenger name and seat number.
- Custom declarations are completed by the passenger by hand and are often illegible.
- Names on the customs declarations do not necessarily match those on the manifests. Phone numbers are not included on customs forms, and only one customs form is filled out per family.

Hard copy data gathered from manifests and customs declarations frequently takes several days to obtain. Data must then be keyed into a database. Entering the data and verifying addresses may take several more days. The time to do manual tracking of passengers could frequently be expected to take longer than the incubation period of many infectious diseases.

E. Alternatives

Economic analysis of a regulation is based on the concept of incremental change: What would happen without a rule versus what would happen with it. The current regulatory environment provides a base case against which the changes in behavior precipitated by the new rule are compared.

Overall, the proposed rule seeks to:

- Clarify administrative procedures to ensure due process rights to quarantined individuals.
- Mandate that carriers maintain and provide to CDC passenger information in electronic formats.
- Clarify requirements for reporting sick passengers.
- Clarify sanitary measures taken with respect to interstate commerce.
- Clarify coordination with state and tribal authorities.

CDC performed a section-by-section comparison of the current and proposed rule. Many provisions of the proposed rule codify practices that have evolved over the years. As these practices are part of current practice at CDC and in the industry, their codification does not impose new costs upon society.

The major cost component of the proposed regulation is creation and maintenance of a passenger information database including home address, emergency contact, and itinerary information. Under current regulations, the airlines do not typically collect this information in an easily accessible format, nor do they maintain it for the proposed 60-day period. Airlines, Global Distribution Systems (GDSs), and travel agencies may already collect some of it, however. If the information can be shared, then this data collection may be relatively invisible to the traveler and primarily a programming problem for the airlines, although passengers will incur some opportunity costs of their time to provide information and travel agencies and similar entities will incur some costs to collect the data. This scenario is CDC's ''Point of Sale'' (POS) scenario. However, CDC also examined the situation where a wholly separate information collection must be undertaken at departure; this process could add to check-in times and entail gathering information that is already gathered by many travel agencies, generating additional real and opportunity costs for carriers and passengers. This is the ''Point of Departure'' (POD) scenario.

The proposed rule defines a basic set of information to be collected from all passengers. The information includes permanent address, e-mail address, passport information, traveling companions or group, emergency contact information (including at least name of an alternate person or business and a phone number), phone number(s) for the passenger, itinerary, and other flight information. This set of data is greater than the set of information currently collected by the airlines, GDSs, or travel agencies. The incremental costs of collecting, storing, and producing this information on

demand in contrast with the no-action base case represent the compliance costs of the proposed rule.

CDC looked at three options for the proposed rule. The first option (Option 1—International Only) would cover international flight arrivals and trips on vessels arriving from non-U.S. locations only. The second option would cover these international flights and vessel trips and would add domestic flights landing in or taking off from large and medium size U.S. airports specified by CDC (Option 2—International plus Large and Medium Hubs) (see Appendix A for this list). The third option would also cover international flights and vessel trips and would add all domestic flights (Option 3—International plus All Domestic). CDC proposes Option 2 for this rulemaking.

CDC compared the estimated costs and monetized benefits associated with the proposed rule (Section I). CDC also examined whether any costs should be considered regarding sanitary measures taken with interstate commerce (Section B).

F. Cost Analysis of Proposed Option and Alternatives

F.1 Profile of Airline and Cruise Ship Industries

Under the proposed rule, costs to industry will be incurred primarily by the airline and cruise ship industries. Additional sectors would also incur some costs to collect additional passenger information. (See the RIA [CDC, 2005] for profile information on these other sectors, which include travel agencies and GDSs.) Compliance costs can be broadly categorized into one-time costs, such as computer reprogramming for each airline or cruise line, and recurring costs that will be incurred for each passenger traveling with that carrier. Foreign carriers incur costs under all three options and are included for projecting the total cost of the proposed rule. However, the financial impact to carriers is projected only for U.S.-owned companies.

Airline Industry

Commercial air carriers are classified according to the size of the aircraft and type of service provided. Airlines operating aircraft with more than 60 seats are classified as large certificated carriers, and further distinguished as major, national, and regional according to annual revenues. Carriers operating aircraft with 60 seats or fewer may be classified as small certificated carriers and commuter airlines. Some commercial air carriers operate under code-sharing partnerships with other, typically major, airlines. Generally, reservations are made with, and flight manifests are generated by, the parent airline, not the codeshare airline (Franz, 2005). We estimate that 23 codeshare airlines fly exclusively under other airlines' codes (RAA, 2005).

Table VI.F–1 presents flight operation and passenger information for air carriers likely to be affected by the proposed rule (BTS 2005a, 2005b, 2005c) under Option 3; that is, passenger-carrying arrivals from foreign countries, as well as interstate and intrastate flights within the U.S. This option covers 217 airlines, carrying 696 million passengers on 10.4 million flights. Option 1 (International Only) covers 184 airlines, 10 percent of Option 3 passengers, and 6 percent of the Option 3 flights, while Option 2 (International Only plus Large and Medium Hubs) covers 217 airlines, 90 percent of the Option 3 passengers, and 77 percent of the Option 3 flights.

TABLE VI.F–1.—FLIGHTS AND PASSENGERS CARRIED BY AIRLINES ON ROUTES AFFECTED BY RULE, REVENUE AND NET INCOME JULY 1, 2003—JUNE 30, 2004

[All potentially affected international and domestic flights]

Airline type	Number	Passengers (millions)		Flights (thousands)		Revenue ($ millions)	Net income ($ millions)
		Total	Average	Total	Average		
Major	13	522.8	40.21	5,898	454	$6,857	$(357)
National	24	113.9	4.75	2,535	106	$512	$19
Large regional	12	5.1	0.43	60	5	$87	$(0.4)
Medium regional	8	2.5	0.31	71	9	$30	$(0.4)
Small/commuter	47	18.9	0.40	1,579	34	$53	NA
Foreign flag	113	32.9	0.29	239	2	NA	NA
Total	217	696.1	NA	10,382	NA	NA	NA

Source: BTS 2005a, 2005b, 2005c. Revenue for 31 small certificated carriers and commuters taken from Dun & Bradstreet or estimated from similar airlines based on average revenue per passenger. Carriers and commuters taken from Dun & Bradstreet or estimated from similar airlines based on average revenue per passenger.

Cruise Ship Industry

The cruise ship industry provides international water transportation to passengers. The well-known portion of this industry comprises large-to-very large firms, best typified by the ''big three'' of the global industry: Carnival, Royal Caribbean, and Star Cruises. A second tier includes smaller cruise lines that serve similar markets and niche markets. A third, much smaller segment comprises small operations that provide shorter-distance international water transportation to passengers traveling from outside the U.S. in regions such as the Great Lakes and the Pacific Northwest, or from Canada and the Caribbean. Finally, there are also lines that own and operate ferries that carry passengers between, for example, Seattle, WA, and Vancouver, B.C., Canada, or between Ohio and Ontario, Canada.

In theory, any vessel could be affected by the rule because ships are inherently mobile. Nevertheless, the general itineraries of the lines as currently posted on Web sites were considered the likeliest indicator of whether they would be affected by the proposed regulation in the near future. Affected cruise lines were identified on the basis that: (1) They serve U.S. ports, and (2) they have itineraries with at least one international destination.

Most of the largest cruise lines are members of the International Council of Cruise Lines (ICCL); of the 16 cruise lines in this category, two are U.S.-owned. The second tier consists of 16 cruise or ferry lines that are not members of ICCL, but are considered

large operations under the terms of the small business analysis. One cruise line in this group is U.S.-owned. Small cruise lines and international ferry lines number 25; all of these appear to be U.S.-owned. Table VI.F–2 summarizes relevant data for the cruise line industry and presents limited financial data for U.S.-owned cruise and ferry lines.

TABLE VI.F–2.—AVAILABLE DATA FOR U.S. CRUISE LINES

Number of cruise lines	Foreign or domestic	Total			Average		
		Ships	Passengers	Revenues ($ millions)	Ships per line	Berths per ship	Revenues per line ($ millions)
Large Cruise Lines, ICCL Members							
14	Foreign	112	65,997,060	NA	8	1,733	NA
2	USA	8	2,520,760	$869	4	927	$434.5
Large Cruise Lines, Non-ICCL Members							
15	Foreign	42	3,630,700	NA	2.8	257	NA
1	USA	3	465,120	$49	3	456	$49
Small Cruise and Ferry Lines*							
0	Foreign	0	0	NA	0	0	NA
25	USA	48	1,852,090	$138	3.6	76	$19.7

*Complete data were unavailable for small cruise lines; therefore, revenue data and averages shown are based on 7 of the 25 small lines.

F.2 Incremental Costs to Industry of Data Collection

Data Collection Costs

Under the POS scenario, CDC assumed that legal and logistical barriers to carriers accessing DHS and GDS databases were removed, and therefore they could access information that passengers input directly into a database when they make their reservations. These databases might belong to DHS, the airline or a GDS. Travel agents, however, would need to collect additional information to complete the purchase of tickets. Thus, the only data collection costs to industry under this scenario would be borne by travel agencies. There are, however, opportunity costs to passengers, since passengers must devote time to providing additional information when they make reservations (discussed later in this section).

Under the POD scenario, CDC assumed that airlines would incur the data gathering costs and that the amount of incremental data to be gathered is greater than the amount of incremental data to be gathered under the POS scenario. Unless a passenger is a frequent flier customer, much of the information that travel agencies routinely gather, such as home or business address and telephone number and/or e-mail address, is not collected by the airlines routinely.

CDC based its assumptions for incremental data collection time on industry estimates for and comments on DHS' proposed implementation of Section 231 of the Enhanced Border Security and Visa Reform Act of 2002, and direct industry discussions (FR, 2003; IATA, 2003; Qantas, 2003; Volpe, 2004). Providing an address, for example, is expected to add 45 seconds to information collection time, according to industry estimates. To estimate the cost of data collection by travel agents under the POS scenario, CDC assumed that approximately 30 percent of passengers will book through travel agents, and travel agents need an additional 45 seconds to gather information from passengers to cover the new data needs. Travel agencies already collect much of the information required, but a few pieces of information might not be universally collected. These might include e-mail address, passport information, and emergency contact information. This information was considered equivalent to the amount of information that would need to be gathered for an address. Thus 45 seconds was considered a reasonable estimate under the POS scenario.

Under the POD scenario, CDC assumed that somewhat longer times, such as 1.5 minutes per non-frequent flier passenger, are needed to compile the additional information and to obtain or verify emergency contact information. Additionally, airlines are forecast to hire additional personnel to facilitate information gathering at the time of airport check-in. Such workers would be provided with portable workstations so that information could be gathered while passengers are waiting in line or at the departure gates. These additional workers would be needed to avoid excessive queuing time for passengers.

The incremental costs for gathering information by travel agencies are estimated to be $5.2 million to $53.7 million yearly, depending on option under the POS scenario. Under the POD scenario, these costs will fall on the airlines and cruise lines and will total $65.1 to $316.3 million annually, depending on the option.

Reprogramming Costs

Each of the regulatory options also involves potentially substantial reprogramming by carriers so that a variety of information from several different databases can be linked to information compiled prior to or at departure and saved electronically with the manifest data currently collected by the airlines. Discussions with industry indicate that this reprogramming might cost from $5 million to $15 million per major airline. These reprogramming costs are primarily a function of the need to add data fields and integrate data systems, but are relatively invariant with respect to the number of fields added. Smaller airlines appear to have IT systems that are less complex and more flexible than those of major airlines, so reprogramming costs should be substantially lower (Airline Web Sites, 2005; Delta, 2005; FR, 2003; Pace, 2005; Sun Country, 2005).

CDC assumed major and foreign airlines will each incur reprogramming costs of $10 million. These costs are assumed to decrease with airline size; small certificated/commuter airlines are projected to incur costs of $10,000 each.

Although CDC spoke to airlines about what their anticipated reprogramming costs might be, CDC is requesting additional information and comment from airlines or others who might have information that would assist CDC in further estimating reprogramming costs, particularly costs for smaller airlines and cruise lines. Codeshare airlines will incur zero reprogramming costs because they do not have their own reservation systems. Large cruise lines are assigned a cost of $125,000, based on DHS' proposed implementation of the Enhanced Border Security and Visa Reform Act (FR, 2003). Costs of $10,000 are assigned to small cruise lines and ferries.

In addition to air carriers and cruise lines, under the POS scenario (but not the POD scenario), GDS operators and travel agents will also incur reprogramming costs. Companies that own and operate GDSs will need to modify databases to accept additional fields from Web-based systems and travel agencies. CDC estimated that four major GDS systems dominate the U.S. market, and these companies will incur reprogramming costs on the order of $5 million each. Travel agencies and other tour-booking companies are assumed to incur reprogramming costs of $1,000 per establishment to update their Web links with the GDS. CDC estimates that about 18,000 establishments will incur these costs.

Reprogramming costs are annualized at 7 percent over 10 years. CDC estimates that reprogramming will cost the airlines $105.9 million to $107.5 million on an annualized basis under either scenario. For cruise lines, the estimated costs of reprogramming total $0.6 million (annualized) over all options and scenarios. For travel agencies, GDSs, and similar entities, CDC estimates that reprogramming will cost $5.4 million on an annualized basis over all options, which is added to the totals for reprogramming for airlines and cruise lines under the POS scenario. Total costs for reprogramming under the POS scenario range from $111.9 million to $113.5 million per year, depending on option. Under the POD scenario, because the burden of data collection shifts to airlines, these costs are slightly less—$106.5 million to $108.1 million per year.

Archiving and Other Administrative Costs

Major airlines tend to keep flight manifests in electronic format for only a few days because their intensive flight operations would otherwise result in massive storage requirements (United, 2005; Volpe, 2004). Incremental costs will be incurred for archiving manifest and passenger information in electronic format up to 60 days, as well as administrative costs for submitting data each time CDC requests data and for documenting how they will collect data and submit it to CDC. This includes time to provide passenger lists and data for the 10–12 times per month CDC expects to routinely request this information. It is assumed that, with the software modifications in place, such routine requests will require only a small amount of time to process and submit data. CDC assumed major, national, and foreign airlines would require 5 percent of a full-time-equivalent airline database manager to handle these tasks, declining to 1 percent for small certificated/commuter airlines. For cruise lines, ICCL members are assigned 5 percent, other large lines are assigned 3 percent, and small lines and ferries are assigned 1 percent. The average wage for this occupation is taken to be $44.00 per hour fully loaded (BLS, 2005). CDC assumed archiving will occur on 50-gigabyte tapes, and airlines will need a maximum of 12 tapes over a 3-month period. Because these tapes can be recycled and reused for a number of years, annualized costs of tapes are assumed minimal. Storage space requirements are also considered negligible. CDC estimated annual archiving and administrative tasks (under either scenario) would cost $676,000 to $710,000 for airlines, depending on option, and $140,000 for cruise lines across all options, for a total of $816,000 to $855,000 depending on option. GDSs and travel agencies would not have an equivalent responsibility to provide data to CDC, so no archiving or administrative costs are assumed for these entities.

Opportunity Costs to Passengers

Passengers incur an opportunity cost for the time they use in providing additional information to the carriers or others. Under the POS scenario, passenger time providing information at a minimum equals the time travel agencies require to collect that information (45 seconds). An additional amount of time (15 seconds) is assumed, on average, to allow time for those passengers using the Internet to input additional information into Web pages or for any passengers who must locate certain information, such as emergency contact telephone number or passport number. Thus, on average, all passengers are assumed to need one minute to provide additional information. (This figure has not been discounted to account for families and groups that may be able to provide the data more efficiently.) Under the POD scenario, CDC assumed it takes an average of 1.5 minutes for passengers to provide the required additional information to airlines/cruise lines.

The opportunity cost of passenger time is set at the value of passenger time on air carriers recommended by FAA (FAA–APO, 2003) of $28.60 per hour. This same value is used for cruise line passengers. CDC estimates that the opportunity costs to passengers of providing additional data total $67.6 to $367.3 million annually under the POS scenario and $90.5 million to $439.9 million annually under the POD scenario, depending on option. The opportunity cost to passengers is a non-industry social cost of the rule.

F.3 Projected National Costs of the Proposed Rule

CDC discounted future costs to their present value using the 7 percent discount rate recommended by OMB over 10 years. Costs are annualized so that options with costs occurring in different years can be compared. Tables VI.F–3a and VI.F–3b show the annualized national costs of the three options under the POS and POD scenarios, respectively. The biggest difference in costs among the three options within each scenario is the opportunity cost to passengers. Costs to industry rise only about 42 percent from Option 1 to Option 3 and only 38 percent from Option 1 to Option 2 under the POS scenario. Under the POD scenario, costs to industry more than double from Option 1 to Option 2, and increase slightly more for Option 3. Additionally, costs to the industries directly affected by the rulemaking (the rule does not directly affect GDSs or travel agencies) rise negligibly from one option to the next, with Option 1 costing about $107 million and the other two costing about $109 million annually under the POS scenario. Under the POD scenario, airlines and cruise ship industries incur all compliance costs as they are collecting and compiling all required passenger information.

Under the alternative scenario (Point of Departure Scenario) Option 3 would be associated with costs totaling $425.3 million to industry. Adding the $439.9 million opportunity costs to passengers to the industry costs yields a total for this scenario of $865.2 million per year.

TABLE VI.F–3A.—ESTIMATED ANNUALIZED NATIONAL COSTS FOR THE POINT OF SALE SCENARIO

[$ millions, 2004]

Affected entity	Option 1: International only	Option 2: International plus large and medium hubs	Option 3: International plus all domestic
Airlines	$106.6	$108.2	$108.2
Cruise lines	0.8	0.8	0.8
Travel agencies	7.6	50.5	56.1
GDSs	3.0	3.0	3.0
Total Industry Cost	$117.9	$162.4	$168.0
Opportunity cost to passengers	67.6	332.6	367.3
Total with Opportunity Cost	$185.5	$495.0	$535.3

TABLE VI.F–3B.—ESTIMATED ANNUALIZED NATIONAL COSTS FOR THE POINT OF DEPARTURE SCENARIO

[$ millions, 2004]

Affected entity	Option 1: International only	Option 2: International plus large and medium hubs	Option 3: International plus all domestic
Airlines	$133.4	$356.4	$386.3
Cruise lines	39.0	39.0	39.0
Travel agencies	0	0	0
GDSs	0	0	0
Total Industry Cost	$172.4	$395.4	$425.3
Opportunity cost to passengers	90.5	398.4	439.9
Total with Opportunity Cost	$262.9	$793.8	$865.2

G. Impacts on Industry

Impacts on industry, including airlines, cruise lines, travel agencies, and GDSs, were measured using a comparison of annualized costs per firm to each firm's revenues, if available. Impacts were identified where the annualized costs exceeded 1 percent of revenues and/or where the annualized costs exceeded the net income of a firm (airlines only). For airlines, we used a second test, comparing annualized costs to net income (similar baseline net income figures are not available for the other entities). Impacts were identified where annualized compliance costs exceeded net income, where net income was currently positive.

Under the Point of Sale scenario, CDC determined that no airlines, cruise lines, GDSs, or travel agencies, would experience annualized costs in excess of 1 percent of revenues under any of the options analyzed. For those airlines for which net income is available and positive, CDC estimates one airline would incur compliance costs exceeding net income.

Under the Point of Departure scenario, CDC estimates that one airline would incur annualized compliance costs greater than 1 percent of revenues under Option 1, and two airlines would exceed the 1 percent level under Option 2. Four airlines are expected to incur costs exceeding 1 percent of revenues under Option 3. Furthermore, one airline would incur annualized compliance costs exceeding its baseline net income under all three options. There is no change to the impact results among the other affected entities.

H. Benefits

As discussed above, the benefits of the proposed regulation are associated with the faster suppression of infectious disease outbreaks spread via travel. More efficient traceback of infectious individuals can lead to more complete and effective prophylaxis and quarantine. The reduction of the frequency and scale of outbreaks should result in a commensurate reduction in the opportunity costs of outbreak-related public health efforts to Federal, State, and local governments.

In addition to the avoided illnesses and deaths from the proposed rule, more effective control of an outbreak will reduce the economic impact of infectious disease outbreaks. The SARS outbreak is estimated to have reduced incomes in East and Southeast Asia by $12.3 billion to 28.4 billion (Fan, 2003). Such regional impact measurements overstate the global impact of disease outbreaks because they generally do not take into account the redirection of investment, travel, and purchasing from affected areas to unaffected areas. The global impact would be the net loss of consumer and producer surpluses (*e.g.*, how much travelers might have preferred to travel to China instead of other destinations) due to the outbreak-caused adjustments in economic activity. Nevertheless, the affected nation does experience a loss. For example, if an outbreak of disease in the U.S. similar to the SARS outbreak in Toronto occurred, it could have a large negative effect on the U.S. economy through impacts such as those on the travel and tourism industries, even though the net impact, measured globally, might not be significant. Because forecasting such impacts for the U.S. economy is so speculative and unique to specific outbreaks, these types of benefits from net reductions in economic impacts are not estimated.

Other potentially sizeable benefits that could not be quantified include reductions in stress on health care systems due to disease outbreaks, reductions in cases of common illnesses, such as measles, through an ability to rapidly contact passengers who might have been exposed, and reductions in anxiety among those who

do not become ill that are associated with fears of contracting an illness during an outbreak.

The most direct effect of the CDC rule changes is improved contact tracing leading to better health outcomes when an outbreak threatens. In epidemiological models, the speed of response is often more important than the specific action taken (Barrett *et al.*, 2005; Lipsitch, 2003). Whether the chosen action is vaccination, quarantine, and/or isolation, early implementation lowers the illness and death toll. Thus one way to quantify benefits is to compare a base case in which intervention proceeds using existing tools with alternatives in which intervention can proceed more rapidly. (The more rapid intervention is made possible because passenger information that includes contact information is readily available.) The benefits of the alternative are measured in terms of the number of prevented deaths and illnesses.

To estimate the effect of faster contact tracing, CDC applied a Susceptible-Exposed-Infectious-Recovered (SEIR) epidemiological model that includes the effects of vaccination, quarantine, isolation, and asymptomatic carriers. The model forecasts the number of deaths, illness days, isolation days, and quarantine days given parameters that characterize the illness and the public health intervention. Each outcome measure is monetized by the public's willingness to pay (WTP) to avoid death and illness.

The risks of illness and death from an infectious disease are similar to risks from some environmental hazards in that they are involuntary, pervasive, and random. Thus, we updated values from the Environmental Protection Agency's evaluation of the benefits of the Clean Air Act (Kochi, *et al.*, 2003) to 2004 dollars as a measure of WTP for changes in the risk of death or value of a statistical life (VSL). We applied this $6.9 million to the number of deaths the SEIR model forecast would be avoided by faster government action. Johnson *et al.* (1997) found a WTP to avoid a day of severe cough was $56 (updated to 2004 with CPI). In addition, the WTP for workdays lost to illness and recovery is measured as wages lost. CDC valued these losses using the median usual weekly earnings of full-time wage and salary workers, $128 per day (BLS, 2005). Lost earnings are an element of WTP that was not captured by Johnson *et al.* (1997) so it is appropriate to add the two components together.

The parameters of the model were selected to simulate the first 200 days of a SARS-like disease spreading in a large city. In the base case intended to represent current practice, intervention began in the sixth week after introduction, isolated 40 percent of infectious patients, and quarantined 30 percent of contacts. To model the three options, ERG assumes interventions begin in the fifth week, 70 percent of infectious patients are isolated, and 60 percent of contacts are quarantined. Table VI.H–1 shows the improvement in outcomes with earlier public health intervention.

TABLE VI.H–1.—OUTCOMES IN BASE CASE AND EARLY INTERVENTION

Outcome	Base case	Earlier intervention	Difference
Deaths	900	37	863
Illness days	18,075	670	17,405
Isolation days	23,753	1,000	22,753
Recovery days	14,460	536	13,924
Quarantine days	127,967	5,013	122,954

Table VI.H–2 shows the WTP values for the deaths and days of incapacity avoided in a single outbreak by implementing each option. However, the rule will presumably be in place for many years and be effective in many situations. In order to show the long run benefits of the rule, it is necessary to forecast the frequency and scale of epidemic events. CDC assumed that epidemics on the scale of the modeled outbreak would occur once every 5 years over the 10-year planning horizon. Table VI.H–2 shows the WTP in current dollars as well as the 10-year annualized discounted values at three and seven percent.

TABLE VI.H–2.—ESTIMATED WILLINGNESS TO PAY FOR CHANGE IN OUTCOMES

[Million, 2004 dollars]

Outcome	Option 1: International only	Option 2: International plus medium and large hubs	Option 3: International plus all domestic
Deaths Avoided	$4,999.7	$5,901.9	$5,956.1
Other Outcomes Avoided:			
Illness days	2.7	3.2	3.2
Isolation days	3.5	4.2	4.2
Recovery days	1.4	1.7	1.7
Quarantine days	13.2	15.6	15.7
Total	$5,020.6	$5,926.5	$5,980.9
Annualized Benefits			
7 percent discount rate	$1,069.5	$1,262.5	$1,274.1
3 percent discount rate	$1,033.3	$1,219.8	$1,231.0

The effect of the earlier intervention reducing the number of deaths from 900 to 37 is remarkable but not inconceivable; compare the 43 SARS deaths in Canada where preparations were made and there were effective public health measures with the 299 SARS deaths in Hong Kong. A Monte Carlo simulation demonstrated that the set of parameters used in the analysis yielded a benefit estimate at the 42nd percentile of a range of possible parameter choices. While some alternative assumptions could result in considerably smaller benefits estimates, many other alternative assumptions could result in much larger estimates. Although we cannot know the appropriate assumptions to model the epidemics that will be encountered in the future, it is not difficult to imagine outbreaks whose control would exceed this level of benefits. We invite comments on the benefits model, which is described in detail in the RIA (CDC, 2005).

I. Comparison of Costs and Benefits

The primary cost impact of the proposed rule is the collection and maintenance of crew and passenger data. The economic analysis focused primarily on air and water carriers, and secondarily, under the POS scenario, on GDSs and travel agencies, all of which are likely to modify computer systems and collect passenger information in order to come into compliance or meet airline/cruise line requirements. Some data sought by CDC is already or soon may be collected by other government agencies (*e.g.,* the Transportation Security Administration's Advanced Passenger Information System or APIS). For the purposes of the analysis, it is assumed CDC will not gain access to this data and will have to collect the data itself, either directly at departure (POD scenario) or indirectly, through cooperation with travel agencies and GDSs (POS scenario). For more discussion of the potential for data collection overlap, see the RIA (CDC, 2005). Potential costs savings may result should CDC gain access to APIS data. However, it is not possible to estimate those savings at this time due to multiple uncertainties. These uncertainties include the extent to which CDC would have access to such data and the list of data elements that is consistently collected under APIS.

Tables VI.I–1a and VI.I–1b summarize the estimated annualized costs and benefits associated with the proposed rule under the POS and POD scenarios, respectively. Table VI.I–1c presents these same results assuming the actual costs are at the midpoint between the two bounding scenarios. The benefits of the rule are measured in terms of the number of deaths and illnesses prevented by rapid intervention. The costs and benefits of the rule are considered over a 10-year period. As the table shows, under all options, the benefits substantially outweigh the costs under either scenario and assuming actual costs are the midpoint of costs under the two scenarios.

TABLE VI.I–1A.—ANNUALIZED DISCOUNTED VALUE OF COSTS AND BENEFITS OF THE POS SCENARIO OVER A 10-YEAR PLANNING PERIOD

Parameter	Option 1: International only		Option 2: International plus medium and large hubs		Option 3: International plus all domestic	
	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit
At 7 percent discount rate:						
Costs	$185.5	.....	$495.0	.....	$535.3	.....
Benefits	1,070	.....	1,263	.....	1,274	.....
Net Benefit	884.5	.....	768.0	($116.5)	738.7	($29.3)
At 3 percent discount rate:						
Costs	$165.7	.....	$475.0	.....	$515.3	.....
Benefits	1,033	.....	1,220	.....	1,231	.....
Net Benefit	867.3	.....	745.0	($122.3)	715.7	($29.3)

TABLE VI.I–1B.—ANNUALIZED DISCOUNTED VALUE OF COSTS AND BENEFITS OF THE POD SCENARIO OVER A 10-YEAR PLANNING PERIOD

Parameter	Option 1: International only		Option 2: International plus medium and large hubs		Option 3: International plus all domestic	
	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit
At 7 percent discount rate:						
Costs	$262.9	.....	$793.8	.....	$865.2	.....
Benefits	1,070	.....	1,263	.....	1,274	.....
Net Benefit	807.1	.....	469.2	($337.9)	408.8	($60.4)
At 3 percent discount rate:						
Costs	$244.1	.....	$774.7	.....	846.1	.....
Benefits	1,033	.....	1,220	.....	1,231	.....
Net Benefit	788.9	.....	445.3	($343.6)	384.9	($60.4)

TABLE VI.I–1C.—ANNUALIZED DISCOUNTED VALUE OF COSTS AND BENEFITS OF THE MIDPOINT BETWEEN THE POS AND POD SCENARIO OVER A 10-YEAR PLANNING PERIOD

Parameter	Option 1: International only		Option 2: International plus medium and large hubs		Option 3: International plus all domestic	
	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit	Total cost and benefit	Incremental net benefit
At 7 percent discount rate:						
Costs	$224.2	.....	$644.4	.....	$700.3	.....
Benefits	1,070	.....	1,263	.....	1,274	.....
Net Benefit	845.8	.....	618.6	($227.2)	573.7	($44.9)
At 3 percent discount rate:						
Costs	204.9	.....	$624.9	.....	$680.7	.....
Benefits	1,033	.....	1,220	.....	1,231	.....
Net Benefit	828.1	.....	595.1	($233.0)	550.3	($44.8)

As a second analysis, the cost effectiveness of the options was considered. In order to include both mortality and morbidity effects in a single metric for cost effectiveness analysis, these measures were converted to Quality Adjusted Life-Years (QALYs). (See the RIA for more information on how QALYs are calculated.)

The QALY losses avoided by implementation of the proposed rule annualized at 7 percent are presented in Tables VI.I–2a (POS scenario),VI.I–2b (POD scenario), and VI.I–2c (midpoint). As with the dollar denominated benefit estimates, the number of deaths avoided is the largest component of benefits. Costs per QALY for Options 1 and 2 are less than $300,000 under the higher-cost POD scenario.

In the cost-effectiveness analysis, the options are ranked in order of ascending numbers of QALYs. The average cost effectiveness of the options is calculated as the cost of each option divided by the number of QALYs associated with each option ($/QALY). To calculate the incremental cost-effectiveness of each option, each option's costs and QALYs are first calculated as the incremental cost and incremental number of QALYs going from that option to the next higher option. The incremental cost is then divided by the incremental number of QALYs. This method is also used for Option 1, which is incremental to the no-action alternative (not explicitly shown). The no-action alternative has zero cost and zero QALYs.

As Tables VI.I–2a and VI.I–2b show, after Option 1 (international flights and cruise lines only) under either scenario, costs rise quickly. Option 2 (international plus large and medium hubs) is associated with a slightly lower average cost effectiveness value compared to Option 3 (international plus all domestic), but a significantly lower incremental cost effectiveness value compared to Option 3 under either scenario.

TABLE VI.I–2A.—AVERAGE AND INCREMENTAL COST EFFECTIVENESS OF THE OPTIONS UNDER THE POS SCENARIO

[Ranked by number of QALYs]

[7 percent discount rate]

Option	Annualized cost ($ millions)	QALYs	Incremental cost ($ millions)	Incremental QALYs	Average cost effectiveness ($/QALY)	Incremental cost effectiveness ($/QALY)
Option 1	$185.5	2,257	$185.5	2,257	$82,189	$82,189
Option 2	495.0	2,665	309.5	408	185,752	758,652
Option 3	535.3	2,689	40.3	24	199,074	1,678,333

TABLE VI.I–2B.—AVERAGE AND INCREMENTAL COST EFFECTIVENESS OF THE OPTIONS UNDER THE POD SCENARIO

[Ranked by number of QALYs]

[7 percent discount rate]

Option	Annualized cost ($ millions)	QALYs	Incremental cost ($ millions)	Incremental QALYs	Average cost effectiveness ($/QALY)	Incremental cost effectiveness ($/QALY)
Option 1	$262.9	2,257	$262.9	2,257	$116,478	$116,478
Option 2	793.8	2,665	530.9	408	297,865	1,301,275
Option 3	865.2	2,689	71.4	24	321,752	2,974,167

TABLE VI.I–2B.—AVERAGE AND INCREMENTAL COST EFFECTIVENESS OF THE OPTIONS AT THE MIDPOINT OF COSTS BETWEEN THE POS AND POD SCENARIO

[Ranked by number of QALYs]
[7 percent discount rate]

Option	Annualized cost ($ millions)	QALYs	Incremental cost ($ millions)	Incremental QALYs	Average cost effectiveness ($/QALY)	Incremental cost effectiveness ($/QALY)
Option 1	$224.2	2,257	$224.2	2,257	$99,333	$99,333
Option 2	644.4	2,665	420.2	408	241,809	1,029,963
Option 3	700.3	2,689	55.8	24	260,413	2,326,250

In a third analysis of costs and benefits, a breakeven analysis was performed. In a breakeven analysis, the number of years between outbreaks that would need to occur for benefits to equal costs is calculated. The benefits of one outbreak were discounted as if the outbreak would occur five years in the future and annualized to be comparable to annualized costs. Dividing annualized costs by annualized benefits indicates the number of outbreaks that would need to occur during the planning period for benefits to equal costs. Dividing the planning period, 10 years, by this number shows the expected period of time between outbreaks. If this period is longer than the expected recurrence of serious outbreaks, then the expected benefits outweigh the expected costs.

Table VI.I–3 shows these results for the three options considered under the POS and POD scenarios, as well as under a midpoint cost assumption. Whether or not one believes that there will be two outbreaks of this magnitude in the next 10 years, it may be reasonable to expect that there may be one such outbreak in 9 to 27 years, as represented for the midpoint cost assumption.

TABLE VI.I–3.—COSTS IN TERMS OF THE NUMBER AND FREQUENCY OF OUTBREAKS

	Annualized costs ($ millions, 2004)	Number of outbreaks in 10 years for benefits to equal costs	Frequency of outbreaks to equal costs (years)
POS Scenario:			
Option 1	$185.5	0.31	32.7
Option 2	495.0	0.82	12.3
Option 3	535.3	0.88	11.3
Mid-Point:			
Option 1	224.2	0.37	27.1
Option 2	644.4	1.06	9.4
Option 3	700.3	1.15	8.7
POD Scenario:			
Option 1	262.9	0.43	23.1
Option 2	793.8	1.35	7.7
Option 3	865.2	1.43	7.1

J. Regulatory Flexibility Analysis

CDC considered the proposed regulation's effects on small entities, as required by the Regulatory Flexibility Act (RFA; 5 U.S.C. *et seq.*; Pub. L. 96–354) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; Pub. L. 104–121). The RFA establishes, as a principle of regulation, that agencies should tailor regulatory and informational requirements to the size of entities, consistent with the objectives of a particular regulation and applicable statutes. The agency has prepared an Initial Regulatory Flexibility Analysis (IRFA). This analysis suggests that this rule will not have a significant effect on a substantial number of small businesses, small organizations, or small governmental jurisdictions. However, CDC is asking for comment on the costs and impacts of the rule on small entities. As required by the RFA, in the final rule, CDC will provide the public comments it received in response to the proposal, prepare a Final Regulatory Flexibility Analysis (FRFA) and make a determination whether a certification of no significant impact on a substantial number of small entities is appropriate.

The Small Business Administration defines small airlines as those with fewer than 1,500 employees and small water carriers as those with fewer than 500 employees. Department of Transportation (DOT) data indicates that there are 43 airlines (NAICS 481111) with fewer than 1,500 employees (BTS, 2005a and 2005b). Employment is not reported for an additional 32 airlines and another 19 airlines have no financial data whatsoever. We assume that all 32 with no employment data are small, there are 75 small airlines that might be affected by the proposed rule. International ownership links complicate estimation of the number of small cruise lines (NAICS 438112). When ferry and charter boat companies operating in the Great Lakes, Gulf of Mexico, Pacific Northwest, or Florida with foreign port itineraries are considered, we estimate that there are approximately 20 small firms in the cruise industry subject to the regulation.

GDSs and travel agencies might also be affected by the proposed regulation under the POS scenario. Census Bureau data indicate there are 21,679 small travel agency (NAICS 561510) establishments in the U.S. (Census, 2004). Larger travel companies own 4,559 of these establishments, so we estimate that the remaining 17,120 are

small firms. Using similar reasoning, we estimate there are 703 small other reservation booking firms (not listed as travel agencies) in the U.S. All GDSs are considered large.

CDC, as discussed earlier, considered three options under two scenarios. The first option requires information to be collected from passengers only for those arriving on international flights and cruise lines with international to domestic itineraries. Option 2 adds domestic flights from medium and large airports to Option 1, and Option 3 adds all domestic flights to Option 1. The two scenarios are the Point of Sale scenario, under which CDC assumes that the airlines will be able to gain access to data collected by travel agencies and GDSs and will not have to collect data from passengers at the point of departure. In the second scenario, CDC assumes that the logistical and legal barriers to this information sharing are such that all information would need to be collected by the airlines at the point of departure (the Point of Departure scenario).

CDC did consider Option 1, which represents an option for minimizing the number of affected small firms and their associated costs (since it covers fewer flights and passengers). Small firms are less likely to provide international flights than large firms. CDC did not select this option because CDC believes that Option 2 provides better protection of human health with only slightly greater potential impacts (and only under the POD scenario). Although CDC could have considered an option in which some or all airlines and cruise lines considered small by Small Business Administration Standards were exempted from providing data, CDC did not believe that this approach would adequately protect human health. Although the airlines defined as small carry only 5–10 percent of passengers (depending on option), this represents as many as 35 million passengers annually and as many as 22 percent of flights. Furthermore, the nature of the airline industry is such that some of the smaller airlines, which comprise a major portion of the codeshare airlines, would avoid some of the major costs of the proposed rule. The codeshare airlines do not have their own reservation systems. These are managed by their larger airline partners. A significant cost of the proposed rule entails the reprogramming of the reservation system software. CDC does not believe any codeshare airline will share in any of these costs, since the larger airlines are very dependent on the codeshare airlines to fill the gaps in their itinerary offerings.

CDC applied a revenue test to assess the impact of added costs on small businesses. Under the POS scenario, costs are less than 1 percent of revenues for all affected airlines and cruise lines under Option 2. Even among the small travel agencies, costs are less than one-half of one percent of small travel agencies' average revenues. These small businesses are estimated to incur costs of less than $700 per year per firm under Option 3.

Under the Point of Departure scenario, Option 2, CDC estimates that two small airlines out of 91 small airlines and cruise lines analyzed might incur annualized compliance costs in excess of one percent of revenues, should the carriers themselves need to collect all of the passenger information required prior to passenger boarding.

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VII. Other Administrative Requirements

A. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 requires HHS to determine whether the proposed rule is economically significant. The Executive Order further requires HHS to determine whether the proposed rule would create an environmental health or safety risk disproportionately affecting children. HHS has determined that this proposed rule of general applicability is consistent with the principles set forth in the Executive Order.

B. Paperwork Reduction Act of 1995

The Centers for Disease Control and Prevention has determined that this notice of proposed rulemaking contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. 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 the publication of this notice. Please send written comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333.

Proposed Project: Control of Communicable Diseases; Interstate and Foreign Quarantine—Revision—Division of Global Migration and Quarantine (DGMQ), National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention.

Description: Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States or from one State or possession into another. Legislation and existing regulations governing interstate and foreign quarantine activities (42 CFR Parts 70 and 71) authorize quarantine officers and other personnel to inspect and undertake necessary control measures in order to protect the public health. Currently, with the exception of rodent inspections and the cruise ship sanitation program, inspections are performed only on those vessels and aircraft which report illness prior to arrival or when illness is discovered upon arrival. Other inspection agencies assist quarantine officers in public health screening of persons, pets, and other importations of public health importance and make referrals to PHS when indicated. These practices and procedures ensure protection against the introduction and spread of communicable diseases into the United States with a minimum of recordkeeping and reporting as well as a minimum of interference with trade and travel. The information collection burden is associated with these recordkeeping and reporting requirements.

At present, CDC maintains clearance to collect certain information and impose recordkeeping requirements related to quarantine responsibilities under two separate OMB control numbers: 0920–0488 for 42 CFR Part 70 Interstate quarantine and 0920–0134 Foreign Quarantine. CDC proposes to revise reporting and recordkeeping requirements under the current OMB control numbers for sections in the rule that have been modified or retained. Additionally, CDC proposes to add new sections containing reporting and recordkeeping requirements for interstate and foreign quarantine to the existing 0920–0488 and 0920–0134, respectively.

Interstate Quarantine

Under OMB control number 0920–0488, the following section will be modified: 70.6 Travel permits. CDC proposes to add the following sections: 70.2 Report of death or illness on board flights; 70.3 Written plan for reporting of deaths or illness on board flights and designation of an airline agent; 70.4 Passenger information; 70.5 Written plan for passenger information and designation of an airline agent; and, 70.19 Medical examination and monitoring.

Control of disease transmission within the United States is largely considered to be the province of state and local health authorities, with federal assistance being sought by those authorities on a cooperative basis, without application of federal regulations. Interstate quarantine regulations administered by CDC were developed to facilitate federal action in the event of large outbreaks requiring a coordinated effort involving several states, or in the event of inadequate local control. While it is not known whether, or to what extent, situations may arise in which these regulations would be invoked, contingency planning for domestic emergency preparedness is not uncommon. Should a domestic emergency occur, the reporting and record keeping requirements contained in the regulations will be used by CDC to carry out quarantine responsibilities as required by law, specifically, to prevent the spread of communicable diseases from one state or possession into any other state or possession. The information would only be collected when it is required, and is the minimum necessary to meet statutory obligations. CDC uses one form to collect essential information in the following sections:

42 CFR 70.3: All communicable diseases.

42 CFR 70.4: Report of disease.

42 CFR 70.5: Certain communicable diseases; special requirements.

CDC's proposed rule cancels § 70.3 and modifies 70.4 and 70.5 into a new section 70.6. The current permit form will be modified to reflect that the application is now made only to the Director as set forth in 70.6(c)(2).

In addition to 70.6, CDC proposes adding reporting requirements at the following sections:

70.2 Report of death or illness on board flights. This requirement, currently only in the foreign quarantine regulations, now extends to airlines operating flights in interstate traffic in this proposed rule.

70.3 Written plan for reporting of deaths or illness on board flights and designation of an airline agent. The first year in which the plan is required after the final rule takes effect imposes the largest burden. However, the time to assemble the initial plan is expected to be minimal as airlines are already required to have these procedures in place under the current regulation. In subsequent years, airlines are required to annually review the plan and make revisions as necessary. Airlines are also required to conduct drills or exercises to annually test and evaluate the effectiveness of the plan. Any revisions as a result of the annual review or the drills or exercises must be submitted to the Director.

70.4 Passenger information. This is a new requirement for any airline operating flights in interstate traffic to collect certain information, including name and best contact information, from passengers arriving in or departing from any of the airports listed in Appendix A. This information will be used to notify passengers in case of exposure to a communicable disease. CDC recognizes that other federal agencies—in particular the Department of Homeland Security—currently collects some of the information that CDC is requesting in the proposed rule. To that end, CDC and DHS are exploring options to reduce the potential burden of dual reporting.

70.5 Written plan for passenger information and designation of an airline agent. The burden for this section is greatest in the first year. In subsequent years, airlines are required to annually review the plan and make revisions as necessary. Airlines are also required to conduct drills or exercises to annually test and evaluate the effectiveness of the plan. Any revisions as a result of the annual review or the drills or exercises must be submitted to the Director.

70.19(b) Medical examination and monitoring. Persons believed to be in the qualifying stage of a quarantinable disease may be asked to provide the Director with information related to familial and social contacts, travel itinerary, medical history, place of work, and vaccination status.

Foreign Quarantine

Under OMB control number 0920–0134, the following sections will be modified: 71.6 and 71.8. These reporting requirements currently fall under 71.21.

New reporting and recordkeeping requirements proposed to be added to 0920–0134 include: 71.7 Written plan for reporting of deaths or illness on board ships and designation of an airline agent; 71.9 Written plan for reporting of deaths or illness on board ships and designation of a shipline agent; 71.10 Passenger information; 71.11 Written plan for passenger information and designation of an airline or shipline agent; and, 71.22 Medical examination and monitoring.

Currently, 42 CFR Part 71 comprises the following citations that require reporting or recordkeeping:

42 CFR 71.21 Radio report of death and illness.

42 CFR 71.33(c) Report of persons held in isolation or surveillance.

42 CFR 71.35 Report of death or illness on carrier during stay in port.

42 CFR 71.51(b)(3) and (d) Requirements for admission of dogs and cats.

42 CFR 71.52(d) Application for permits to import turtles.

42 CFR 71.53(d) and (e) Requirements for registered importers of nonhuman primates.

The proposed rule modifies these recordkeeping and reporting requirements as follows:

71.6 Reports of death or illness on board flights and 71.8 Report of death or illness on board ships. These requirements clarify the current section 71.21 Radio report of death and illness.

71.7 Written plan for reporting of deaths or illness on board flights and designation of an airline agent and 71.9 Written plan for reporting of deaths or illness on board ships and designation of a shipline's agent. These requirements are comparable to requirements in Sections 70.3.

71.10 Passenger information. This requirement applies to any airline operating flights or shipline operating ships on an international voyage destined for a U.S. port and contains reporting requirements comparable to 70.4.

71.11 Written plan for passenger information and designation of an airline or shipline agent. This requirement is comparable to requirements found in 70.5.

71.22 Medical examination and monitoring. This section contains reporting requirements comparable to 70.19.

The reporting and recordkeeping requirements in § 71.51, 71.52, and 71.53 do not change in this proposed rule.

Description of Respondents: Respondents may include airplane pilots, ships' captains, travelers, state health departments, territorial health departments, and airline industry personnel. The nature of the quarantine response would dictate which forms are completed by whom.

TABLE VII. B.1.—ESTIMATED ANNUAL REPORTING BURDEN

CFR Section	Number of respondents	Annual frequency per response	Total number of responses	Hours per response (in minutes)	Total hours
42 CFR 70.2	1,549	1	1,549	2/60	52
42 CFR 70.3 and 42 CFR 71.7 (first year)	217	1	217	60/60	217
42 CFR 70.3 and 42 CFR 71.7 (subsequent years)	217	1	217	10/60	36
42 CFR 70.4	278,400,000	1	278,400,000	1/60	5,568,000
42 CFR 70.5 and 42 CFR 71.11	274	1	274	600/60	2,740
42 CFR 70.6	2,000	1	2,000	15/60	500
42 CFR 70.19	18	1	18	30/60	9
42 CFR 71.6	1,549	1	1,549	2/60	52
42 CFR 71.8	57	54	3,135	5/60	261
42 CFR 71.9	57	1	57	180/60	171
42 CFR 71.10	142,213,640	1	142,213,640	1/60	2,844,273
42 CFR 71.22	18	1	18	30/60	9
Total					8,416,320

Our estimates are based on experience to date with current recordkeeping and reporting requirements of 42 CFR Parts 70 and 71. In addition, the estimate for proposed new reporting requirements at 70.4 Passenger Information is based on statistics from the Bureau of Transportation Statistics showing passengers carried by airlines affected by the rule for the period July 1, 2003–June 30, 2004. The number of passengers on domestic flights for this period was estimated to be 556.8 million; this number was reduced by 50% based on quarterly calculations from mid 2003 to mid 2004, which consistently showed that about 54% of domestic flights contained trip segments of 1.85 on average (i.e., an adjustment was made for the fact that about half of all domestic travel includes one or more connecting flights). Estimates for reporting requirements at 71.10 Passenger information were also obtained from the Bureau of Transportation Statistics (for international airline passengers) and from available data for U.S. cruise lines. An estimated 142,213,640 passengers on airlines and shiplines will report information under 71.10.

A detailed analysis of the costs to the airline and shipline industries for the reporting and recordkeeping requirements of this propose rule, including the opportunity costs to passengers providing this information, can be found under Part VI of this NPRM.

C. Environmental Assessment

The Director has determined that provisions amending 42 CFR Parts 70 and 71 will not have a significant impact on the human environment.

D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (published at 65 FR 67249 on November 9, 2000), requires agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The phrase ''policies that have tribal implications'' is defined in the Executive Order to include regulations and other policy statements or actions that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule will have a substantial direct effect as defined by the Executive Order requiring consultation with Tribal representatives and an analysis of Tribal impacts.

Current federal law (42 U.S.C. 243, 264) gives the Secretary of Health and Human Services (HHS) the authority to implement disease control measures in situations that could impact interstate commerce, including quarantine of persons suspected of carrying certain communicable diseases who are (1) traveling from one state to another or (2) likely to infect others traveling from one state to another. The Secretary has delegated this statutory authority to the Director. Under current law (25 U.S.C. 198, 231, 2001), the Secretary, acting through the IHS Director, also has the authority to implement disease control measures, such as quarantine, in Indian country, if necessary. There are currently no federal regulations that implement the IHS Director's statutory authority to quarantine persons with communicable diseases.

The federal regulations that implement CDC's statutory authorities for communicable disease control are in the Code of Federal Regulations, 42 CFR Parts 70 and 71. These regulations implement CDC's existing statutory authority to detain and/or quarantine persons suspected of carrying certain communicable diseases that pose a threat to the public's health. CDC's authority to quarantine persons extends only to the communicable diseases listed in an Executive Order of the President, including cholera, diphtheria, tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, SARS, and influenza caused by novel or reemergent influenza viruses that are causing, or have the potential to cause, a pandemic.

Under proposed section 70.24, Tribal health authorities will be able to ask the Director for assistance to prevent the spread of communicable diseases from State to State. Under proposed section 70.25, the Director may determine that the measures taken by a Tribe are inadequate to prevent the spread of communicable diseases. Under the proposed section 70.27, the Director, with the concurrence of the of the IHS Director and after consulting with the affected Tribe, may impose provisional quarantine under 70.14–70.15, quarantine under 70.16–70.18, 70.20 and medical examination and monitoring under 70.19 in Indian country. The Director may act under this section without making a finding that the person or group of persons is moving or about to move from a State to another State or is a probable source of infection to persons who will be moving from a State to another State.

Furthermore, under Section 70.27, subsection (d), the Director, with the concurrence of the Director of the Indian Health Service and after consulting with the affected Tribe or Tribes may authorize agents and employees of any State government to enter Indian country for the sole purpose of enforcing federal quarantine rules and regulations. This authority is subject to any rules or regulations the Director of the Indian Health Service may choose to promulgate under 25 U.S.C. 231. This section is intended to implement provisions appearing in 25 U.S.C. 198 and 231, 25 U.S.C. 1661, and 42 U.S.C. 2001.

Pursuant to 25 U.S.C. 198, the Secretary of the Interior may quarantine Native Americans on Tribal lands for ''tuberculosis, trachoma, or other contagious or infectious disease.'' Under 25 U.S.C. 231, the Secretary of the Interior may also permit State agents and employees to enter upon Tribal lands for purposes of making inspection of health and educational conditions and enforcing sanitation and quarantine regulations. All Indian health programs and functions were transferred from the Secretary of the Interior to the Secretary of HHS by 42 U.S.C. 2001, and delegated to the Director of IHS by 25 U.S.C. 1661. The authority found in 25 U.S.C. 198 and 231 supplements the Director's authority under section 361 of the PHS Act (42 U.S.C. 264). Any action the Director takes under these sections must be in concurrence with the Director of the Indian Health Service after consultation with the affected Tribe or Tribes. CDC's Division of Global Migration and Quarantine has technical expertise in quarantine. Such cooperation between the Indian Health Service and the CDC would potentially streamline operations and clarify procedures regarding quarantine on Tribal lands.

Furthermore Indian Tribes, like States, are sovereign entities with police power authority to enact their own quarantine rules and regulations. Thus, Tribal governments are able to enforce any Tribal quarantine law to the extent that such laws exist. The proposed rule would not preempt the enactment of Tribal quarantine rules and regulations, to the extent that such Tribal laws do not conflict with the exercise of federal quarantine law under the proposed rule.

Tribal participation in and support of planned revisions of regulations governing the control of communicable diseases is critical. HHS Tribal Consultation Policy calls for a tribal impact statement and appropriate

consultation with tribal representatives prior to promulgation of a regulation. This consultation process began during the FY 2005 HHS Regional Tribal Consultation Sessions and the HHS National Tribal Budget Consultations, prior to the publication of this NPRM. In order to ensure that all Tribes are provided every opportunity to participate in and comment on planned revisions of current quarantine regulations, CDC is also soliciting written comments in the form of a Dear Tribal Leader letter being sent to all Tribal leaders. The preamble for the final regulation resulting from this rulemaking process will contain the tribal summary impact statement required by the Executive Order.

E. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

Under Executive Order 12630, if the contemplated rule would require a Federal taking of private property, then a takings analysis is required. The agency must address the merits of the rule and the implications for constitutionally protected property rights.

The Fifth Amendment to the United States Constitution prohibits the taking of private property for public use without just compensation. Though courts may find that a per se taking has occurred due to government action requiring a property owner to sacrifice ''all economically beneficial use'' of the property *see Lucas* v. *South Carolina Coastal Council,* 505 U.S. 1003 (1992), the takings analysis generally used by courts is set forth in *Penn Central Transportation Co.* v. *New York City,* 438 U.S. 104 (1978). The *Penn Central* analysis focuses on the character of the government action and the economic impact on the property owner, particularly regarding the extent to which the regulatory action at issue interferes with the owner's distinct investment-backed expectations. Also, though the *Lucas* per se approach is not generally used by courts in analyzing takings cases, it is important to note that the decision in that case also stands for the proposition that a taking will be held not to have occurred if the affected property constitutes a nuisance.

Goldblatt v. *Hempstead,* 369 U.S. 590 (1962) was cited by the *Penn Central* court as illustrative of the burdens that may be imposed upon a property owner in the face of regulatory action designed to serve a substantial public purpose. That case involved a city safety ordinance enacted to prohibit excavation below the water table. That prohibition effectively barred the property owner from further operation of a sand and gravel business that had been in existence for over 30 years. Because the restriction served a substantial public purpose, the court held that no taking had occurred. *See also, North American Cold Storage Co.* v. *City of Chicago,* 211 U.S. 306 (1908) holding that a statute authorizing seizure and destruction of food unfit for human consumption was constitutional despite the lack of notice and opportunity to be heard).

Section 361(a) of the PHS Act (42 U.S.C. 264(a)) provides that in carrying out regulations the Secretary ''may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.'' This authority was carried out in the preexisting rule in § 71.32(b), which authorized the Director to require the application of a variety of measures (detention, disinfection, disinfestations, fumigation, and other related measures) whenever the Director had reason to believe that an arriving carrier or any article or thing on board the carrier may be infected or contaminated with a communicable disease. Furthermore, under preexisting § 71.31(b), the Director could require the detention of the carrier until the completion of such measures. This authority is carried forward in the proposed rule in § 71.13 (Sanitary measures) and 71.14 (detention of carriers). The proposed rule also makes these requirements applicable to carriers affecting interstate commerce or things on board such carriers in § 70.11 (Sanitary measures). These sections clarify that the expense of applying sanitary measures are borne by the affected carrier or, in the case of things on board the carrier, expenses are borne by the owners.

Thus, the character of regulatory actions that would be taken under the proposed regulation is most accurately characterized as protection of the public health in the form of avoidance of the introduction, transmission or spread of infectious disease. Owners of property posing a threat of introduction, transmission or spread of infectious disease cannot have a reasonable investment-backed expectation that their property should move freely while posing such a threat. *See B&F Trawlers, Inc.* v. *the United States,* 27 Fed. Cl. 299, 306 (Ct. Fed. Cl. 1992) (holding that U.S. Coast Guard's lawful destruction of a burning vessel as a danger to navigation was not a compensable taking). Alternatively, the presence of carriers and things on board carriers in interstate and foreign traffic reasonably believed by the Director to be sources of communicable disease qualify as nuisances because they directly threaten human health and safety. Accordingly, the proposed regulations do not constitute a taking, and compensation is not required under the Fifth Amendment.

The Director's use of these regulations must, of course, be reasonable and based on the judgment that such steps are necessary to prevent the introduction, transmission or spread of communicable diseases. On the facts of a particular case, a court could ultimately find that the Director's belief was unreasonable, the steps taken were unnecessary, a nuisance did not exist, and a taking therefore occurred. Proper use, however, of the ''reasonable belief'' and ''necessity'' provisions contained in the proposed regulation would result in a finding of ''no taking'' under the requisite analysis.

F. Executive Order 13132: Federalism

Under Executive Order 13132, if the contemplated rule would limit or preempt State authorities, then a Federalism analysis is required. The agency must consult with State and local officials to determine whether the rule would have a substantial direct effect on State or local governments, as well as whether it would either preempt State law or impose a substantial direct cost of compliance on them.

Section 361(e) of the PHS Act (42 U.S.C. 264(e)) provides that ''[n]othing in this section or Section 266 of this title [relating to special quarantine powers in time of war], or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or Section 266 of this title.'' The proposed rule is consistent with this statutory provision.

Through numerous forums such as conferences, tabletop exercises, response efforts, and meetings, CDC has consulted with state and local public health officials and health-care providers about the appropriate role of the federal government in exercising public health powers such as those described in the proposed rule. CDC seeks to continue this consultation through solicitation of comments from

state and local public health officials on all aspects of the rule.

G. Executive Order 13211: Energy Effects

HHS is required by Executive Order 13211 to produce a statement of energy effects if the proposed rule is significant or economically significant and likely to have a significant adverse effect on the supply, distribution, or use of energy. HHS has determined that the proposed rule does not have that effect and that a statement of energy is therefore not required.

H. National Technology Transfer and Advancement Act

This Act, 15 U.S.C. 272, requires adoption of technical standards developed or adopted by voluntary consensus standard bodies in rules promulgated by HHS. No voluntary consensus standards are applicable and feasible with regard to the proposed rule.

I. Family Policy Analysis

Title 5 U.S.C. 601 requires agencies to determine whether a proposed rule would affect family well-being. Section 70.7 of the proposed regulation makes parents or guardians responsible for obtaining travel permits prior to procuring transportation for children or wards known by the parents or guardians to be in the qualifying stage of a communicable disease. While the proposed provision undoubtedly places responsibility on parents and guardians, it would be unreasonable to conclude that this responsibility adversely affects family well-being, particularly in view of the beneficial effects on families and the population as a whole associated with preventing the spread of infectious disease.

J. Executive Order 12988: Civil Justice Reform

HHS has completed the required reviews and has determined that the proposed rule meets the standards in Executive Order 12988. The preemptive effect of the rule is explained in section VII.F., Federalism, above. The rule has no retroactive effect. With respect to administrative hearings, the rule allows persons or groups of persons made subject to a quarantine order to request a hearing to dispute the genuine and substantial issues of fact. The rule clearly states that the quarantine order is not final until the Director approves or rejects the hearing officer's recommendation, or 3 business days after the request for hearing is made.

K. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Jennifer Brooks at the address listed above.

VIII. Solicitation of Comments

CDC solicits comments on various issues specifically identified in the preamble as well as any other issues that are relevant to the proposed regulation. Specifically, CDC solicits information, data, and comment on the following topics:

- Whether the time frames to develop and submit the plans described in following sections are sufficient. and, if it is not, what are the difficulties in meeting each of these schedules:
  - —§ 70.3 Reporting of death or illness, plan and implementation.
  - —§ 70.5 Passenger and crew information, plan and implementation.
  - —§ 71.7 Reporting of death or illness on board flights, plan and implementation.
  - —§ 71.9 Reporting of death or illness on board ship, plan and implementation.
  - —§ 71.11 Passenger and crew information, plan and implementation.
- In addition to soliciting comment on relative merits of the fully analyzed alternative options presented in Section VI, CDC also solicits comment on regulatory options that may fall outside the scope of the options analyzed in the regulatory impact analysis, including but not limited to the scope of the passenger information collected and the extent of the coverage of interstate travel.
- The most efficient means of collecting accurate passenger contact information, particularly from airlines and passengers:
  - ○ § 70.4 Passenger information
  - ○ § 71.10 Passenger information
- The economic analysis in this proposal, including the estimated costs.
- The paperwork reduction analysis, including the accuracy of the burden estimates and the practical utility of the data.
- The estimated costs based on the assumption that data collection efforts could be coordinated with contemporary rulemaking efforts by other Federal agencies.
- Whether the rule, particularly those sections pertaining to quarantine, hearings, and appeals (§§ 70.14–70.20; 70.31; 71.17–71.23; 71.33), provide adequate due process to individuals and entities that may be affected by them.

List of Subjects

42 CFR Part 70

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, Travel restrictions.

42 CFR Part 71

Airports, Animals, Communicable diseases, Harbors, Imports, Pesticides and pests, Public health, Quarantine, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, we propose to amend 42 CFR Parts 70 and 71 to read as follows:

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. Part 70 is revised to read as follows:

PART 70—INTERSTATE QUARANTINE

Sec.

70.1 Scope and definitions.
70.2 Report of death or illness on board flights.
70.3 Written plan for reporting of deaths or illness on board flights and designation of an airline agent.
70.4 Passenger information.
70.5 Written plan for passenger information and designation of an airline agent.
70.6 Travel permits.
70.7 Responsibility with respect to minors, wards, and patients.
70.8 Military services.
70.9 Vaccination clinics.
70.10 Establishment of institutions, hospitals and stations.
70.11 Sanitary measures.
70.12 Detention of carriers affecting interstate commerce.
70.13 Screenings to detect ill persons.
70.14 Provisional quarantine.
70.15 Provisional quarantine orders.
70.16 Quarantine.
70.17 Content of quarantine order.
70.18 Service of quarantine order.
70.19 Medical examination and monitoring.
70.20 Hearings.
70.21 Care and treatment of persons.
70.22 Foreign nationals.
70.23 Administrative record.
70.24 Requests by State (including political subdivisions thereof), possession, or tribal health authorities.
70.25 Measures in the event of inadequate local control.
70.26 Federal facilities.
70.27 Indian country.
70.28 Special powers in time of war.
70.29 Penalties.
70.30 Implementation through order.
70.31 Appeals of actions required pursuant to §§ 70.6, 70.7, 70.11 or 70.12
Appendix A to Part 70—Calendar Year 2004 Enplanement Data as Published by the Federal Aviation Agency (FAA) for Large and Medium U.S. Airports

Authority: 25 U.S.C. 198, 231, and 1661; 42 U.S.C. 243, 248, 249, 264–272, and 2001.

§ 70.1 Scope and definitions.

(a) The purpose of this part is to prevent the introduction, transmission, and spread of communicable diseases from one State into any other State. Regulations to prevent the spread of disease from foreign countries into the States are contained in 42 CFR Part 71. Except where otherwise indicated, regulations to prevent the spread of disease among possessions of the United States or from a possession into a State are contained in 42 CFR Part 71.

(b) As used in this part, the terms listed below in alphabetical order shall have the following meanings:

Aircraft commander means any person serving on an aircraft with responsibility for its operation and navigation.

Airline means any air carrier, foreign or domestic, operating commercial passenger flights under regular schedules within the United States.

Airline agent means any person who is authorized to act for or in place of the owner or operator of an airline for the purposes of carrying out the airline's responsibilities described in this part.

Business day means any full business day during which the Centers for Disease Control and Prevention is open for regular business (excluding Saturdays, Sundays, and legal holidays) from 9 a.m. in the morning to 5 p.m. in the evening, Eastern Standard Time.

Carrier means, except where otherwise specified, a ship, shipline, vessel, airline, aircraft, train, road vehicle, or other means of transport, including military carriers.

Communicable disease means an illness due to an infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person or animal or a reservoir to a susceptible host, either directly or indirectly through an intermediate animal host, vector, or the inanimate environment.

Detention, when applied to carriers, animals, articles, or things means the temporary holding on a voluntary or involuntary basis of such carriers, animals, articles, or things, until the completion of such sanitary measures as may be required under this part.

Director means the Director, Centers for Disease Control and Prevention, Department of Health and Human Services, or another authorized representative as approved by the CDC Director or the Secretary.

Disinfection means the killing of infectious agents or inactivation of their toxic products outside the body of a person or on the surface of a thing by direct exposure to chemical or physical agents.

Disinfestation means any chemical or physical process serving to destroy or remove undesired small animal forms, particularly arthropods or rodents.

Disinsection means the operation in which measures are taken to kill the insect vectors of human disease.

Emergency contact information means the following information pertaining to a person (other than the passenger or crewmember) or an entity (such as a business) that has the ability to contact the passenger or crewmember on an emergency basis:

(i) The full name (first, last, middle initial, suffix) of the person or business name of the entity;

(ii) The permanent address; and

(iii) A phone number (either home, work, or mobile).

Flight information means for each airline operating a flight in interstate traffic (including any intermediate stops between the flight's origin and final destination) the airline name, flight number, city of arrival, date of arrival, date of departure, seat number for any passenger or crewmember, arrival gate, and arrival terminal.

Hearing officer means a person designated by the Director or the Secretary to conduct administrative hearings under this part or another authorized representative as approved by the Director or the Secretary.

Ill person means a person who:

(i) Has a temperature of 100.4° F (or 38° C) or greater accompanied by one or more of the following: Rash, swelling of the lymph nodes or glands, headache with neck stiffness, or changes in level of consciousness or cognitive function; or

(ii) Has a temperature of 100.4° F (or 38° C) or greater that has persisted for more than 48 hours; or

(iii) Has diarrhea, defined as the occurrence in a 24-hour period of three or more loose stools or of stools in an amount greater than normal (for the person); or

(iv) Has one or more of the following: Severe bleeding, jaundice, or severe, persistent cough accompanied by bloody sputum, respiratory distress, or a temperature of 100.4° F (or 38° C) or greater; or

(v) Displays other symptoms or factors that are suggestive of communicable disease, which the Director may describe in an order as the Director determines necessary.

Indian country means:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian tribe means any Indian tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Infectious agent means an organism (*e.g.,* bacteria, fungus, helminth, prion, protozoan, rickettsia, virus, or bioengineered variant thereof) that is capable of producing infection or infectious disease.

Interstate traffic, except as otherwise provided in paragraph (ii) of this definition, means:

(i) The movement of any carrier or the transportation of persons or property, including any portion of such movement or transportation that is entirely within a State—

(A) From a point of origin in any State to a point of destination in any other State; or

(B) Between a point of origin and a point of destination in the same State but through any contiguous State or foreign country.

(ii) Interstate traffic does not include the following:

(A) The movement of any carrier or the transportation of persons or property on an international voyage as defined in 42 CFR Part 71; or

(B) The movement of any carrier which is solely for the purpose of its repair, reconstruction, rehabilitation, or storage.

Medical monitoring means close medical or other supervision of a person or group of persons on a voluntary or involuntary basis to permit prompt recognition of infection or illness.

Military service means the U.S. Air Force, U.S. Army, the U.S. Coast Guard, the U.S. Marine Corps, the U.S. Navy, and any National Defense Reserve Fleet vessels engaged in military operations at the direction of the U.S. Department of Defense.

Possession means, in addition to Puerto Rico, any other possession of the United States.

Provisional quarantine means the detention on an involuntary basis of a person or group of persons reasonably believed to be in the qualifying stage of a quarantinable disease until a quarantine order has been issued or until the Director determines that provisional quarantine is no longer warranted.

Public health emergency, as used in this part, means:

(i) Any disease event as determined by the Director with either documented or significant potential for regional, national, or international disease spread or with actual or potential interference with the free movement of people or goods between States and possessions within the United States or other countries or sovereignties; or

(ii) Any disease event designated as a public health emergency by the Secretary pursuant to section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)).

Qualifying stage means:

(i) A communicable stage of the disease; or

(ii) A precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other persons.

Quarantine means the holding on a voluntary or involuntary basis, including the isolation, of a person or group of persons in such place and for such period of time as the Director deems necessary or desirable to prevent the spread of infection or illness.

Quarantinable disease means any of the communicable diseases listed in an Executive Order, as provided under section 361 of the Public Health Service Act. Executive Order 13295, of April 4, 2003, as amended by Executive Order 13375 of April 1, 2005, contains the current revised list of quarantinable diseases, and may be obtained at *http://www.cdc.gov* and *http://www.archives.gov/federal_register.* If this Order is amended, HHS will enforce that amended order immediately and update that Web site.

Sanitary measures means:

(i) When applied to carriers, animals, articles, or things: Detention; destruction of animals, articles, or things that the Director deems to be sources of dangerous infection to human beings; disinfection; disinfestations; disinsection; fumigation; pest extermination; seizure; or any other measure or combination of measures, whether voluntary or involuntary, that the Director deems necessary or desirable to prevent the introduction, transmission, or spread of communicable diseases; or

(ii) When applied to a person or group of persons, the killing of infectious agents (or vectors capable of conveying infectious agents) outside the body by direct exposure to any chemical, physical, or other process designed to destroy such infectious agents.

Secretary means the Secretary of the Department of Health and Human Services.

State means in addition to the several States, only the District of Columbia.

United States means the States and possessions of the United States.

Vector means an animal (including insects) or thing which conveys or is capable of conveying infectious agents from a person or animal to another person or animal.

§ 70.2 Report of death or illness on board flights.

(a) Any airline operating flights in interstate traffic shall, pursuant to the written plan required under § 70.3, report any deaths or ill persons that occur on board to the Director as soon as such occurrences are made known to the aircraft commander and, where possible, at least one hour before arrival.

(b) The Director, whenever necessary for purposes of preventing the introduction, transmission or spread of communicable diseases, may order airlines operating a flight in interstate traffic to disseminate to passengers and crew public health notices, recommended public health measures, and other public health information. Such information shall be disseminated at the time and in a manner specified in the Director's order.

§ 70.3 Written plan for reporting of deaths or illness on board flights and designation of an airline agent.

(a) Within 90 days of the final publication of this rule, any airline operating flights in interstate traffic shall develop a written plan sufficient to ensure reporting of deaths or illness on board flights as required by § 70.2.

(b) The written plan shall include the full name (i.e., first, last, middle initial, suffix), official title, business telephone number, and e-mail address (if available), of an airline agent who shall serve as a point of contact between the Director and the airline concerning reports of deaths or ill persons.

(c) The written plan shall include policies and procedures necessary to facilitate communication between the Director and the airline agent on a 24-hour basis, 7 days a week.

(d) Within 90 days of the final publication of this rule, a copy of the written plan shall be submitted to the Director.

(e) Airlines shall implement the written plan within 180 days of the final publication of this rule.

(f) Airlines shall review the written plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the airline has reported ill passengers or deaths on board a flight under § 70.2 in the prior 365 days. Airlines shall revise the plan as necessary after any review. Any revisions of the written plan shall be submitted to the Director within 60 days.

(g) Airlines that intend to commence operation of flights in interstate traffic after the effective date in paragraph (a) of this section shall submit a written plan meeting the requirements of this section to the Director before commencing operations. The airline shall implement the written plan by the later of the two following dates: Either 180 days after the final publication of this rule, or upon commencement of operations.

§ 70.4 Passenger information.

(a) Any airline operating flights in interstate traffic shall, pursuant to the written plan required under § 70.5, solicit from each passenger (or head of household if the passenger is a minor) and crewmember traveling on those flights in interstate traffic arriving in or departing from any of the airports listed in Appendix A the information contained in the data fields specified in paragraph (e) of this section.

(b) Any information obtained by the airline pursuant to paragraph (a) in this section shall be maintained by the airline in an electronic database for 60 days from the end of the flight.

(c) For each passenger (or head of household if the passenger is a minor) and crewmember traveling on an interstate flight, the airline may solicit the information in paragraph (e) of this section from such person's authorized agent.

(d) Within 12 hours of a request by the Director to the airline's agent, the airline, pursuant to the written plan under § 70.5, shall transmit to the Director in an electronic format the data fields specified in paragraph (e) of this section.

(e) The data fields as applicable to the individual passenger (or head of household if the passenger is a minor) or crewmember, shall include the following:

(1) Full name (first, last, middle initial, suffix);

(2) Emergency contact information;
(3) E-mail address;
(4) Current home address (street, apartment #, city, state/province, postal code);
(5) Passport number or travel document number, including the issuing country or organization (in the case of foreign nationals only);
(6) Names of traveling companions or group;
(7) Flight information;
(8) Returning flight (date, airline number, and flight number);
(9) At least one of the following current phone numbers (in order of preference): mobile, home, pager, or work.

(f) In addition to data fields specified in paragraph (e) of this section, when necessary to prevent the introduction, transmission, or spread of communicable diseases, the Director through order may also require that airlines transmit additional information in the airline's possession.

(g) Information collected solely in order to comply with this regulation may only be used for the purposes for which it is collected.

(h) Airlines shall ensure that passengers are informed of the purposes of this information collection at the time passengers arrange their travel.

§ 70.5 Written plan for passenger information and designation of an airline agent.

(a) Within six months of the final publication of this rule, any airline operating flights in interstate traffic shall develop a written plan sufficient to ensure transmission of passenger and crew information for those flights in interstate traffic arriving in or departing from any of the airports listed in appendix A to part 70 as required by § 70.4.

(b) The written plan shall include:

(1) Policies and procedures for the transmission of data in an electronic format available to both the airline and the Director using industry standards for data encoding, transmission, and security;

(2) Policies and procedures for the transmission of the data within 12 hours of a request by the Director to the airline's agent;

(3) The full name (*i.e.*, first, last, middle initial, suffix), official title, business telephone number, and e-mail address (if available), of an airline agent who shall serve as a point of contact between the Director and the airline concerning requests for and transmission of passenger and crew information data;

(4) Policies and procedures necessary to facilitate communication between the Director and the airline's agent on a 24-hour basis, 7 days a week;

(5) Policies and procedures for soliciting the information contained in the data fields required by § 70.4(e) from the passenger (or head of household if the passenger is a minor), crewmember, or such persons' authorized agent; and

(6) Policies and procedures for maintaining responsive information obtained by the airline in an electronic database for 60 days from the end of the flight as required by § 70.4(b).

(c) Within six months of the final publication of this rule, a copy of the written plan shall be submitted to the Director.

(d) Airlines shall implement the written plan within 2 years of the final publication date of this rule. Within 60 days of implementation, airlines shall conduct drills or exercises to test and evaluate the effectiveness of the written plan and revise the plan as necessary after any drill or exercise. Any revisions of the written plan shall be submitted to the Director within 60 days.

(e) Airlines shall review the written plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the airline has transmitted passenger and crewmember information under § 70.4 in the prior 365 days. Airlines shall revise the plan as necessary after any review. Any revisions of the written plan shall be submitted to the Director within 60 days.

(f) Airlines that intend to commence operation of flights in interstate traffic arriving in or departing from any of the airports listed in appendix A to part 70 after the effective date in paragraph (a) of this section shall submit a written plan meeting the requirements of this section to the Director before commencing operations. The airline shall implement the written plan by the later of the two following dates: either 2 years after the final publication of this rule, or upon commencement of operations.

(g) Pending the development or implementation of the written plan as required by this section, the Director, through order, may require that airlines transmit to the Director, in a format available to both the airline and the Director, any of the information required by § 70.4 that may be in the airline's possession.

§ 70.6 Travel permits.

(a) The operator of any carrier operating in interstate traffic or moving from one state or possession into another shall not:

(1) Accept for transportation any person whom the operator knows to be in the qualifying stage of a quarantinable disease, unless such person presents a permit issued by the Director authorizing such travel; or

(2) Transport any person whom the operator knows to be in the qualifying stage of a quarantinable disease in violation of any of the terms or conditions prescribed in the travel permit issued by the Director.

(b) Whenever a carrier operating in interstate traffic or moving from one state or possession into another transports a person who is in the qualifying stage of a quarantinable disease bearing a travel permit issued by the Director, the operator of the carrier shall take such measures to prevent the spread of the disease, including submission of the carrier to inspection, sanitary measures and the like, as the Director deems necessary.

(c) Requirements relating to travelers who know that they are in the qualifying stage of a quarantinable disease:

(1) No such person shall travel in interstate traffic or from one state or possession to another without a written permit of the Director.

(2) Application for a permit authorizing travel may be made directly to the Director.

(3) Upon receipt of an application, the Director, taking into consideration the risk of introduction, transmission, or spread of the disease in interstate traffic or from one state or possession into another, shall reject it or issue a permit that may be conditioned upon compliance with such precautionary measures as the Director shall prescribe.

(4) A person to whom a permit has been issued shall retain it in his/her possession throughout the course of his/her authorized travel and comply with all conditions prescribed therein, including presentation of the permit to the operators of carriers, as required by its terms.

(5) A person who has had his/her request for a permit denied may submit a written appeal in accordance with § 70.31.

(d) The Director may additionally apply the provisions in paragraphs (a) through (c) of this section to persons and carriers traveling entirely within a state or possession whenever the Director determines that such person's travel or the carrier's operations will have an effect on interstate commerce upon the request of a health authority in accordance with § 70.24 or whenever the Director, with the concurrence of the Secretary, makes a determination of

inadequate local control in accordance with § 70.25.

§ 70.7 Responsibility with respect to minors, wards, and patients.

(a) A parent, guardian, physician, nurse, or other such person shall not transport, nor procure or furnish transportation for any minor child or ward, patient or other such person whom they know to be in the qualifying stage of a quarantinable disease, without a travel permit issued by the Director if such a permit is required under this part.

(b) A parent, guardian, physician, nurse, or other such person who has had his/her request for a permit denied may submit a written appeal in accordance with § 70.31.

§ 70.8 Military services.

(a) The Director may exempt carriers belonging to the military services from § 70.6(a) and §§ 70.11 and 70.12, provided that such carriers take adequate sanitary measures to prevent the introduction, transmission, and spread of communicable diseases.

(b) The requirements of §§ 70.6(c) and 70.7 shall not apply to members of the military service or Public Health Service, or to the medical care or hospital beneficiaries of the military service, Department of Veterans Affairs, or Public Health Service, provided that:

(1) Such persons are traveling on military carriers under competent orders; and

(2) The person authorizing the travel on a military carrier has taken public health measures consistent with those prescribed by the Director to prevent the introduction, transmission, or spread of quarantinable diseases during the travel period.

§ 70.9 Vaccination clinics.

(a) The Director may establish vaccination clinics, through contract or otherwise, authorized to issue certificates of vaccination and administer vaccines and/or other prophylaxis. When authorized by the Director, certificates of vaccination may be issued and authenticated by electronic means.

(b) A vaccination clinic established by the Director shall collect and maintain, for such time as determined by the Director, the following information from vaccine recipients:

(1) Gender;

(2) Age;

(3) Vaccination date;

(4) Vaccine lot number;

(5) Prior vaccinations;

(6) Reason for vaccination (*e.g.*, post-exposure, pre-exposure, member of high risk group, general vaccination);

(7) Concurrent vaccinations;

(8) Vaccine Adverse Events Reporting System Report/Adverse Event Report Number; and

(9) Verification that the vaccine conferred immunity (if applicable).

(c) In addition to the requirements in paragraph (b) of this section, a vaccination clinic established by the Director shall comply with such additional recordkeeping requirements and other instructions that the Director may issue for the safe administration, handling, monitoring, and storage of vaccines.

(d) In the event of a public health emergency, the Director may waive or modify any of the requirements in paragraph (b) of this section.

(e) A vaccination fee may be charged for individuals not enrolled in Medicare Part B to cover costs associated with administration of the vaccine and/or other prophylaxis. Such fee is to be collected at the time that the vaccine is administered. The vaccination fee, if imposed, is shown in the following table:

Vaccine	Effective dates	Amount
Fluarix	[1] 1/25/05	[2] $25.00

[1] Continuing for one year.
[2] $7.00 for the vaccine and $18.00 for administration.

§ 70.10 Establishment of institutions, hospitals and stations.

(a) The Director, with the approval of the Secretary, may, from time to time, select sites suitable for, and establish such institutions, hospitals, and stations in the States and possessions of the United States as the Director, with the approval of the Secretary, deems necessary or desirable for carrying out the functions in this part.

(b) The Director may enter into voluntary agreements with public or private institutions as the Director deems necessary or desirable for carrying out the functions in this part.

§ 70.11 Sanitary measures.

(a) Whenever the Director reasonably believes that any carrier affecting interstate commerce, or animal, article, or thing on board such carrier is or may be infected or contaminated with a communicable disease, the Director, may, in consultation with other federal agencies as appropriate:

(1) Inspect the carrier, animal, article, or thing on board the carrier, and/or

(2) Order the carrier, or other entity specified in the order, to apply such sanitary measures as the Director deems necessary to prevent the introduction, transmission, or spread of communicable diseases.

(b) CDC shall not bear the expense of any sanitary measures required or ordered by the Director. The carrier or other entity specified in the order issued pursuant to 70.11(a) shall bear the responsibility for the application of such measures.

(c) Sections 70.11(a) and 70.11(b) shall not preclude any entity ordered to conduct sanitary measures pursuant to § 70.11(a) from arranging to have such measures conducted by other entities through contractual or other arrangements, or from seeking reimbursement for any costs associated with sanitary measures through contractual or other arrangements.

(d) The Director may apply such sanitary measures to persons who are not in the qualifying stage of a quarantinable disease, with their consent, as may be required to destroy the presence of infectious agents or vectors.

§ 70.12 Detention of carriers affecting interstate commerce.

(a) The Director whenever necessary to prevent the introduction, transmission, or spread of communicable diseases and in consultation with such other federal agencies as the Director deems necessary may require the detention of any carrier affecting interstate commerce and all animals, articles, or things onboard the carrier until the completion of the measures outlined in this part.

(b) CDC shall not bear any expenses relating to the detention of the carrier; or any associated expenses related to animals, articles, or things on board the carrier.

(c) Section 70.12(b) shall not preclude any entity from seeking reimbursement for any costs associated with detention of a carrier pursuant to section 70.12(a) through contractual arrangements or other available means from entities other than the CDC.

§ 70.13 Screenings to detect ill persons.

The Director may, at airports or other locations, conduct screenings of persons or groups of persons to detect the presence of ill persons. Such screenings may be conducted through visual inspection, electronic temperature monitors, or other means determined appropriate by the Director to detect the presence of ill persons.

§ 70.14 Provisional quarantine.

(a) The Director may provisionally quarantine a person or group of persons who the Director reasonably believes to

be in the qualifying stage of a quarantinable disease and:

(1) Moving or about to move from one State to another State; or

(2) A probable source of infection to persons who will be moving from a State to another State.

(b) Provisional quarantine shall commence upon:

(1) The service of a written provisional quarantine order;

(2) A verbal provisional quarantine order; or

(3) Actual movement restrictions placed on the person or group of persons.

(c) Provisional quarantine shall end three business days after provisional quarantine commences, except that the person or group of persons shall be released earlier if the Director determines that provisional quarantine is no longer warranted.

(d) In the event that the Director determines that it is necessary to provisionally quarantine a person or group of persons beyond three business days, then the Director shall serve the person or group of persons with a written quarantine order in accordance with this part.

(e) A person or group of persons subject to provisional quarantine may be offered medical treatment, prophylaxis, or vaccination, as the Director deems necessary to prevent the introduction, transmission or spread of the disease; such persons may refuse such medical treatment, prophylaxis, or vaccination, but remain subject to provisional quarantine.

(f) Nothing in this section shall be construed to limit the Director's ability to detain a person or group of persons on a voluntary basis or to offer such persons medical treatment, prophylaxis, or vaccination on a voluntary basis.

§ 70.15 Provisional quarantine orders.

(a) Provisional quarantine orders shall be served by the Director:

(1) At the time that provisional quarantine commences; or

(2) As soon thereafter as the Director determines that the circumstances reasonably permit.

(b) Provisional quarantine orders shall be served either through personal service or, in circumstances where the Director deems it necessary by posting or publishing the order in a conspicuous location.

(c) In circumstances where the Director deems public posting or publishing necessary, the Director may omit the names and/or identities of persons and take other measures respecting the privacy of persons.

(d) The provisional quarantine order shall be in writing, signed by the Director, and include the following information:

(1) A statement regarding the basis for the Director's reasonable belief that the person or group of persons is in the qualifying stage of a quarantinable disease based on information available to the Director at the time, such as travel history, clinical manifestations, or any other evidence of infection or exposure;

(2) A statement setting forth the Director's reasonable belief that either:

(i) The person or group of persons is moving or about to move from a State to another State; or

(ii) A probable source of infection to persons who will be moving from a State to another State;

(3) The suspected quarantinable disease;

(4) A statement advising the person or group or persons that they may be under provisional quarantine for three business days and that at the end of such period they shall be released or, if determined by the Director, served with a quarantine order;

(5) A statement advising the person or group of persons that they may be released earlier if the Director determines that provisional quarantine is no longer warranted;

(6) The location of provisional quarantine;

(e) When authorized by the Director, provisional quarantine orders may be issued and signed by electronic means.

§ 70.16 Quarantine.

(a) The Director may issue a quarantine order whenever the Director reasonably believes that:

(1) A person or group of persons are in the qualifying stage of a quarantinable disease based on, but not limited to, any of the following: clinical manifestations, diagnostic tests or other medical tests, epidemiologic information, laboratory tests, physical examination, or other evidence of exposure or infection available to the Director at the time; and either

(2) Moving or about to move from a State to another State; or

(3) A probable source of infection to persons who will be moving from a State to another State.

(b) In accordance with the Director's quarantine order, the Director may offer medical treatment, prophylaxis, or vaccination, as the Director deems necessary to prevent the introduction, transmission, or spread of the disease.

(c) Persons offered medical treatment, prophylaxis, or vaccination may refuse, but remain subject to quarantine.

(d) The Director's quarantine order may include the quarantine of a person or group of persons who refuse examination, medical treatment, prophylaxis, or vaccination, or for whom the Director determines that such examination, medical treatment, prophylaxis, or vaccination is medically contra-indicated or not reasonably available.

(e) The length of quarantine shall not exceed the period of incubation and communicability, as determined by the Director, for the quarantinable disease.

(f) Nothing in this section shall be construed to limit the Director's ability to quarantine a person or group of persons on a voluntary basis.

§ 70.17 Content of quarantine order.

(a) Quarantine orders shall be in writing, signed by the Director, and contain the following:

(1) The identity of the person or group of persons to be quarantined, if known;

(2) The location where such person or group of persons will be quarantined;

(3) The date and time at which quarantine commences and ends;

(4) The suspected quarantinable disease;

(5) A statement that the Director reasonably believes that:

(i) The person or group of persons are in the qualifying stage of a quarantinable disease; and that either

(ii) The person or group of persons will move or are about to move from one State to another State; or

(iii) The person or group of persons are a probable source of infection to persons who will be moving from a State to another State;

(6) A statement regarding the basis for the Director's reasonable belief that such person or group of persons are in the qualifying stage of a quarantinable disease, *e.g.*, clinical manifestations, physical examination, laboratory tests, diagnostic tests or other medical tests, epidemiologic information, or other evidence of exposure or infection available to the Director at the time;

(7) A statement that such persons shall comply with conditions of quarantine, including, but not limited to, examination, medical monitoring, medical treatment, prophylaxis, or vaccination, or other conditions of quarantine deemed by the Director to be necessary to prevent the introduction, transmission or spread of communicable disease;

(8) A statement that such persons may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remain subject to quarantine; and

(9) A statement that persons under quarantine, any time while the quarantine order is in effect, may request that the Director hold a hearing to review the quarantine order.

(b) When authorized by the Director, quarantine orders may be issued and signed by electronic means.

§ 70.18 Service of quarantine order.

(a) A copy of the quarantine order shall be personally served on the person or group of persons at the time that quarantine commences or as soon thereafter as the Director determines that the circumstances reasonably permit.

(b) In circumstances where the Director deems it necessary, the quarantine order may be posted or published in a conspicuous location, except that the Director may omit the names and/or identities of persons and take other measures respecting the privacy of persons.

§ 70.19 Medical examination and monitoring.

(a) The Director may order medical examination or monitoring of a person or group of persons that the Director reasonably believes to be in the qualifying stage of a quarantinable disease and:

(1) Moving or about to move from one State to another State; or

(2) A probable source of infection to persons who will be moving from a State to another State.

(b) Persons subject to medical examination or monitoring shall provide the Director with such information as the Director may order, including, but not limited to, familial and social contacts, travel itinerary, medical history, place of work, and vaccination status.

(c) Persons subject to medical monitoring shall report for such further medical examinations and comply with other conditions of monitoring as the Director orders.

(d) Persons may refuse medical examination or monitoring, but remain subject to provisional quarantine or quarantine, provided that if quarantined such persons may request a hearing in accordance with § 70.20.

(e) Nothing in this section shall be construed to limit the Director's ability to conduct medical examinations or place persons under medical monitoring on a voluntary basis or from engaging in other methods of voluntary disease surveillance.

§ 70.20 Hearings.

(a) Upon the request of a person or group of persons under quarantine, at any time while the quarantine order is in effect, the Director shall hold a hearing to review the quarantine order within one business day of the request.

(b) Requests for a hearing by a person or group of persons under quarantine shall be limited to genuine and substantial issues of fact in dispute.

(c) The Director shall provide notice of the hearing to the person or group of persons under quarantine through any method that the Director determines to be reasonably designed to notify the person or group of persons that such a hearing has been scheduled.

(d) The Director shall designate a hearing officer to review the medical or other evidence of exposure or infection available to the Director and make findings as to which person or group of persons are in the qualifying stage of a quarantinable disease and recommendations concerning which person or group of persons should be released or remain in quarantine.

(e) A person or group of persons in quarantine may authorize a representative to submit evidence concerning whether the person or group is in the qualifying stage of a quarantinable disease;

(f) The Director shall take such measures that the Director determines to be reasonably necessary to allow a person or group of persons in quarantine to communicate with their authorized representatives. Such measures, for example, may include the establishment of video-conferencing facilities, e-mail terminals, telephone or cellular phone services, and other similar devices or technologies.

(g) The hearing officer may order a medical examination of the person or group of persons in quarantine when, in the hearing officer's judgment, such a medical examination would aid in the determination of whether the person or group of persons are in the qualifying stage of a quarantinable disease, provided that such persons may refuse such examination.

(h) The hearing officer shall, based upon his or her review of the evidence of exposure or infection made available to the hearing officer, make findings and a written recommendation to the Director as to which, if any, person or group of persons should be released or remain in quarantine.

(i) The Director, based upon the hearing officer's findings and written recommendation and the administrative record shall within one business day after the conclusion of the hearing order the release or continued quarantine of the person or group of persons in quarantine.

(j) The Director may issue additional instructions and guidelines as the Director deems necessary governing the conduct of hearings.

(k) The quarantine order shall be deemed final either when the Director has accepted or rejected the hearing officer's written recommendation or three business days after the request for a hearing, whichever comes first.

§ 70.21 Care and treatment of persons.

(a) Persons subject to medical examination and monitoring, provisional quarantine, or quarantine in accordance with this part may receive care and treatment at the expense of the Director subject to paragraphs (b) through (f) of this section.

(b) Payment for such expenses shall be in Director's sole discretion and subject to the availability of appropriations.

(c) Any payment of expenses shall be secondary to the obligation of the United States or any third-party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay for such care and treatment, and shall only be paid by the Director after all third-party payers have made payment in satisfaction of their obligations.

(d) Payment shall be limited to those amounts the hospital or medical facility would customarily bill the Medicare system using the International Classification of Diseases, Clinical Modification (ICD–CM), and relevant federal regulations promulgated by the Centers for Medicare and Medicaid Services in existence at the time of billing.

(e) For quarantinable diseases, payment shall be limited to costs for services and items reasonable and necessary for the care and treatment of the person for the time period that begins when the Director refers the person to the hospital or medical facility for treatment and ends when, as determined by the Director, the period of provisional quarantine or quarantine expires.

(f) For diseases other than those described in paragraph (e) of this section, such payment shall be limited to costs for services and items reasonable and necessary for care and treatment of the person for the time period that begins when the Director refers the person to the hospital or medical facility and ends when the person's condition is diagnosed, as determined by the Director, with a non-quarantinable disease.

§ 70.22 Foreign nationals.

(a) The Director, in consultation with the U.S. Department of State as may be necessary, shall advise a foreign national under provisional quarantine or quarantine of such person's right to have the Director notify the consular post of the foreign state of such person's

provisional quarantine or quarantine and to have any communications forwarded to the consular post without delay. In circumstances where required by international legal obligation, the Director shall, in consultation with the U.S. Department of State as may be necessary, directly notify the consular post of the foreign state of its foreign national's provisional quarantine or quarantine.

(b) When requested by the consular officer of the foreign state and in a manner that the Director determines to be practicable, the Director, in consultation with the U.S. Department of State as may be necessary, shall allow the consular officer to have access to the foreign national under provisional quarantine or quarantine for purposes of conversing and corresponding with the foreign national and arranging for the foreign national's legal representation.

(c) Any foreign national subject to provisional quarantine or quarantine shall have the same rights as provided for other persons subject to provisional quarantine or quarantine elsewhere in this part.

§ 70.23 Administrative record.

A person's administrative record shall, where applicable, consist of the provisional quarantine and/or quarantine order, and any medical, laboratory, epidemiologic, or other information in support thereof, evidence submitted by the person under provisional quarantine and/or quarantine, written findings and recommendation of the hearing officer, and the hearing transcript, if any, or summary notes of the hearing.

§ 70.24 Requests by State (including political subdivisions thereof), possession, or Tribal health authorities.

(a) The health authority of a State (including political subdivisions thereof) or Indian tribe may request that the Director take public health measures in accordance with this part and whatever further public health measures that the Director, in consultation with the health authority, deems necessary to prevent the introduction, transmission, or spread of communicable diseases.

(b) The health authority of a State (including political subdivisions thereof) or Indian tribe may request that the Director issue a provisional quarantine order or a quarantine order. Such requests shall set forth the health authority's reasonable belief that the person or group of persons to be quarantined or placed under provisional quarantine are in the qualifying stage of a quarantinable disease, and either:

(1) Moving or about to move from a State to another State; or

(2) A probable source of infection to persons who will be moving from a State to another State.

(c) Nothing in this part shall be construed to limit the ability of the Director to cooperate with or aid States and their political subdivisions or Indian Tribes in the enforcement of their quarantine rules and regulations or other health rules and regulations.

(d) The health authorities of a possession may request that the Director take whatever public health measures are applicable under this part or 42 CFR part 71 (including provisional quarantine or quarantine) and whatever further public health measures that the Director, in consultation with the health authority, deems necessary to prevent the introduction, transmission, or spread of communicable diseases.

(e) A request by a health authority under this section shall not be deemed a condition for implementation by the Director of any of the public health measures in this part, or in the case of possessions, 42 CFR part 71.

(f) The decision to undertake any of the activities requested in accordance with this section is within the sole discretion of the Director.

§ 70.25 Measures in the event of inadequate local control.

In addition to the public health measures in this part, whenever the Director, with the concurrence of the Secretary, determines that the measures taken by the health authorities of any State (including political subdivisions thereof), possession, or Indian Tribe are insufficient to prevent the spread of any communicable diseases from one State or possession into another, the Director may take such measures to prevent such spread of disease as the Director deems necessary including inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures.

§ 70.26 Federal facilities.

(a) In addition to the public health measures in this part, the Director, in consultation with the affected federal agencies, may take whatever further public health measures or combination of measures the Director deems necessary with respect to facilities owned or operated by the federal government in the United States.

(b) This section does not preclude the Director from requesting the assistance of State or local authorities in implementing the regulations appearing in this part or in implementing other public health measures or combination of measures.

§ 70.27 Indian country.

(a) In addition to the public health measures specified elsewhere in this part, with the concurrence of the Director of the Indian Health Service and after consulting with the affected Tribe or Tribes, the Director may impose the following public health measures with respect to persons in Indian country without making a finding that such person or group of persons are moving or about to move from a State to another State or are a probable source of infection to persons who will be moving from a State to another State:

(1) Provisional quarantine pursuant to §§ 70.14 and 70.15;

(2) Quarantine pursuant to §§ 70.16 through 70.18, 70.20; and

(3) Medical examination and monitoring pursuant to § 70.19.

(b) Any provisional quarantine, quarantine, or medical examination and monitoring authorized by paragraph (a) of this section must take place in a hospital or other place for treatment, but any person who is subject to such provisional quarantine or quarantine may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remains subject to provisional quarantine and quarantine.

(c) Any person who is the subject of a provisional quarantine order or quarantine order authorized by paragraph (a) of this section has the same rights as provided for provisional quarantine or quarantine elsewhere in this part.

(d) After consulting with the affected Tribe or Tribes, the Director may authorize the agents and employees of any State to enter Indian country for the sole purpose of enforcing federal quarantine rules and regulations if the Director of the Indian Health Service concurs (such concurrence being subject to any rules and regulations that the Director of the Indian Health Service may prescribe).

§ 70.28 Special powers in time of war.

(a) In addition to the public health measures in this part, the Director, in consultation with the Secretary of the U.S. Department of Defense or his or her designee, may, in time of war and to protect the military and naval forces and war workers of the United States, impose the following public health measures with respect to persons under paragraph (b) of this section without making a finding that such person or

group of persons are in the qualifying stage of a quarantinable disease; and moving or about to move from a State to another State or are a probable source of infection to persons who will be moving from a State to another State:

(1) Provisional quarantine pursuant to §§ 70.14 and 70.15;

(2) Quarantine pursuant to § 70.16 through 70.18, 70.20; and

(3) Medical examination and monitoring pursuant to § 70.19.

(b) The persons subject to paragraph (a) of this section include any person that the Director reasonably believes to be:

(1) Infected with or exposed to a quarantinable disease; and

(2) A probable source of infection to members of the military services or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the military services.

(c) Any person who is the subject of a provisional quarantine order or quarantine order authorized by subsection (a) has the same rights as provided for provisional quarantine or quarantine elsewhere in this part.

§ 70.29 Penalties.

Persons in violation of this part are subject to a fine of no more than $250,000 or one year in jail, or both, or as otherwise provided by law. Violations by organizations are subject to a fine of no more than $500,000 per event or as otherwise provided by law.

§ 70.30 Implementation through order.

The Director may implement any of the provisions in this part through order issued and signed by the Director.

§ 70.31 Appeals of actions required pursuant to §§ 70.6, 70.7, 70.11 or 70.12

(a) The following persons may submit a written appeal in accordance with paragraph (b) of this section:

(1) A person whose application for a travel permit has been denied pursuant to § 70.6;

(2) A parent, guardian, physician, nurse, or other such person whose application for a travel permit has been denied pursuant to § 70.7;

(2) The owner of animals, articles, or things to be destroyed, if the Director determines that destruction is a necessary sanitary measure pursuant to § 70.11;

(3) The owner of a carrier to be detained pursuant to § 70.12.

(b) The appeal must be in writing and be submitted to the Director within 2 business days. The appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. The Director will issue a written response to the appeal, which shall constitute final agency action. This opportunity for an appeal shall not preclude the Director from acting immediately to exercise actions authorized under §§ 70.6, 70.7, 70.11 or 70.12.

Appendix A to Part 70—Calendar Year 2004 Enplanement Data as Published by the Federal Aviation Agency (FAA) for Large and Medium U.S. Airports [1]

Large Hubs

Hartsfield—Jackson Atlanta Intl Atlanta (ATL)
Chicago O'Hare Intl Chicago (ORD)
Los Angeles Intl Los Angeles (LAX)
Dallas/Fort Worth Intl Fort Worth (DFW)
Denver Intl Denver (DEN)
McCarran Intl Las Vegas (LAS)
Phoenix Sky Harbor Intl Phoenix (PHX)
John F Kennedy Intl New York (JFK)
Minneapolis—St Paul Intl Wold—Chamberlain Minneapolis (MSP)
George Bush Intercontinental Houston (IAH)
Detroit Metropolitan Wayne County Detroit (DTW)
Newark Liberty Intl Newark (EWR)
San Francisco Intl San Francisco (SFO)
Orlando Intl Orlando (MCO)
Miami Intl Miami (MIA)
Seattle–Tacoma Intl Seattle (SEA)
Philadelphia Intl Philadelphia (PHL)
General Edward Lawrence Logan Intl Boston (BOS)
Charlotte/Douglas Intl Charlotte (CLT)
La Guardia New York (LGA)
Washington Dulles Intl Chantilly (IAD)
Cincinnati/Northern Kentucky Intl Covington (CVG)
Baltimore–Washington Intl Glen Burnie (BWI)
Fort Lauderdale/Hollywood Intl Fort Lauderdale (FLL)
Honolulu Intl Honolulu (HNL)
Chicago Midway Intl Chicago (MDW)
Salt Lake City Intl Salt Lake City (SLC)
Tampa Intl Tampa (TPA)
San Diego Intl San Diego (SAN)
Ronald Reagan Washington National Arlington (DCA)

Medium Hubs

Metropolitan Oakland Intl Oakland (OAK)
Pittsburgh Intl Pittsburgh (PIT)
Portland Intl Portland (PDX)
Lambert–St Louis Intl St Louis (STL)
Cleveland–Hopkins Intl Cleveland (CLE)
Norman Y Mineta San Jose Intl San Jose (SJC)
Memphis Intl Memphis (MEM)
Luis Munoz Marin Intl San Juan (SJU)
Kansas City Intl Kansas City (MCI)
Louis Armstrong New Orleans Intl Metairie (MSY)
Sacramento Intl Sacramento (SMF)
John Wayne Airport—Orange County Santa Ana (SNA)
Raleigh–Durham Intl Raleigh (RDU)
Nashville Intl Nashville (BNA)
Indianapolis Intl Indianapolis (IND)
William P Hobby Houston (HOU)
Austin–Bergstrom Intl Austin (AUS)
San Antonio Intl San Antonio (SAT)
Bradley Intl Windsor Locks (BDL)
Ontario Intl Ontario (ONT)
Palm Beach Intl West Palm Beach (PBI)
General Mitchell Intl Milwaukee (MKE)
Southwest Florida Intl Fort Myers (RSW)
Albuquerque Intl Sunport Albuquerque (ABQ)
Port Columbus Intl Columbus (CMH)
Dallas Love Field Dallas (DAL)
Theodore Francis Green State Warwick (PVD)
Kahului Kahului (OGG)
Jacksonville Intl Jacksonville (JAX)
Reno/Tahoe Intl Reno (RNO)
Bob Hope Burbank (BUR)
Ted Stevens Anchorage Intl Anchorage (ANC)
Buffalo Niagara Intl Buffalo (BUF)
Manchester Manchester (MHT)
Eppley Airfield Omaha (OMA)
Norfolk Intl Norfolk (ORF)
Tucson Intl Tucson (TUS)

[1] (See § 70.4).

2. Part 71 is revised to read as follows:

PART 71—FOREIGN AND POSSESSIONS QUARANTINE

Subpart A—General Provisions

Sec.

71.1 Scope and definitions.
71.2 Designation of yellow fever vaccination centers: Yellow fever or other validation stamps.
71.3 Vaccination clinics.
71.4 Bills of health.
71.5 Suspension of entries and imports from designated places.
71.6 Report of death or illness on board flights.
71.7 Written plan for reporting of deaths or illness on board flights and designation of an airline agent.
71.8 Report of death or illness on board ships.
71.9 Written plan for reporting of deaths or illness on board ships and designation of a shipline's agent.
71.10 Passenger information.
71.11 Written plan for passenger information and designation of an airline or shipline agent.
71.12 Inspections.
71.13 Sanitary measures.
71.14 Detention of carriers.
71.15 Carriers of U.S. military services.
71.16 Screenings to detect ill persons.
71.17 Provisional quarantine of arriving persons.
71.18 Provisional quarantine orders.
71.19 Quarantine.
71.20 Content of quarantine order.
71.21 Service of quarantine order.
71.22 Medical examination and monitoring.
71.23 Hearings.
71.24 Care and treatment of arriving persons.
71.25 Arriving foreign nationals.
71.26 Administrative record.
71.27 Food, potable water, and waste: U.S. seaports and airports.
71.28 Health documents in international traffic.
71.29 Special provisions relating to airports: Office, examination, and quarantine facilities.
71.30 Establishment of institutions, hospitals and stations.

71.31 Penalties.
71.32 Implementation through order.
71.33 Appeals of actions required pursuant to 71.13 or 71.14.

Subpart B—Importations

71.51 Dogs and cats.
71.52 Turtles, tortoises, and terrapins.
71.53 Nonhuman primates.
71.54 Etiological agents, hosts, and vectors.
71.55 Dead bodies.
71.56 African rodents and other animals that may carry the monkeypox virus.

Authority: 42 U.S.C. 243, 248, 249, and 264–272.

Subpart A—General Provisions

§ 71.1 Scope and definitions.

(a) The purpose of this part is to prevent the introduction, transmission, and spread of communicable disease from foreign countries into the United States. This part also contains the regulations to prevent the spread of communicable disease among possessions of the United States or from a possession into a State. Regulations to prevent the interstate spread of communicable diseases are contained in 42 CFR part 70.

(b) As used in this part, the terms listed below in alphabetical order shall have the following meanings:

Airline means any air carrier, foreign or domestic, operating commercial passenger flights under regular schedules arriving in or departing from the United States.

Airline agent means any person who is authorized to act for or in place of the owner or operator of an airline for purposes of carrying out the airline's responsibilities described in this part.

Business day means any full business day during which the Centers for Disease Control and Prevention is open for regular business (excluding Saturdays, Sundays, and legal holidays) from 9 a.m. in the morning to 5 p.m. in the evening, Eastern Standard Time.

Bill of Health means a document, in a form prescribed by the Director, setting forth the sanitary history and condition of a carrier or the port from which the carrier departs and stating that the carrier has in all respects complied with the regulations prescribed in this part.

Carrier means a ship, shipline, vessel, aircraft, airline, train, road vehicle, or other means of transport, including military carriers.

Commander means any person serving on an aircraft or ship with responsibility for its operation and navigation.

Communicable disease means an illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person or animal or a reservoir to a susceptible host, either directly or indirectly through an intermediate animal host, vector, or the inanimate environment.

Controlled free pratique means permission for a carrier to enter a U.S. port, disembark, and begin operation under certain stipulated conditions.

Detention when applied to carriers, animals, articles, or things means the temporary holding on a voluntary or involuntary basis of such carriers, animals, articles, or things, until the completion of such sanitary measures as may be required under this part.

Director means the Director, Centers for Disease Control and Prevention, Department of Health and Human Services or another authorized representative as approved by the Director or the Secretary.

Disinfection means the killing of infectious agents or inactivation of their toxic products outside the body of a person or on the surface of a thing by direct exposure to chemical or physical agents.

Disinfestation means any chemical or physical process serving to destroy or remove undesired small animal forms, particularly arthropods or rodents.

Disinsection means the operation in which measures are taken to kill the insect vectors of human disease.

Educational purpose means use in the teaching of a defined educational program at the university level or equivalent.

Exhibition purpose means use as a part of a display in a facility comparable to a zoological park or in a trained animal act. The animal display must be open to the general public at routinely scheduled hours on 5 or more days of each week. The trained animal act must be routinely scheduled for multiple performances each week and open to the general public except for reasonable vacation and retraining periods.

Emergency contact information means the following information pertaining to a person (other than the passenger or crewmember) or an entity (such as a business) that has the ability to contact the passenger or crewmember on an emergency basis:

(i) The full name (first, last, middle initial, suffix) of the person or business name of the entity;

(ii) The permanent address; and

(iii) A phone number (either home, work, or mobile).

Flight information means for each airline operating a flight on an international voyage destined for a U.S. port (including any intermediate stops between the flight's origin and final destination) the airline name, flight number, city of arrival, date of arrival, date of departure, seat number for any passenger or crewmember, arrival gate, and arrival terminal.

Hearing officer means a person designated by the Director or the Secretary to conduct administrative hearings under this part or another authorized representative as approved by the Director or the Secretary.

Ill person means a person who:

(i) Has a temperature of 100.4 °F (or 38 °C) or greater accompanied by one or more of the following: rash, swelling of the lymph nodes or glands, headache with neck stiffness, or changes in level of consciousness or cognitive function; or

(ii) Has a temperature of 100.4 °F (or 38 °C) or greater that has persisted for more than 48 hours; or

(iii) Has diarrhea, defined as the occurrence in a 24-hour period of three or more loose stools or of stools in an amount greater than normal (for the person); or

(iv) Has one or more of the following: severe bleeding, jaundice, or severe, persistent cough accompanied by bloody sputum, respiratory distress; or a temperature of 100.4 °F (or 38 °C) or greater; or

(v) Displays other symptoms or factors that are suggestive of communicable disease, which the Director may describe in an order as the Director determines necessary.

Infectious agent means an organism (*e.g.,* bacteria, fungus, helminth, prion, protozoan, rickettsia, virus, or bioengineered variant thereof) that is capable of producing infection or infectious disease.

International health regulations means the International Health Regulations of the World Health Organization, adopted by the Fifty-Eighth World Health Assembly in 2005, and as may be further amended and ratified by the United States.

International voyage means:

(i) In the case of a carrier, a voyage between ports or airports of more than one country, or a voyage between ports or airports of the same country if the ship or aircraft stopped in any other country on its voyage; or

(ii) In the case of a person, a voyage involving entry into a country other than the country in which such person begins his/her voyage.

Medical monitoring means close medical or other supervision of a person or group of persons on a voluntary or involuntary basis to permit prompt recognition of infection or illness.

Military services means the U.S. Air Force, U.S. Army, the U.S. Coast Guard,

the U.S. Marine Corps, the U.S. Navy, and any National Defense Reserve Fleet vessels engaged in military operations at the direction of the Department of Defense.

Possession means, in addition to Puerto Rico, any other possession of the United States.

Provisional quarantine means the detention on an involuntary basis of an arriving person or group of arriving persons reasonably believed to be infected with or exposed to a quarantinable disease until a quarantine order has been issued or until the Director determines that provisional quarantine is no longer warranted.

Public health emergency, as used in this part, means

(i) Any disease event as determined by the Director with either documented or significant potential for regional, national, or international disease spread or with actual or potential interference with the free movement of people or goods between States and possessions within the United States or other countries or sovereignties; or

(ii) Any disease event designated as a public health emergency by the Secretary pursuant to section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)).

Quarantine means the holding on a voluntary or involuntary basis, including the isolation, of a person or group of persons in such place and for such period of time as the Director deems necessary to prevent the spread of infection or illness.

Quarantinable disease means any of the communicable diseases listed in an Executive Order, as provided under section 361 of the Public Health Service Act. Executive Order 13295, of April 4, 2003, as amended by Executive Order 13375 of April 1, 2005, contains the current revised list of quarantinable diseases, and may be obtained at *http://www.cdc.gov* and *http://www.archives.gov/federal_register.* If this Order is amended, HHS will enforce that amended order immediately and update that Web site.

Sanitary measures means:

(i) When applied to carriers, animals, articles, or things: Detention; destruction of animals, articles, or things that the Director deems to be sources of dangerous infection to human beings; disinfection; disinfestations; disinsection; export; fumigation; pest extermination; seizure; or any other measure or combination of measures whether voluntary or involuntary that the Director deems necessary to prevent the introduction, transmission, or spread of communicable diseases; or

(ii) When applied to a person or group of persons, the killing of infectious agents (or vectors capable of conveying infectious agents) outside the body by direct exposure to any chemical, physical, or other process designed to destroy such infectious agents.

Scientific purpose means use for scientific research following a defined protocol and other standards for research projects as normally conducted at the university level. The term also includes the use for safety testing, potency testing, and other activities related to the production of medical products.

Ship means any ship commercially operated by a shipline, regardless of an individual ship's flag or registry or the shipline's principal place of business, that carries passengers or cargo under regular schedules arriving in or departing from the United States, but does not include ships that operate between Canadian ports and ports on Puget Sound or on the Great Lakes and connected waterways.

Ship Sanitation Control Certificate means a certificate issued under the instructions of the Director, in the form prescribed by the International Health Regulations, unless the Director determines otherwise, recording the evidence of a public health risk found on board during an inspection and the successful completion of any sanitary measures taken.

Ship Sanitation Control Exemption Certificate means a certificate issued under the instructions of the Director, in the form prescribed by the International Health Regulations, unless the Director determines otherwise, recording that the ship had been inspected and found to be free of infection and contamination, including vectors and reservoirs.

Shipline means any shipline operating ships commercially, regardless of an individual ship's flag or registry or the shipline's principal place of business, carrying passengers or cargo under regular schedules arriving in or departing from the United States.

Shipline's agent means any person who is authorized to act for or in place of the owner or operator of a ship for the purposes of carrying out the shipline's responsibilities described in this part.

State means, in addition to the several States, only the District of Columbia.

U.S. port means any seaport, airport, or border crossing point under the control of the United States.

United States means the States and possessions of the United States.

Vector means an animal (including insects) or thing which conveys or is capable of conveying infectious agents from a person or animal to another person or animal.

§ 71.2 Designation of yellow fever vaccination centers; Yellow fever or other validation stamps.

(a) *Designation of yellow fever vaccination centers.* (1) The Director is responsible for the designation of yellow fever vaccination centers authorized to issue certificates of vaccination. This responsibility may be delegated by the Director to the health department of a State or possession, with their consent, with respect to yellow fever vaccination activities of non-Federal medical, public health facilities, and licensed physicians functioning within the respective jurisdictions of a health department of a State or possession. Designation may be made upon application and presentation of evidence satisfactory to a health department of a State or possession to whom such responsibility has been delegated by the Director that the applicant has adequate facilities and professionally trained personnel for the handling, storage, and administration of a safe, potent, and pure yellow fever vaccine. Medical facilities of Federal agencies are authorized to obtain yellow fever vaccine without being designated as a yellow fever vaccination center by the Director, but shall comply with instructions issued by the Director for the administration, handling, monitoring, recordkeeping, and storage of yellow fever vaccine.

(2) A designated yellow fever vaccination center shall comply with instructions issued by the Director or by an officer or employee of a health department of a State or possession to whom such responsibility has been delegated by the Director for the administration, handling, monitoring, recordkeeping, and storage of yellow fever vaccine. If a designated center fails to comply with such instruction, after notice to such center, the Director or, for non-Federal centers, a health department of a State or possession may revoke designation.

(b) *Validation stamps.* International Certificates of Vaccination against yellow fever issued for vaccinations performed in the United States and other validation stamps as required by the Director shall be validated by:

(1) The Seal of the Public Health Service;

(2) The Seal of the Department of State;

(3) The stamp of the Department of Defense;

(4) The stamp issued to the National Aeronautics and Space Administration;

(5) The stamp issued by the health department of a State or possession to whom such responsibility has been delegated by the Director; or

(6) An official stamp of a design and size approved by the Director for such purpose.

(c) When authorized by the Director, certificates of vaccination and validation stamps may be issued and authenticated by electronic means.

§ 71.3 Vaccination clinics.

(a) The Director may establish vaccination clinics, through contract or otherwise, authorized to issue certificates of vaccination and administer vaccines and/or other prophylaxis.

(b) A vaccination clinic established by the Director shall collect and maintain, for such time as determined by the Director, the following information from vaccine recipients:

(1) Gender;

(2) Age;

(3) Vaccination date;

(4) Vaccine lot number;

(5) Prior vaccinations;

(6) Reason for vaccination (*e.g.*, post-exposure, pre-exposure, member of high risk group, general vaccination);

(7) Concurrent vaccinations;

(8) Vaccine Adverse Events Reporting System Report/Adverse Event Report Number; and

(9) Verification that the vaccine conferred immunity (if applicable).

(c) In addition to the requirements in paragraph (b) of this section, a vaccination clinic established by the Director shall comply with such additional recordkeeping requirements and other instructions that the Director may issue for the safe administration, handling, monitoring, and storage of vaccines.

(d) In the event of a public health emergency, the Director may waive or modify any of the requirements in paragraph (b) of this section.

(e) When authorized by the Director, certificates of vaccination and validation stamps may be issued and authenticated by electronic means.

§ 71.4 Bills of health.

The Director, to the extent permitted by law and in consultation with such other federal agencies as the Director may deem necessary, may require a carrier at any foreign port clearing or departing for any U.S port to obtain or deliver a bill of health from a United States consular or medical officer designated for such purpose.

§ 71.5 Suspension of entries and imports from designated places.

Whenever the Director determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease in the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons or property is required in the interest of the public health, the Director, to the extent permitted by law and in consultation with such other federal agencies as the Director may deem necessary, may prohibit, in whole or in part, the introduction of persons and property from such countries or places for such period of time as the Director may designate through order.

§ 71.6 Report of death or illness on board flights.

(a) Any airline operating flights on an international voyage destined for a U.S. port shall, pursuant to the written plan required under § 71.7, report any deaths or ill persons that occur on board to the Director as soon as such occurrences are made known to the aircraft commander and, where possible, at least one hour before arrival.

(b) The Director may order airlines operating flights on an international voyage destined for a U.S. port to disseminate to passengers and crew public health notices, recommended public health measures, and other information that the Director deems necessary for the purposes of preventing the introduction, transmission, or spread of communicable diseases. Such information shall be disseminated at the time and in a manner specified in the Director's order.

(c) The provisions of paragraphs (a) and (b) of this section shall also apply to airlines operating flights on an international voyage between airports of a possession and a State of the United States or among possessions of the United States.

§ 71.7 Written plan for reporting of deaths or illness on board flights and designation of an airline agent.

(a) Within 90 days of the final publication of this rule, any airline operating flights on an international voyage destined for a U.S. port shall develop a written plan sufficient to ensure the reporting of any deaths or ill persons on board flights as required by § 71.6.

(b) The written plan shall include the full name (*i.e.*, first, last, middle initial, suffix), official title, business telephone number, and e-mail address (if available), of an airline agent who shall serve as a point of contact between the Director and the airline concerning reports of deaths or ill persons on board flights.

(c) The written plan shall include policies and procedures necessary to facilitate communication between the Director and the airline agent on a 24-hour basis, 7 days a week.

(d) Within 90 days of final publication of this rule, copy of the written plan shall be submitted to the Director.

(e) Airlines shall implement the written plan within 180 days of the final publication of this rule.

(f) Airlines shall review the written plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the airline has reported any deaths or ill persons on board under § 71.6 in the prior 365 days. Airlines shall revise the plan as necessary after any review. Any revisions of the written plan shall be submitted to the Director within 60 days.

(g) Airlines that intend to commence operations after the effective date in paragraph (a) shall submit a written plan meeting the requirements of this section to the Director before commencing operations. The airline shall implement the written plan by the later of the following dates: either 180 days after the publication of the final rule, or upon commencement of operations.

(h) The provisions of paragraphs (a) through (g) of this section shall also apply to airlines operating flights on an international voyage between airports of a possession and a State of the United States or among possessions of the United States.

§ 71.8 Report of death or illness on board ships.

(a) Any shipline operating ships on an international voyage destined for a U.S. port shall report to the quarantine station or to another authorized representative of the Director, at or nearest the port at which the ship will arrive, the occurrence, on board, of any death or any ill person among passengers or crew as soon as such occurrences are made known to the ship's commander and, where possible, at least 24 hours before arrival.

(b) In addition to paragraph (a) of this section, the shipline, shall also report any death or any ill person among passengers or crew (including those who have disembarked or have been removed) on board ships during the 15-day period preceding the date of expected arrival at a U.S. port or during

the period since departure from a U.S. port (whichever period of time is shorter).

(c) Any shipline operating ships traveling from one U.S. port to another while on an international voyage shall report immediately to the quarantine station or other authorized representative at the next port of call, station, or stop, the occurrence of any case or suspected case of a communicable disease and shall take such measures to prevent the spread of disease as the Director directs.

(d) Any shipline with ships at a U.S. port shall report immediately to the quarantine station or other authorized representative at or nearest the port the occurrence, on board, of any death or any ill person among passengers or crew during stays in port.

(e) In addition to paragraphs (a) through (d) of this section, the shipline must report to the quarantine station or other authorized representative 24 hours before a ship's arrival the number of cases (including zero) of diarrhea, febrile respiratory disease, febrile rash illness, or febrile neurologic illness in passengers and crew recorded in the ship's medical log during the current cruise. All cases of diarrhea that occur after the 24-hour report must also be reported at least 4 hours before arrival.

(f) The Director for purposes of preventing the introduction, transmission, or spread of communicable diseases may order shiplines operating ships on an international voyage destined for a U.S. port to disseminate to passengers and crew public health notices, recommended public health measures, and other public health information. Such information shall be disseminated at the time and in a manner specified in the Director's order.

(g) The provisions of paragraphs (a) through (f) of this section shall additionally apply to shiplines operating ships traveling between a possession and a State of the United States or among possessions of the United States.

§ 71.9 Written plan for reporting of deaths or illness on board ships and designation of a shipline's agent.

(a) Within 90 days of the final publication of this rule, any shipline operating ships on an international voyage destined for a U.S. port shall develop a written plan sufficient to ensure the reporting of any deaths or ill persons as required by § 71.8.

(b) The written plan shall include the full name (i.e., first, last, middle initial, suffix), official title, business telephone number, and e-mail address (if available), of a shipline's agent who shall serve as a point of contact between the Director and the shipline concerning reports of deaths or ill persons on board ships.

(c) The written plan shall include policies and procedures necessary to facilitate communication between the Director and the shipline's agent on a 24-hour basis, 7 days a week.

(d) A copy of the written plan shall be submitted to the Director.

(e) Within 90 days of the final publication of this rule, shiplines shall implement the written plan.

(f) Shiplines shall review the written plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the shipline has reported any deaths or ill passengers under § 71.8 in the prior 365 days. Shiplines shall revise the plan as necessary after any review. Any revisions of the written plan shall be submitted to the Director within 60 days.

(g) Shiplines that intend to commence operations after the effective date in paragraph (a) of this section shall submit a written plan meeting the requirements of this section to the Director before commencing operations. The shipline shall implement a written plan by the later of the following dates: either 180 days after final publication of this rule, or upon commencement of operations.

(h) The provisions of paragraphs (a) through (g) of this section shall also apply to shiplines operating ships on an international voyage between ports of a possession of the United States or between ports of a possession and a State of the United States.

§ 71.10 Passenger information.

(a) Any airline operating flights or shipline operating ships on an international voyage destined for a U.S. port shall, pursuant to the written plan approved under § 71.11, solicit from each passenger (or head of household if traveling with a minor) and crewmember traveling on an international voyage destined for a U.S. port the information contained in the data fields specified in paragraph (e) of this section.

(b) Any information obtained by the airline or shipline pursuant to paragraph (a) of this section shall be maintained by the airline or shipline for 60 days from the end of the voyage.

(c) For each passenger (or head of household if traveling with a minor) and crewmember traveling on an international voyage destined for a U.S. port, the airline or shipline may solicit the information in paragraph (e) of this section from such person's authorized agent.

(d) Within 12 hours of a request by the Director to the airline's or shipline's agent, the airline or shipline, pursuant to the written plan approved under § 71.11, shall transmit to the Director in an electronic format the data fields specified in paragraph (e) of this section.

(e) The data fields, as applicable to the individual passenger (or head of household if traveling with a minor) or crew member, shall include the following:

(1) Full name (first, last, middle initial, suffix);

(2) Emergency contact information;

(3) E-mail address;

(4) Current home address (street, apartment #, city, state/province, postal code);

(5) Passport number or travel document number, including the issuing country or organization;

(6) Name of traveling companions or group;

(7) Flight information or ports of call;

(8) Returning flight (date, airline number, and flight number) or returning ports of call; and

(9) At least one of the following current phone numbers in order of preference: mobile, home, pager, or work.

(f) In addition to data fields specified in paragraph (e) of this section, when necessary to prevent the introduction, transmission, or spread of communicable diseases, the Director through order may also require that airlines or shiplines transmit additional information in the airline's or shipline's possession.

(g) The provisions of paragraphs (a) through (f) of this section shall also apply to airlines operating flights and shiplines operating ships on an international voyage between ports of a possession of the United States or between ports of a possession and a State of the United States.

(h) Information collected solely in order to comply with this regulation may only be used for the purposes for which it is collected.

(i) Airlines operating flights and shiplines operating ships on an international voyage destined for a U.S. port shall ensure that passengers are informed of the purposes of this information collection at the time passengers arrange their travel.

§ 71.11 Written plan for passenger information and designation of an airline or shipline agent.

(a) Within six months of the final publication of this rule, any airline

operating flights or shipline operating ships on an international voyage destined for a U.S. port shall develop a written plan sufficient to ensure electronic transmission of passenger and crew information as required by § 71.10.

(b) The written plan shall include:

(1) Policies and procedures for the transmission of data in an electronic format available to the airline or shipline and CDC using industry standards for data encoding, transmission, and security, within 12 hours of a request by the Director to the airline's or shipline's agent;

(2) The full name (i.e., first, last, middle initial, suffix), official title, business telephone number, and e-mail address (if available), of an airline agent or shipline agent who shall serve as a point of contact between the Director and the airline or shipline concerning requests for and transmission of passenger and crew manifest data;

(3) Policies and procedures necessary to facilitate communication between the Director and the airline's or shipline's agent on a 24-hour basis, 7 days a week;

(4) Policies and procedures for soliciting the information contained in the data fields required by § 71.10 from the passenger (or head of household if traveling with a minor), crewmember, or such persons' authorized agent; and

(5) Policies and procedures for maintaining responsive information obtained by the airline or shipline in an electronic database for 60 days from the end of the voyage as required by § 71.10.

(c) Within 180 days of final publication of this rule, a copy of the written plan shall be submitted to the Director.

(d) Airlines and shiplines shall implement the written plan within 2 years of the final publication of this rule. Within 60 days of submission, airlines and shiplines shall conduct drills or exercises to test and evaluate the effectiveness of the written plan and revise the plan as necessary after any drill or exercise. Any revisions to the written plan shall be submitted to the Director within 60 days.

(e) Airlines and shiplines shall review the written plan one year after implementation and annually thereafter. The review shall include drills or exercises to test and evaluate the effectiveness of the written plan unless the airline or shipline has transmitted passenger and crewmember information under § 71.10 in the prior 365 days. Airlines shall revise the plan as necessary after any review. Any revisions of the written plan shall be submitted to the Director within 60 days.

(f) Airlines and shiplines that intend to commence operations after the effective date in paragraph (a) of this section shall submit a written plan meeting the requirements of this section to the Director before commencing operations. The airline or shipline shall implement the written plan by the later of the following dates: either 2 years after the final publication of this rule, or upon commencement of operations.

(g) Pending the development or implementation of the written plan as required by this section, the Director, through order, may require that airlines and shiplines transmit to the Director, in a format available to both the airline or shipline and the Director, any of the information required by § 71.10 that may be in the airline's or shipline's possession.

(h) The provisions of paragraphs (a) through (g) of this section shall also apply to airlines operating flights and shiplines operating ships on an international voyage between ports of a possession of the United States or between ports of a possession and a State of the United States.

§ 71.12 Inspections.

(a) Carriers arriving at a U.S. port from a foreign country or on an international voyage in traffic between U.S. ports are subject to detention and inspection to determine the existence of any rodent, insect, or other vermin infestation, contaminated food or water, or other unsanitary conditions, that may require sanitary measures for the prevention of the introduction, transmission, or spread of communicable disease.

(b) The Director may detain and inspect a carrier arriving at a U.S. port from a foreign country when the Director determines that a threat of introduction, transmission, or spread of communicable disease into the United States exists, as may occur, for instance, when the carrier has on board ill persons.

(c) Carriers on an international voyage that are in traffic between U.S. ports shall be subject to detention and inspection when there occurs on board, among passengers or crew, any death, or when there is any ill person, or when the Director reasonably believes that illness may be caused by unsanitary conditions.

(d) The provisions of paragraphs (a) through (c) of this section shall additionally apply to carriers traveling between a possession and State or among possessions of the United States.

§ 71.13 Sanitary measures.

(a) Whenever the Director reasonably believes that any carrier arriving at a U.S. port from a foreign country or on an international voyage in traffic between U.S. ports or animal, article, or thing on board the carrier is or may be infected or contaminated with a communicable disease, the Director may, in consultation with such other federal agencies as appropriate:

(1) Inspect the carrier, animal, article, or thing on board the carrier, and/or

(2) Order the carrier, or other entity specified in the order, to apply such sanitary measures as the Director deems necessary to prevent the introduction, transmission, or spread of communicable diseases.

(b) CDC shall not bear the expense of any sanitary measures required or ordered by the Director. The carrier or other entity specified in the order issued pursuant to 71.13(a) shall bear the responsibility for the application of such measures.

(c) Sections 71.13(a) and 71.13(b) shall not preclude any entity ordered to conduct sanitary measures pursuant to § 71.13(b) from arranging to have such measures conducted by other entities through contractual or other arrangements, or from seeking reimbursement for any costs associated with sanitary measures through contractual or other arrangements.

(d) The Director may apply such sanitary measures to persons who have not been infected with or exposed to a quarantinable disease, upon their consent, as may be required to destroy the presence of infectious agents or vectors.

§ 71.14 Detention of carriers.

(a) The Director, in consultation with such other federal agencies as the Director deems necessary, may require detention of a carrier and all things onboard the carrier until the completion of the measures outlined in this part that the Director determines to be necessary to prevent the introduction, transmission, or spread of communicable diseases.

(b) The owner of the carrier shall bear any expenses relating to the detention of the carrier; or, in the case of animals, articles, or things on board the carrier, such expense shall be borne by the owners thereof.

(c) Director may issue a controlled free pratique to the carrier stipulating what sanitary measures are to be met, but such issuance does not prevent the periodic boarding of a carrier and the inspection of persons and records to verify that the conditions have been met for granting the pratique.

§ 71.15 Carriers of U.S. military services.

(a) Carriers belonging to or operated by the military services of the United States may be exempted from detention and inspection if the Director is satisfied that they have complied with regulations of the military services which also meet the requirements of the regulations in this part. (For applicable regulations of the military services, see Army Regulation No. 40–12, Air Force Regulation No. 161–4, Secretary of the Navy Instruction 6210.2, and Coast Guard Commandant Instruction 6210.2).

(b) Notwithstanding exemption from detention and inspection of carriers under this section, animals, articles, or things on board shall be required to comply with the applicable requirements of subpart B of this part.

§ 71.16 Screenings to detect ill persons.

The Director may at U.S. ports or other locations, conduct screenings of persons or group of persons to detect the presence of ill persons. Such screenings may be conducted through visual inspection, electronic temperature monitors, or other means determined appropriate by the Director to detect the presence of ill persons.

§ 71.17 Provisional quarantine of arriving persons.

(a) The Director may provisionally quarantine an arriving person or group of arriving persons who the Director reasonably believes to be infected with or exposed to a quarantinable disease.

(b) Provisional quarantine shall commence upon:

(1) The service of a written provisional quarantine order;

(2) A verbal provisional quarantine order; or

(3) Actual movement restrictions placed on the person or group of persons.

(c) Provisional quarantine shall end three business days after provisional quarantine commences, except that the person or group of persons shall be released earlier if the Director determines that provisional quarantine is no longer warranted.

(d) In the event that the Director determines that it is necessary to provisionally quarantine a person or group of persons beyond three business days, then the Director shall serve the person or group of persons with a written quarantine order in accordance with this part.

(e) A person or group of persons subject to provisional quarantine may be offered medical treatment, prophylaxis, or vaccination, as the Director deems necessary to prevent the transmission or spread of the disease; such persons may refuse such medical treatment, prophylaxis, or vaccination, but remain subject to provisional quarantine.

(f) Nothing in this section shall be construed to limit the Director's ability to detain a person or group of persons on a voluntary basis or offer such persons medical treatment, prophylaxis, or vaccination on a voluntary basis.

§ 71.18 Provisional quarantine orders.

(a) Provisional quarantine orders shall be served by the Director at the time that provisional quarantine commences or as soon thereafter as the circumstances reasonably permit either through personal service or, in circumstances where the Director deems it necessary or desirable, by posting or publishing the order in a conspicuous location.

(b) In circumstances where the Director deems public posting or publishing necessary, the Director may omit the names and/or identities of persons and take other measures respecting the privacy of persons.

(c) The provisional quarantine order shall be in writing, signed by the Director, and include the following information:

(1) A statement setting forth the Director's reasonable belief that the arriving person or group of arriving persons is infected with or exposed to a quarantinable disease based on information available to the Director at the time, such as travel history, clinical manifestations, and any other evidence of infection or exposure;

(2) The suspected quarantinable disease;

(3) A statement advising the arriving person or group of arriving persons that they may be placed under provisional quarantine for three business days and that at the end of such period they shall be released or, if determined by the Director, served with a quarantine order;

(4) A statement advising the person or group of persons that they shall be released earlier if the Director determines that provisional quarantine is no longer warranted;

(5) The location of provisional quarantine;

(d) When authorized by the Director, provisional quarantine orders may be issued and signed by electronic means.

§ 71.19 Quarantine.

(a) The Director may issue a quarantine order whenever the Director reasonably believes that an arriving person or group of arriving persons is infected with or exposed to a quarantinable disease based on, but not limited to, any of the following: clinical manifestations, diagnostic tests or other medical tests, epidemiologic information, laboratory tests, physical examination, or other evidence of exposure or infection;

(b) In accordance with the Director's quarantine order, the Director may offer medical treatment, prophylaxis, or vaccination, as the Director deems necessary to prevent the transmission or spread of the disease.

(c) Persons offered treatment, prophylaxis, or vaccination may refuse, but remain subject to quarantine.

(d) The Director's quarantine order may include the quarantine of an arriving person or group of arriving persons who refuse examination, medical treatment, prophylaxis, or vaccination, or for whom the Director determines that such examination, medical treatment, prophylaxis, or vaccination is medically contra-indicated or not reasonably available.

(e) The length of quarantine shall not exceed the period of incubation and communicability, as determined by the Director, for the quarantinable disease.

(f) Nothing in this section shall be construed to limit the Director's ability to quarantine a person or group of persons on a voluntary basis.

§ 71.20 Content of quarantine order.

(a) Quarantine orders shall be in writing, signed by the Director, and contain the following:

(1) The identity of the arriving person or group of arriving persons to be quarantined;

(2) The location where the arriving person or group of arriving persons will be quarantined;

(3) The date and time at which quarantine commences and ends;

(4) The suspected quarantinable disease;

(5) A statement that the Director reasonably believes that the arriving person or group of arriving persons are infected with or exposed to a quarantinable disease;

(6) A statement regarding the basis for the Director's reasonable belief that the arriving person or group of arriving persons are infected with or exposed to a quarantinable disease, e.g., clinical manifestations, physical examination, laboratory tests, diagnostic tests or other medical tests, epidemiologic information, or other evidence of exposure or infection;

(7) A statement that the arriving person or group of arriving persons shall comply with conditions of quarantine, including, but not limited to examination, medical monitoring, medical treatment, prophylaxis, or vaccination, or other conditions of quarantine deemed by the Director to be necessary to prevent the transmission or spread of communicable disease;

(8) A statement that persons may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but that such persons remain subject to quarantine; and

(9) A statement that persons under quarantine, any time while the quarantine order is in effect, may request that the Director hold a hearing to review the quarantine order.

(b) When authorized by the Director, quarantine orders may be issued and signed by electronic means.

§ 71.21 Service of quarantine order.

(a) A copy of the quarantine order shall be personally served on the person or group of persons at the time that quarantine commences or as soon thereafter as the Director determines that the circumstances reasonably permit.

(b) In circumstances where the Director deems it necessary or desirable, the quarantine order may be posted or published in a conspicuous location, except that the Director may omit the names and/or identities of persons and take other measures respecting the privacy of persons.

§ 71.22 Medical examination and monitoring.

(a) The Director may order medical examination or monitoring of an arriving person or group of arriving persons that the Director reasonably believes to be infected with or exposed to a quarantinable disease.

(b) Arriving persons subject to medical examination or monitoring shall provide the Director with such information as the Director may order, including, but not limited to, familial and social contacts, travel itinerary, medical history, place of work, and vaccination status.

(c) Arriving persons subject to medical monitoring shall report for such further medical examinations and comply with other conditions of monitoring as the Director orders.

(d) Arriving persons may refuse medical examination or monitoring, but remain subject to provisional quarantine or quarantine provided that if quarantined such persons may request a hearing in accordance with § 71.23.

(e) Nothing in this section shall be construed to limit the Director's ability to conduct medical examinations or place arriving persons under medical monitoring on a voluntary basis or from engaging in other methods of voluntary disease surveillance.

§ 71.23 Hearings.

(a) Upon the request of an arriving person or group of arriving persons under quarantine, at any time while the quarantine order is in effect, the Director shall hold a hearing to review the quarantine order within one business day of the request.

(b) Requests for a hearing by the person or groups of persons under quarantine shall be limited to genuine and substantial issues of fact in dispute.

(c) The Director shall provide notice of the hearing to the arriving person or group of arriving persons under quarantine through any method that the Director determines to be reasonably designed to notify the person or group of persons that such a hearing has been scheduled.

(d) The Director shall designate a hearing officer to review the medical or other evidence of exposure or infection available to the Director and make findings as to which arriving person or group of arriving persons are infected with or exposed to a quarantinable disease and recommendations concerning which arriving person or group of arriving persons should be released or remain in quarantine.

(e) An arriving person or group of arriving persons in quarantine may authorize a representative to submit evidence concerning whether the person or group is infected with or exposed to a quarantinable disease;

(f) The Director shall take such measures that the Director determines to be reasonably necessary to allow an arriving person or group of arriving persons in quarantine to communicate with their authorized representatives. Such measures, for example, may include the establishment of video-conferencing facilities, e-mail terminals, telephone or cellular phone services, and other similar devices or technologies.

(g) The hearing officer may order a medical examination of the arriving person or group of arriving persons in quarantine when, in the hearing officer's judgment, such a medical examination would be necessary or desirable for a determination of whether the arriving person or group of arriving persons are infected with or exposed to a quarantinable disease, provided that such arriving persons may refuse such examination.

(h) The hearing officer shall, based upon his or her review of the evidence of exposure or infection made available to the hearing officer, make findings and a written recommendation to the Director as to which, if any, arriving person or group of arriving persons should be released or remain in quarantine.

(i) The Director, based upon the hearing officer's findings and written recommendation the administrative record shall within one business day after the conclusion of the hearing order the release or continued quarantine of the arriving person or group of arriving persons in quarantine.

(j) The Director may issue additional instructions and guidelines as the Director deems necessary governing the conduct of hearings.

(k) The quarantine order shall be deemed final either when the Director has accepted or rejected the hearing officer's written recommendation or three business days after the request for a hearing, whichever comes first.

§ 71.24 Care and treatment of arriving persons.

(a) Arriving persons subject to medical examination and monitoring, provisional quarantine, or quarantine in accordance with this part may receive care and treatment at the expense of the Director subject to paragraphs (b) through (f) of this section.

(b) Payment for such expenses shall be in the Director's sole discretion and subject to the availability of appropriations.

(c) Any payment of expenses shall be secondary to the obligation of the United States or any third-party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay for such care and treatment, and shall only be paid by the Director after all third-party payers have made payment in satisfaction of their obligations.

(d) Payment shall be limited to those amounts the hospital or medical facility would customarily bill the Medicare system using the International Classification of Diseases, Clinical Modification (ICD–CM), and relevant federal regulations promulgated by the Centers for Medicare and Medicaid Services in existence at the time of billing.

(e) For quarantinable diseases, payment shall be limited to costs for services and items reasonable and necessary for the care and treatment of the person for the time period that begins when the Director refers the person to the hospital or medical facility and ends when, as determined by the Director, the period of provisional quarantine or quarantine expires.

(f) For diseases other than those described in paragraph (e) of this section, such payment shall be limited to costs for services and items reasonable and necessary for care and treatment of the person for the time period that begins when the Director refers the person to the hospital or

medical facility and ends when the person's condition is diagnosed, as determined by the Director, with a non-quarantinable disease.

§ 71.25 Arriving foreign nationals.

(a) The Director, in consultation with the U.S. Department of State as may be necessary, shall advise an arriving foreign national under provisional quarantine or quarantine of such person's right to have the Director notify the consular post of the foreign state of such person's provisional quarantine or quarantine and to have any communications forwarded to the consular post without delay. In circumstances where required by international legal obligation, the Director shall, in consultation with the U.S. Department of State as may be necessary, directly notify the consular post of the foreign state of its arriving foreign nationals' provisional quarantine or quarantine.

(b) When requested by the consular officer of the foreign state and in a manner that the Director determines to be practicable, the Director, in consultation with the U.S. Department of State as may be necessary, shall allow the consular officer to have access to the foreign national under provisional quarantine or quarantine for purposes of conversing and corresponding with the foreign national and arranging for the foreign national's legal representation.

(c) Any foreign national subject to provisional quarantine or quarantine shall have the same rights as provided for other arriving persons subject to provisional quarantine or quarantine elsewhere in this part.

§ 71.26 Administrative record.

A person's administrative record shall, where applicable, consist of the provisional quarantine and/or quarantine order, and any medical, laboratory, epidemiologic, or other information in support thereof, evidence submitted by the person under provisional quarantine and/or quarantine, written findings and recommendation of the hearing officer, and hearing transcript, if any, or summary notes of the proceeding.

§ 71.27 Food, potable water, and waste: U.S. seaports and airports.

(a) Every seaport and airport shall have a supply of potable water from a watering point approved by the Commissioner of Food and Drugs, FDA, in accordance with standards established in 21 CFR parts 1240 and 1250.

(b) All food and potable water taken on board a ship or aircraft at any seaport or airport intended for human consumption thereon shall be obtained from sources approved in accordance with regulations cited in paragraph (a) of this section.

(c) Aircraft inbound or outbound on an international voyage shall not discharge over the United States any excrement, waste water or other polluting materials. Arriving aircraft shall discharge such matter only at servicing areas approved under regulations cited in paragraph (a) of this section.

§ 71.28 Health documents in international traffic.

(a) The Director may perform rodent infestation inspections, when requested by a shipline and at the shipline's own expense, and issue certificates, in a form prescribed by the Director, concerning the absence of rodents and other vermin on board ships.

(b) Unless otherwise determined by the Director, and in accordance with Articles 37 and 38 of the International Health Regulations, as may be further amended and ratified by the United States, the Maritime Declaration of Health and the Health Part of the Aircraft General Declaration, shall not be required as a condition of arrival at a U.S. port.

(c) The Director, upon the request of a shipline, may issue a Ship Sanitation Control Exemption Certificate or a Ship Sanitation Control Certificate, in accordance with Article 39 of the International Health Regulations, as may be further amended and ratified by the United States, or in another format prescribed by the Director.

§ 71.29 Special provisions relating to airports: Office, examination, and quarantine facilities.

(a) Each U.S. airport which receives international traffic shall provide without cost to the Government suitable office, examination, quarantine and other exclusive space for carrying out the Federal responsibilities under this part.

(b) Each U.S. airport which receives international traffic shall identify to the nearest quarantine station or other authorized representative on a yearly basis, or at other intervals as determined by the Director, space which is suitable for the quarantine of an arriving person or group of persons under guidelines or instructions issued by the Director.

§ 71.30 Establishment of institutions, hospitals and stations.

(a) The Director, with the approval of the Secretary, may, from time to time, select sites suitable for, and establish such institutions, hospitals, and stations in the States and possessions of the United States as the Director, with the approval of the Secretary, deems necessary or desirable for carrying out the functions in this part.

(b) The Director may enter into voluntary agreements with public or private institutions as the Director deems necessary or desirable for carrying out the functions in this part.

§ 71.31 Penalties.

Persons in violation of this part are subject to a fine of no more than $250,000 or one year in jail, or both, or as otherwise provided by law. Violations by organizations are subject to a fine of no more than $500,000 per event or as otherwise provided by law.

§ 71.32 Implementation through order.

The Director may implement any of the provisions of this part through order issued and signed by the Director.

§ 71.33 Appeals of actions required pursuant to §§ 71.13 or 71.14.

If the Director requires export or destruction of animals, articles, or things pursuant to § 71.13 or detention of a carrier pursuant to § 71.14, the owner of the animals, articles, or things thereof, or, the carrier owner may appeal. The appeal must be in writing and be submitted to the Director within 2 business days. The appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. The Director will issue a written response to the appeal, which shall constitute final agency action. This opportunity for an appeal shall not preclude the Director from acting immediately to exercise actions authorized under §§ 71.13 or 71.14.

Subpart B—Importations

§ 71.51 Dogs and cats.

(a) *Definitions.* As used in this section the term:

Cat means all domestic cats.

Confinement means restriction of a dog or cat to a building or other enclosure at a U.S. port, en route to destination and at destination, in isolation from other animals and from persons except for contact necessary for its care or, if the dog or cat is allowed out of the enclosure, muzzling and keeping it on a leash.

Dog means all domestic dogs.

Owner means owner or agent.

Valid rabies vaccination certificate means a certificate which was issued for a dog not less than 3 months of age at the time of vaccination and which:

(1) Identifies a dog on the basis of breed, sex, age, color, markings, and other identifying information.

(2) Specifies a date of rabies vaccination at least 30 days before the date of arrival of the dog at a U.S. port.

(3) Specifies a date of expiration which is after the date of arrival of the dog at a U.S. port. If no date of expiration is specified, then the date of vaccination shall be no more than 12 months before the date of arrival at a U.S. port.

(4) Bears the signature of a licensed veterinarian.

(b) *General requirements for admission of dogs and cats*—(1) Inspection by Director. The Director shall inspect all dogs and cats which arrive at a U.S. port, and admit only those dogs and cats which show no signs of communicable disease as defined in § 71.1.

(2) Examination by veterinarian and confinement of dogs and cats. When, upon inspection, a dog or cat does not appear to be in good health on arrival (e.g., it has symptoms such as emaciation, lesions of the skin, nervous system disturbances, jaundice, or diarrhea), the Director may require prompt confinement and give the owner an opportunity to arrange for a licensed veterinarian to examine the animal and give or arrange for any tests or treatment indicated. The Director will consider the findings of the examination and tests in determining whether or not the dog or cat may have a communicable disease. The owner shall bear the expense of the examination, tests, and treatment. When it is necessary to detain a dog or cat pending determination of its admissibility, the owner shall provide confinement facilities which in the judgment of the Director will afford protection against any communicable disease. The owner shall bear the expense of confinement. Confinement shall be subject to conditions specified by the Director to protect the public health.

(3) *Record of sickness or death of dogs and cats and requirements for exposed animals.* (i) The carrier responsible for the care of dogs and cats shall maintain a record of sickness or death of animals en route to the United States and shall submit the record to the quarantine station at the U.S. port upon arrival. Dogs or cats which have become sick while en route or are dead on arrival shall be separated from other animals as soon as the sickness or death is discovered, and shall be held in confinement pending any necessary examination as determined by the Director.

(ii) When, upon inspection, a dog or cat appears healthy but, during shipment, has been exposed to a sick or dead animal suspected of having a communicable disease, the exposed dog or cat shall be admitted only if examination or tests made on arrival reveal no evidence that the animal may be infected with a communicable disease. The provisions of paragraph (b)(2) of this section shall be applicable to the examination or tests.

(4) *Sanitation.* When the Director finds that the cages or other containers of dogs or cats arriving in the United States are in an insanitary or other condition that may constitute a communicable disease hazard, the dogs or cats shall not be admitted in such containers unless the owner has the containers cleaned and disinfected.

(c) *Rabies vaccination requirements for dogs.* (1) A valid rabies vaccination certificate is required at a U.S. port for admission of a dog unless the owner submits evidence satisfactory to the Director that:

(i) If a dog is less than 6 months of age, it has been only in a country determined by the Director to be rabies-free (a current list of rabies-free countries may be obtained from the Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333); or

(ii) If a dog is 6 months of age or older, for the 6 months before arrival, it has been only in a country determined by the Director to be rabies-free; or

(iii) The dog is to be taken to a research facility to be used for research purposes and vaccination would interfere with its use for such purposes.

(2) Regardless of the provisions of paragraph (c)(1) of this section, the Director may authorize admission as follows:

(i) If the date of vaccination shown on the vaccination certificate is less than 30 days before the date of arrival, the dog may be admitted, but must be confined until at least 30 days have elapsed since the date of vaccination;

(ii) If the dog is less than 3 months of age, it may be admitted, but must be confined until vaccinated against rabies at 3 months of age and for at least 30 days after the date of vaccination;

(iii) If the dog is 3 months of age or older, it may be admitted, but must be confined until it is vaccinated against rabies. The dog must be vaccinated within 4 days after arrival at destination but no more than 10 days after arrival at a U.S. port. It must be kept in confinement for at least 30 days after the date of vaccination.

(3) When a dog is admitted under paragraph (c)(2) of this section, the Director shall notify the health department or other appropriate agency having jurisdiction at the point of destination and shall provide the address of the specified place of confinement and other pertinent information to facilitate surveillance and other appropriate action.

(d) *Certification requirements.* The owner shall submit such certification regarding confinement and vaccination prescribed under this section as may be required by the Director.

(e) *Additional requirements for the importation of dogs and cats.* Dogs and cats shall be subject to such additional requirements as may be deemed necessary by the Director or to exclusion if coming from areas which the Director has determined to have high rates of rabies.

(f) *Requirements for dogs and cats in transit.* The provisions of this section shall apply to dogs and cats transported through the United States from one foreign country to another, except as provided below:

(1) Dogs and cats that appear healthy, but have been exposed to a sick or dead animal suspected of having a communicable disease, need not undergo examination or tests as provided in paragraph (b)(3) of this section if the Director determines that the conditions under which they are being transported will afford adequate protection against introduction of communicable disease.

(2) Rabies vaccination is not required for dogs that are transported by aircraft or ship and retained in custody of the carrier under conditions that would prevent transmission of rabies.

(g) *Disposal of excluded dogs and cats.* A dog or cat excluded from the United States under the regulations in this part shall be exported or destroyed. Pending exportation, it shall be detained at the owner's expense in the custody of the U.S. Customs Service at the U.S. port.

§ 71.52 Turtles, tortoises, and terrapins.

(a) *Definitions.* As used in this section the term:

Turtles includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order Testudinata, class Reptilia, except marine species (Families Dermochelidae and Cheloniidae).

(b) *Importation; general prohibition.* Except as otherwise provided in this section, live turtles with a carapace length of less than 4 inches and viable turtle eggs may not be imported into the United States.

(c) *Exceptions.* (1) Live turtles with a carapace length of less than 4 inches and viable turtle eggs may be imported into the United States, provided that such importation is not in connection with a business, and the importation is

limited to lots of fewer than seven live turtles or fewer than seven viable turtle eggs, or any combinations of such turtles and turtle eggs totaling fewer than seven, for any entry.

(2) Seven or more live turtles with a carapace length of less than 4 inches, or seven or more viable turtle eggs or any combination of turtles and turtle eggs totaling seven or more, may be imported into the United States for bona fide scientific or educational purposes or for exhibition when accompanied by a permit issued by the Director.

(3) The requirements in paragraphs (c)(1) and (c)(2) of this section shall not apply to the eggs of marine turtles excluded from these regulations under § 71.52(a).

(d) *Application for permits.* Applications for permits to import turtles, as set forth in paragraph (c)(2) of this section, shall be made by letter to the Director, and shall contain, identify, or describe, the name and address of the applicant, the number of specimens, and the common and scientific names of each species to be imported, the holding facilities, the intended use of the turtles following their importation, the precautions to be undertaken to prevent infection of members of the public with Salmonella and Arizona bacteria, and any other information and assurances the Director may require.

(e) *Criteria for issuance of permits.* A permit may be issued upon a determination that the holder of the permit will isolate or otherwise confine the turtles and will take such other precautions as may be determined by the Director to be necessary to prevent infection of members of the public with Salmonella and Arizona bacteria and on condition that the holder of the permit will provide such reports as the Director may require.

(f) *Interstate regulations.* Upon admission at a U.S. Port, turtles and viable turtle eggs become subject to Food and Drug Administration Regulations (21 CFR 1240.62) regarding general prohibition.

(g) *Other permits.* Permits to import certain species of turtles may be required under other Federal regulations (50 CFR parts 17 and 23) protecting such species.

§ 71.53 Nonhuman primates.

(a) *Definitions.* As used in this section the term:

Importer means any person or corporation, partnership, or other organization, receiving live nonhuman primates from a foreign country within a period of 31 days, beginning with the importation date, whether or not the primates were held for part of the period at another location. The term importer includes the original importer and any other person or organization receiving imported primates within the 31-day period.

Nonhuman primates means all nonhuman members of the Order Primates, including, but not limited to, animals commonly known as monkeys, chimpanzees, orangutans, gorillas, gibbons, apes, baboons, marmosets, tamarin, lemurs, and lorises.

(b) *General prohibition.* No person or organization may import live nonhuman primates into the United States unless registered as an importer in accordance with applicable provisions of this section.

(c) *Uses for which nonhuman primates may be imported and distributed.* Live nonhuman primates may be imported into the United States and sold, resold, or otherwise distributed only for bona fide scientific, educational, or exhibition purposes. The importation of nonhuman primates for use in breeding colonies is also permitted provided that all offspring will be used only for scientific, educational, or exhibition purposes. The maintenance of nonhuman primates as pets, hobby, or an avocation with occasional display to the general public is not a permissible use.

(d) *Registration of importers.* (1) Importers of nonhuman primates shall register with the Director in a manner prescribed by the Director.

(2) Documentary evidence that an importer will use all nonhuman primates solely for the permitted purposes is required.

(3) Registration shall include certification that the nonhuman primates will not be shipped, sold, or otherwise transferred to other persons or organizations without adequate proof that the primates will be used only for the permitted purposes.

(4) Registration shall be for 2 years, effective the date the application for registration is approved by the Director.

(5) Registration may be renewed by filing a registration application form with the Director not less than 30 days nor more than 60 days before expiration of the current registration.

(e) *Recordkeeping and reporting requirement for registered importers.* (1) Importers shall maintain records on each shipment of imported nonhuman primates received. The record on each shipment shall include the number of primates received, species, country of origin, date of importation, the number of primates in the shipment that die within 90 days after receipt, and cause(s) of deaths. If any primates in the shipment are sold or otherwise distributed within 90 days after receipt, the record shall include the number of primates in each shipment or sale, the dates of each shipment or sale, and the identity of the recipients. In addition, the record shall contain copies of documents that were presented to the importer to establish that the recipient would use the primates solely for the permitted purposes. The records shall be maintained in an organized manner in a central location at or in close proximity to the importer's primate holding facility. The records shall be maintained for a period of 3 years and shall be available for inspection by the Director at any time.

(2) Importers shall report to the Director by telephone within 24 hours the occurrence of any illness in nonhuman primates that is suspected of being yellow fever, monkeypox, or Marburg/Ebola disease.

(3) Importers also shall report to the Director by telephone within 24 hours the occurrence of illness in any member of their staff suspected of having an infectious disease acquired from nonhuman primates.

(f) *Disease control measures.* Upon receipt of evidence of exposure of nonhuman primates to a communicable disease that may constitute a threat to public health, the Director may provide for or require examination, treatment, detention, isolation, seizure, or destruction of exposed animals. Any measures required shall be at the owner's expense.

(g) *Disposal of excluded nonhuman primates.* Nonhuman primate(s) excluded from the United States by provisions of this section shall, at the owner's option and expense, be exported, destroyed, or given to a scientific, educational, or exhibition facility under arrangements approved by the Director. If the owner fails to dispose of the nonhuman primate by one of the approved options or fails to select a method of disposal within 7 days, the Director will select the method of disposal. Pending disposal, the nonhuman primate(s) shall be detained at the owner's expense in custody of the U.S. Customs Service at the U.S. port.

(h) *Revocation of an importer's registration.* (1) An importer's registration may be revoked by the Director, upon notice to the importer holding such registration, if the Director determines that the importer has failed to comply with any applicable provisions of this section. The notice shall contain a statement of the grounds upon which the revocation is based.

(2) The importer may file an answer within 20 days after receipt of the notice. Answers shall admit or deny

specifically, and in detail, each allegation in the notice. Allegations in the notice not denied by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the importer to file an answer within 20 days after receipt of the notice may be deemed an admission of all allegations of fact recited in the notice.

(3) The importer shall be entitled to a hearing with respect to the revocation upon filing a written request, either in the answer or in a separate document, with the Director within 20 days after the effective date of revocation. Failure to request a hearing shall be deemed a waiver of hearing and as consent to the submission of the case to the Director for decision based on the written record. The failure both to file an answer and to request a hearing shall be deemed to constitute consent to the making of a decision on the basis of available information.

(4) As soon as practicable after the completion of any hearing conducted pursuant to the provisions of this section, the Director shall render a final decision. A copy of such decision shall be served on the importer.

(5) An importer's registration which has been revoked may be reinstated by the Director upon inspection, examination of records, conference with the importer, and receipt of information and assurances of compliance with the requirements of this section.

(i) *Other permits.* In addition to the requirements under this section, permits to import certain species of nonhuman primates may also be required under other Federal regulations (50 CFR parts 17 and 23) protecting such species.

§ 71.54 Etiological agents, hosts, and vectors.

(a) A person may not import into the United States, nor distribute after importation, any etiological agent or any arthropod or other animal host or vector of human disease, or any exotic living arthropod or other animal capable of being a host or vector of human disease unless accompanied by a permit issued by the Director.

(b) Any import coming within the provisions of this section will not be released from custody prior to receipt by the District Director of the U.S. Customs Service of a permit issued by the Director.

§ 71.55 Dead bodies.

(a) The remains of a person who died of a communicable disease may not be brought into a U.S. port unless it has been:

(1) Placed in a hermetically sealed casket;

(2) Cremated; or

(3) Accompanied by a permit issued by the Director.

(b) The Director may inspect human remains brought into a U.S. port and condition their further importation upon such requirements that the Director may deem necessary through order to prevent the introduction, transmission, and spread of communicable diseases.

§ 71.56 African rodents and other animals that may carry the monkeypox virus.

(a) *What actions are prohibited? What animals are affected?* (1) Except as provided in paragraphs (a)(2) and (a)(3) of this section,

(i) You must not import or attempt to import any rodents, whether dead or alive, that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, any products derived from such rodents, any other animal, whether dead or alive, whose importation the Director has prohibited by order, or any products derived from such animals; and

(ii) You must not prevent or attempt to prevent the Centers for Disease Control and Prevention (CDC) from causing an animal to be quarantined, re-exported, or destroyed under a written order.

(2) The prohibitions in paragraph (a)(1) of this section do not apply if you have written permission from CDC to import a rodent that was obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or an animal whose importation the Director has prohibited by order.

(i) To obtain such written permission from CDC, you must send a written request to Division of Global Migration and Quarantine, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, GA 30333. You may also fax your request to the Division of Global Migration and Quarantine (using the same address in the previous sentence) at 404–498–1633.

(ii) Your request must state the reasons why you need an exemption, describe the animals involved, describe the number of animals involved, describe how the animals will be transported (including carrying containers or cages, precautions for handlers, types of vehicles used, and other procedures to minimize exposure of animals and precautions to prevent animals from escaping into the environment), describe any holding facilities, quarantine procedures, and/or veterinarian evaluation involved in the animals' movement, and explain why an exemption will not result in the spread of monkeypox within the United States. Your request must be limited to scientific, exhibition, or educational purposes.

(iii) We will respond in writing to all requests, and we also may impose conditions in granting an exemption. If we deny your request, you may appeal that denial. Your appeal must be in writing and be submitted to the CDC official whose office denied your request, and you must submit the appeal within two business days after you receive the denial. Your appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. We will issue a written response to the appeal, which shall constitute final agency action.

(3) The prohibitions in paragraph (a) of this section do not apply to products derived from rodents that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or products derived from any other animal whose importation the Director has prohibited by order if such products have been properly processed to render them noninfectious so that they pose no risk of transmitting or carrying the monkeypox virus. Such products include, but are not limited to, fully taxidermied animals and completely finished trophies; and they may be imported without written permission from CDC.

(b) *What actions can CDC take?* (1) To prevent the monkeypox virus from spreading and becoming established in the United States, we may, in addition to any other authorities under this part:

(i) Issue an order causing an animal to be placed in quarantine,

(ii) Issue an order causing an animal to be re-exported,

(iii) Issue an order causing an animal to be destroyed, or

(iv) Take any other action necessary to prevent the spread of the monkeypox virus.

(2) Any order causing an animal to be quarantined, re-exported, or destroyed will be in writing.

(c) *How do I appeal an order?* If you received a written order to quarantine or re-export an animal or to cause an animal to be destroyed, you may appeal that order. Your appeal must be in writing and be submitted to the CDC official whose office issued the order, and you must submit the appeal within 2 business days after you receive the order. Your appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. We will issue a

written response to the appeal, which shall constitute final agency action.

Dated: November 21, 2005.

Michael O. Leavitt,

Secretary.

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Wednesday,
November 30, 2005

Part III

Department of Transportation

Federal Transit Administration

FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

[Docket No. FTA–2005–23089]

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces changes in the Federal Transit Administration (FTA) programs in accordance with SAFETEA–LU, which authorizes funds for all of the surface transportation programs of the Department of Transportation for Federal fiscal years 2005 through 2009. This notice provides preliminary implementation instructions and guidance for grants under the new and revised programs in FY 2006 and invites public comment. The notice also includes tables of unobligated (or carryover) amounts for earmarks from prior years under the discretionary programs, and tables that list discretionary program earmarks authorized under SAFETEA–LU.

DATES: Comments on the content of this notice will be received until December 30, 2005. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FTA–2005–23089] by any of the following methods:

1. Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site. Fax: 202–493–2251.

2. Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, PL–401, Washington, DC 20590–0001.

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

Instructions: You must include the agency name (Federal Transit Administration) and the docket number (FTA–2005–23089). You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to the Department's Docket Management System (DMS) Web site located at *http://dms.dot.gov.* This means that if your comment includes any personal identifying information, such information will be made available to users of DMS.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Mary Martha Churchman, Director, Office of Resource Management and State Programs, (202) 366–2053. Please contact the appropriate FTA regional office, from the list in Appendix A, for grantee specific requests for information or technical assistance.

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I. Overview

This document contains important information about new FTA programs authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU) (Pub. L. 109–059), signed into law by President Bush on August 10, 2005, and changes to programs reauthorized by that legislation. It also contains information on how FTA plans to administer the transit programs

discussed in this document, in fiscal year (FY) 2006. For each FTA program included, we have provided information on the SAFETEA–LU authorized funding levels for fiscal years 2006–2009, the basis for apportionment or allocation for funds, requirements specific to the program, period of availability of funds, and other program information. The document also includes a section that introduces planning emphasis areas for FY 2006. A separate section of the document provides information on pre-award authority and other requirements and guidance applicable to FTA program administration. Finally, the notice includes tables that show unobligated or carryover funding available, in FY 2006, from prior years under certain discretionary programs, and tables that list authorized project earmarks under SAFTEA–LU.

Information in this document includes references to the existing FTA program guidance circulars. While some information in the circulars has been superseded by new provisions in SAFETEA–LU, the circulars remain a resource for program guidance in most areas. FTA intends to revise the circulars, with an opportunity for public comment.

To supplement the guidance provided in this document FTA is preparing answers to frequently asked questions (FAQs), on SAFETEA–LU changes and impacts, from its grantees, stakeholders, and other interested parties. These FAQs will be posted on the FTA Web site at *http://www.fta.dot.gov* when they become available.

Throughout the document we have included specific questions on which we seek comment, and we invite your comments to the docket on any information provided in this notice. A list of the specific questions or issues can be found in Appendix B.

II. FY 2006 Funding for FTA Programs

A. Authorized Funding for FY 2006

SAFETEA–LU provides a combination of trust and general funds that total $8.6 billion for FTA programs for FY 2006. Table 1 of this document shows the authorized funding for the FTA programs for the fiscal years 2006–2009. This notice provides a narrative explanation of the funding levels and other factors affecting the apportionments and allocations for each program.

B. Status of FY 2006 Funding

When the FY 2006 appropriations bill is passed and enacted into law, FTA will publish another notice that will include a table for each program that contains the apportionments or allocations, based on the program funding level in the FY 2006 appropriations act. At the time this notice was prepared the agency was operating under a Continuing Resolution and only a small fraction of the FY 2006 funds authorized in SAFETEA–LU was available for FTA programs and administrative expenses. No FY 2006 program funds have been apportioned at this time. Congress recently took action on the FY 2006 Appropriations Act and we will publish the FY 2006 apportionments and allocations shortly.

C. Project Management Oversight Takedown

FTA draws money from funds appropriated to certain FTA programs for program oversight activities conducted by the agency. The funds are used to provide necessary oversight activities, including oversight of the construction of any major project under these statutory programs; to conduct safety and security, civil rights, procurement, management and financial reviews and audits; and to provide technical assistance to correct deficiencies identified in compliance reviews and audits.

49 U.S.C. 5327 authorizes the takedown of funds from FTA programs for project management oversight. SAFETEA–LU increased the amount that may be set-aide for such activities above the levels established under TEA–21 and identified additional programs to which the oversight takedown applies. SAFETEA–LU provides oversight takedowns at the following levels: 0.5 percent of Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Capital Investment funds, 0.5 percent of Special Needs of Elderly Individuals and Individuals with Disabilities formula funds, 0.5 percent of Nonurbanized Area Formula funds, and 0.5 percent of Alternative Transportation in the Parks and Public Lands funds. Language in section 5327 also specifies the addition of ''safety and security management'' to the list of project management plan requirements.

III. SAFETEA–LU: FY 2006–2009 Authorized Funding Levels and Project Authorizations

SAFETEA–LU provides a combination of trust and general fund authorizations that total $45.3 billion for public transportation for fiscal years 2005–2009 ($52.6 billion over the six year period 2004–2009). Just over 80 percent is derived from the Mass Transit Account, with only New Starts, Research and FTA Administrative funding coming from the General Fund. All funds, including the General Fund portion, are guaranteed, which means that the guaranteed annual levels are already ''paid for'' under Congressional budgetary rules. This assures that in each year's appropriations process the specified amount of authorized funding will be available each year for transit programs. See Table 1 for the guaranteed funding levels by program.

Previously, under TEA–21, all the FTA programs were funded with both Mass Transit Account and General Funds. Because of this change in the structure of FTA's accounts, except for New Starts and Research program grants, FTA will not be able to combine FY 2006 funds in the same grant with funds appropriated in prior years. See section VIII F below for grant application procedures.

SAFETEA–LU includes 405 New Starts project designations for fiscal years 2006–2009, many of which are listed more than once. The total funding authorized for these projects is $5.49 billion. Thirty-one (31) projects are authorized for Full Funding Grant Agreements (FFGAs); 38 projects are authorized for Final Design (FD) and Construction, and 264 projects are authorized for Preliminary Engineering (PE). Dollar amounts are specified by fiscal year for each FFGA project. No funding amounts are specified for the FD and construction and PE projects.

Fifty-two New Starts project designations listed have a total amount specified but this amount is not identified with any particular fiscal year. In addition, 18 New Starts projects for Alternative Analysis under section 5339 are designated and amounts authorized for fiscal years 2006 and 2007 specified. The Alaska and Hawaii Ferry Boat and Denali Commission projects are also authorized. All New Starts earmarks are listed in Table 2 and Table 3 by State, including the dollar amount if specified.

Also authorized are project specific allocations for 646 Bus and Bus-Related Facilities projects totaling $1,819,662,341 for fiscal years 2006–2009. These projects and amounts are displayed in Table 4.

Under the Clean Fuels program, 16 projects totaling $78,385,000 are earmarked for funding for FY 2006–2009. These projects and amounts are displayed in Table 5.

It should be noted that projects earmarked in SAFETEA–LU are subject to Congressional actions in later appropriations bills and funding is not available for immediate obligation. Estimates of formula program funding

levels for fiscal years 2006–2009, by State and urbanized area (UZA), are available on the FTA Web site. These numbers are for planning purposes only as they will be revised when each year's appropriation bill is enacted but may be used for the purpose of programming metropolitan transportation improvement programs (TIPs) and statewide transportation improvement programs (STIPs).

In the estimates of formula funding for UZAs, for the JARC and New Freedom programs, FTA included the amount of funding attributable to each UZA less than 200,000 in population (small UZA) low income individuals and individuals with disabilities, respectively. These amounts were provided, for information purposes only. Under these programs, funds for the UZAs under 200,000 in population will be apportioned to the state for competitive selection of projects. Similarly, we estimated the amount of funding that might go to each State under the Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1) also referred to as the Tribal Transit Program in this document), based on tribal population. But these funds will not be apportioned to the States and the process for apportioning them among the Tribes has not yet been determined.

IV. SAFETEA–LU: Highlights of Cross-Cutting Changes

A. Definitional Changes

1. Mobility Management

SAFETEA–LU added ''mobility management'' to the list of capital projects at 5302(a)(1)(L). This allows ''short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient'' to be funded as a capital project. The definition excludes the actual costs of operating public transportation services, but allows the costs of planning and coordination with human service transportation to be treated as capital rather than operating costs.

2. Security Planning, Training, and Drills

Four new eligible capital activities were added at 5302(a)(1)(J). These include projects ''to refine and develop security and emergency response plans, projects aimed at detecting chemical and biological agents in public transportation, the conduct of emergency response drills with public transportation agencies and local first response agencies, and security training for public transportation employees.'' Expenses related to transit operations, other than those incurred in conducting emergency response drills or security training, are excluded from this definition and will continue to be eligible only as operating in those areas eligible to use FTA funds for operating assistance.

3. Debt Service Reserve

SAFETEA–LU allows recipients to be reimbursed from section 5309 funds for deposits of bond proceeds in a debt service reserve. The Act also allows up to ten recipients to be reimbursed from section 5307 funds for bond proceeds deposited in a debt service reserve established with a bondholders' trustee. These provisions will have the effect of reducing grantees' out of pocket bond issuance costs due to the reimbursement for the cost of the debt service reserve. The new capital definition of debt service reserve is found at 5302(a)(1)(K) and the limitations on its use are at sections 5323(e)(3) and (4).

4. Intercity Bus and Intercity Rail

The definition of an eligible joint development capital project in section 5302(A)(1)(G) has been expanded to include ''construction, renovation, and improvement of intercity bus and intercity rail stations and terminals.'' Further, the limitation that made ''commercial revenue-producing facilities'' ineligible for FTA assistance has been lifted with respect to intercity bus stations or terminals. Intercity bus stations and terminals are not required to provide a fair share of revenue for public transportation that will be used for public transportation.

The result of these changes is that FTA funds can now be used for all aspects of intercity bus and rail facilities in facilities (such as intermodal terminals) which meet the criteria in section 5302(a)(1)(G) for joint development projects (physical and functional relationship to public transportation). Further, $35 million per year is set aside in the section 5309 Bus and Bus-Related Facilities program for intermodal terminals, including the intercity bus portions of those terminals.

5. Definition of Public Transportation

Throughout SAFETEA–LU, the term public transportation is used wherever the FTA statute previously referred to mass transit or mass transportation. The definition of public transportation at 5302(a)(10) was also modified to specifically exclude intercity bus transportation. This change does not affect the eligibility of intercity bus service under the rural program (section 5311) or the over-the-road bus accessibility program (TEA–21, section 3038). The definition now also specifically excludes intercity passenger rail transportation provided by AMTRAK. The intercity bus and intercity rail portion of intermodal terminals, however, is an eligible capital cost under 49 U.S.C. 5302(a)(1)(G).

B. Cross-cutting Programmatic Requirements and Changes

1. State Infrastructure Bank

SAFETEA–LU establishes a new State Infrastructure Bank (SIB) program under which all States, Puerto Rico, the District of Columbia, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands are authorized to enter into cooperative agreements with the Secretary of Transportation to establish financial entities that provide various types of transportation infrastructure credit assistance for fiscal years 2005–2009. The new program is a continuation and expansion of similar programs created by the National Highway System (NHS) Act in 1995 and the TEA–21 legislation of 1998. It gives States the capacity to increase the efficiency of their transportation investment and significantly leverage Federal resources by attracting non-Federal public and private investment. The program provides greater flexibility to the States by allowing other types of project assistance in addition to grant assistance.

2. Coordination

Under three FTA formula programs [the Special Needs of Elderly Individuals and Individuals with Disabilities Program (section 5310), Job Access and Reverse Commute (section 5316), and New Freedom (section 5317)], there is a requirement that the designated recipient competitively select projects and that the projects must be derived from a locally developed coordinated public transit/human service transportation plan. Public transit operators, including those funded under both the urbanized and non-urbanized formula programs (sections 5307 and 5311) are expected to be participants in the local planning process for coordinated public transit/human service transportation. See the specific programs below for more information about the planning requirements as it relates to the three programs. See also the metropolitan planning public participation requirement below.

3. Public Participation Planning Requirement

Metropolitan Planning Organizations (MPOs) must develop and utilize a ''participation plan'' that provides reasonable opportunities for the interested parties to comment on the content of the metropolitan transportation plan and metropolitan TIP. This requirement is intended to afford parties who participate in the metropolitan planning process a specific opportunity to comment on the plan prior to its approval, including governmental agencies and nonprofit organizations that receive Federal assistance from a source other than the Department of Transportation (DOT) to provide non-emergency transportation services and recipients of assistance under section 204 of Title 23 U.S.C. The participation plan must be in place prior to MPO adoption of transportation plans and TIPs addressing SAFETEA–LU provisions.

4. Public Hearings

The public hearing requirement in 49 U.S.C. 5323(b) for capital projects was changed by SAFETEA–LU. Formerly, an opportunity for a public hearing was required on a section 5309 grant application if the grant would substantially affect the community or its mass transportation service. Many of the notices published under this requirement did not ultimately result in a hearing being held.

SAFETEA–LU associates more clearly the public involvement and hearing requirements for capital projects with the environmental review required by the National Environmental Policy Act (NEPA) and its implementing regulations. It also broadens the requirement to apply to all capital projects (as defined in section 5302). Now, the grant applicant must provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, must hold a public hearing on the project if the project affects significant economic, social, or environmental interests. These requirements will be satisfied through compliance with the NEPA requirements for a public scoping process, public review and comment on NEPA documents, and a public hearing on every draft environmental impact statement (EIS). FTA will also require a public hearing on environmental assessments (EAs) that have a high probability of being elevated to EISs.

Section 5323(b) must be read in concert with section 5324(b) which states that FTA must review the public comments and hearing transcript to ascertain that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that FTA must make a written finding to this effect.

5. Labor Protection

SAFETEA–LU codified in 5333(b) streamlined labor protection arrangements already used by the Department of Labor (DOL) in certifying FTA grants for purchase of like-kind equipment or facilities or non-material grant amendments. It also codified existing practice when a contractor is changed through competitive bidding. In section 5311, the use of a special warranty is written into the law. Awards under two new programs, New Freedom and Alternative Transportation in Parks and Public Lands, will not be required to be certified by DOL.

6. Buy America

The Buy America stipulation is intended to ensure that Federal grants stimulate domestic economic activity. FTA funds must be used for goods that must be produced or manufactured in the United States or with specific products, and have a defined percent of domestic content. Four changes from the previous law are that SAFETEA–LU:

- Requires the Secretary of Transportation to issue a written justification for public interest waivers on Buy America requirements. (Under the law, he may waive the Buy America requirements if they are deemed inconsistent with the public interest). The Secretary must publish the written justification in the **Federal Register** and provide the public with a reasonable period of time for notice and comment.
- Clarifies that a party adversely affected by a FTA decision under the Buy America provisions has the right to seek administrative review.
- Repeals the general waiver of sub-sections (b) and (c) of Appendix A of section 661.7.
- Requires a rulemaking within 180 days clarifying or defining the following Buy America requirements:

1. Microprocessors; Buy America requirements have been waived for microprocessors since few are manufactured in the United States. The Secretary is directed to apply the waiver to a device that is solely for the purpose of processing and storing data and not extended to a product containing the microprocessor.

2. Defining the term ''end product'' for non-rolling stock. Does the end product serve a purpose by itself or with other end products on an interoperative basis? A product that does not work with products of other manufacturers is part of that manufacturers system that is the end product. A list of systems and end products will be developed.

3. Defining the term ''negotiated procurement'' and determine Buy America compliance on the basis of the certification with the final offer.

4. Defining the term ''contractor''.

5. Clarifying that a grant recipient may request a non-availability waiver after the contract award if the contractor has made a certification of compliance with the requirements in good faith. The contractor must have certified that it can meet the Buy America requirements before being awarded a contract. If the contractor later finds that parts are not available to meet the requirement, the grantee may now request a Buy America waiver.

7. Procurement

SAFETEA–LU recodified FTA's procurement requirements in section 5325 of Title 49 U.S.C. Section 5325(a) establishes full and open competition as the basic requirement for FTA-funded third party contracts. Section 5325(b), which covers architectural, engineering, and design contracts, has been modified to match similar language in Title 23 U.S.C., on reciprocity of audited indirect cost rates. Section 5325(c) on use of other-than-low-bid procurement has been reenacted. Language on Turnkey Contracting, formerly in section 5326, now appears as section 5325(d), and is re-titled ''Design-Build'', reflecting more up-to-date terminology. Provisions formerly in section 5326 governing rolling stock procurements now appear in sections 5325(e) and (f). Section 5325(g) now allows access by DOT or the Government Accountability Office (GAO) to any contract-related record, not just those in sole-source procurements. Section 5325(h) continues the prohibition on exclusionary or discriminatory procurements. A new section 5325(i) prohibits application of State laws requiring bus purchases to go through in-State bus dealers from applying to projects assisted under the FTA program. Finally, section 5325(j) codifies in law the requirement that contracts be awarded only to ''responsible'' contractors. Grantees are required to assess the integrity of the contractor, compliance with public policy, the contractor's financial and technical resources, and the contractors past performance, particularly as reported in the Contractor Performance Assessment Report required under section 5309(l)(2).

8. Pre-Award/Post-Delivery Reviews

Under the current Buy America provisions, there is a requirement for a resident factory inspector for rolling stock procurements of greater than 10 buses. SAFETEA–LU eliminates the requirement for a resident factory inspector for rolling stock procurements of 20 vehicles or less for use in rural (other than urbanized) areas, or UZAs of 200,000 population or less.

9. Charter Service and School Bus

SAFETEA–LU section 3023(d) amended 49 U.S.C., section 5323(d)(2) and provided new remedies for violations of charter service. The amended provision states that the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement. The previous provision stated that the Secretary could bar a recipient from receiving further assistance when the Secretary found a continuing pattern of violations of the agreement. The new provision allows for more flexibility. Under the prior law the Secretary could totally bar a recipient from receiving further financial assistance, but this penalty was so harsh that it was only rarely invoked. Under SAFETEA–LU the Secretary can determine a penalty less than a complete bar of financial assistance; the Secretary shall bar an operator from receiving assistance in an amount the Secretary considers appropriate.

In addition, the Conference Report for SAFETEA–LU stated that the conferees directed FTA to initiate a negotiated rulemaking seeking public comment on the charter service regulation implementing 49 U.S.C., 5323(d) and to consider the following issues: (1) Whether public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost effective manner by private operators; (2) how can the administration and enforcement of charter bus provisions be better communicated to the public, including use of internet technology; (3) improve the enforcement of violations; and (4) improve the complaint and administrative appeals process. FTA has initiated the negotiated rulemaking process.

SAFETEA–LU section 3023(f) amended 49 U.S.C., 5323(f) and provided new remedies for violations of the school bus transportation provision. The amended provision states that if the Secretary finds a violation, the Secretary shall bar a recipient or operator from receiving Federal transit assistance in an amount the Secretary considers appropriate. The previous provision stated that in the case of a violation, an applicant could not receive other mass transportation financial assistance. The new provision allows for more flexibility. Under the prior law the penalty was so severe that it was only rarely invoked. Under SAFETEA–LU the Secretary can determine a penalty less than a complete bar of financial assistance; the Secretary shall bar an operator from receiving assistance in an amount the Secretary considers appropriate.

10. Revenue Bonds as Local Match

Originally allowed in TEA–21, revenue bonds may now be used as local match, provided that the grantee maintains a greater level of local transit investment in the subsequent three years (as demonstrated in the TIP) than as in the current and prior two years. This provision in 5323(e) allows bond proceeds, secured by the revenues of a transit capital project, to be used as local match for that project.

11. Government's Share of Cost of Equipment and Facilities for ADA and Clean Air Act Compliance

The provision allowing a 90 percent Federal share for the incremental cost of compliance with the Americans with Disabilities Act (ADA) or Clean Air Act (CAA) was expanded to include vehicle-related facilities as well as equipment at section 5323(i). Under the provision allowing the Secretary ''to determine through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts'', FTA previously computed an 83 percent composite match for vehicle-related equipment. Given changes in technology, FTA may revisit that calculation, but for the time being, grantees may use the 83 percent share. FTA seeks public comment on the continued use of the 83 percent share. Also, the administratively determined 83 percent Federal share does not apply to facilities, for which the costs are more variable. Grantees may apply for the 90 percent share of the actual incremental costs of vehicle-related facility improvements related to ADA or CAA compliance, but FTA requests that grantees provide supporting documentation for that request. Until FTA develops guidance, the eligibility of facility related costs at the higher share will be reviewed on a case-by-case basis as part of the grant application process.

V. SAFETEA–LU: Summary of New Programs and Formulas

A. New Freedom (49 U.S.C. 5317)

The New Freedom program provides formula funding for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. Details are provided in section VI N below.

B. Alternative Transportation in the Parks and Public Lands (49 U.S.C. 5320)

SAFETEA–LU provides $22 million annually for alternative transportation projects to enhance the protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with State and local governments, and improving park and public land transportation infrastructure. The program is to be implemented by FTA in consultation with the Department of the Interior and other Federal land management agencies.

The Secretary of Transportation will develop cooperative arrangements with the Secretary of the Interior that provide: (1) Technical assistance; (2) interagency and multidisciplinary teams to develop alternative transportation policy, procedures, and coordination; and, (3) procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of selected projects. The Secretary of the Interior, after consultation with and in cooperation with the Secretary of Transportation, will determine the final selection and funding levels of an annual program of qualified projects.

C. Small Starts (Component of the Section 5309 New Starts Program)

SAFETEA–LU specifies a new category of projects to be funded separately out of the section 5309 New Starts program. This new category encompasses smaller scale projects, referred to as Small Starts, and has been authorized at a funding level of $200 million per year, beginning in FY 2007.

Projects requesting less than $75 million in section 5309 New Starts funds with a total project cost less than $250 million will be eligible to receive funds under the new Small Starts provision. SAFETEA–LU lays out a

simplified evaluation and rating process that FTA will use to support funding decisions for Small Starts projects. The statute specifies both cost-based and project-definition-based eligibility requirements. The definition of fixed guideway capital project to be applied in Small Starts has been expanded to include substantial corridor bus projects that either operate in a separate right of way during peak hours or contain significant investment in corridor-based bus improvements. Small Starts projects must also be the result of planning and alternatives analysis.

The transit program statute provides for an evaluation process for proposed Small Starts projects that include a subset of the evaluation criteria specified for traditional New Starts projects. The Small Starts evaluation criteria in the statute include:

- Transit supportive land use,
- Cost-effectiveness,
- Reliability of cost and ridership estimates,
- Effect on economic development, and
- Other factors that the Secretary determines are appropriate.

Currently, projects requesting less than $25 million in New Starts funding are exempt from the annual evaluation and rating process. Under the new statute, this exemption no longer applies once a regulation is issued for Small Starts. All eligible projects that meet the aforementioned Small Starts cost criterion will be rated and evaluated according to the Small Starts process. SAFETEA–LU also calls for a simplified project development process to be applied to Small Starts projects. SAFETEA–LU requires that FTA issue regulations establishing an evaluation and rating process for the Small Starts process. The Small Starts Advance Notice of Proposed Rulemaking will be issued soon.

D. Alternatives Analysis (49 U.S.C. 5339)

Alternatives Analysis is no longer included in the eight percent of the section 5309 New Starts program that can be used for projects prior to FD and Construction. Instead, $25 million annually is provided for Alternatives Analysis grants under section 5339. As before, Metropolitan Planning funds and Urbanized Area Formula funds can also be used to support alternatives analysis. The procedures grantees should use to apply for section 5339 funds are referred to in section VI P below.

E. Public Transportation on Indian Reservations (49 U.S.C. 5311(c)(1))

SAFETEA–LU creates a new Tribal Transit program as a takedown under the section 5311 program. Forty-five million dollars is authorized for fiscal years 2006–2009, growing from $8 million annually to $15 million. The funds are to be apportioned to the Tribes, not to the States, for capital and operating assistance for rural transit and rural intercity bus service. FTA will develop procedures for the Tribal Transit program in consultation with tribal leaders and other interested stakeholders.

In addition to funding under the Tribal Transit program, States must continue to include the Tribes in the equitable distribution of the section 5311 funds apportioned to the States. Indian Tribes are established as direct recipients under section 5311 for funding from the States' apportionment as well as from the new Tribal Transit program.

See section VI K for additional information and for specific questions on which FTA seeks comments from Tribes and other interested stakeholders.

F. Growing States and High Density States Formula Factors (49 U.S.C. 5340)

SAFETEA–LU establishes new Growing States and High Density States formula factors to distribute funds to the section 5307 and section 5311 programs. One-half of the funds are made available under the Growing States factors and are apportioned by a formula based on State population forecasts for 15 years beyond the most recent Census. Amounts apportioned for each State are then distributed between UZAs and nonurbanzied areas based on the ratio of urbanized/nonurbanzied population within each State. The High Density States factors distribute the other half of the funds to States with population densities in excess of 370 persons per square mile. These funds are apportioned only to UZAs within those States. Additional details on the Growing States and High Density States formula and factors are discussed in section VI Q below.

VI. Program Specific Information and Requests for Comments

A. Metropolitan Planning Program (49 U.S.C. 5303)

Section 5303 authorizes a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. State Departments of Transportation and MPOs may receive funds for planning projects that support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency; increasing the safety and security of the transportation system for motorized and non-motorized users; increasing the accessibility and mobility options available to people and for freight; protecting and enhancing the environment, promoting energy conservation, and improving quality of life; enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight; promoting efficient system management and operation; and emphasizing the preservation of the existing transportation system.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts to carryout section 5305 Planning programs for fiscal years 2006–2009:

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$95,000,000	$99,000,000	$107,000,000	$113,500,000

As specified in law, 82.72 percent of the amounts authorized for section 5305 are allocated to the Metropolitan Planning program. The table below shows the amount of funding authorized under section 5305 to be allocated to the Metropolitan Planning program.

Fiscal Year	2006	2007	2008	2009
Metropolitan Planning	$78,584,000	$81,892,800	$ 88,510,400	$ 93,887,200

2. Basis for Formula Apportionment

FTA allocates Metropolitan Planning funds to the States according to a statutory formula. Eighty percent of the funds are distributed to the States as a basic allocation based on each State's UZA population, based on the most recent Census. The remaining 20 percent is provided to the States as a supplemental allocation based on an FTA administrative formula to address planning needs in the larger, more complex UZAs. The amount published for each State is a combined total of both the basic and supplemental allocation.

3. Requirements

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for projects included in an annual work program (the Unified Planning Work Program, or UPWP) that includes both highway and transit planning projects. Each State has either reaffirmed or developed, in consultation with their MPOs, a new allocation formula, as a result of the 2000 Census. The State allocation formula may be changed annually, but any change requires approval by the FTA regional office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular C8100.1B, Program Guidance and Application Instructions for Metropolitan Planning Program Grants, dated October 25, 1996. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

4. Period of Availability

The funds apportioned under the Metropolitan Planning program will remain available to be obligated by FTA to recipients for four fiscal years—which includes the year of apportionment plus three additional years. Any apportioned funds that remain unobligated at the end of this period will revert to FTA for reapportionment under the program.

5. Other Program Information

Sections VII and VIII F of this document provide guidance and information specific to FTA planning programs, including the Metropolitan Planning program. Please refer to those sections for additional information relevant to this program.

B. Statewide Planning and Research Program (49 U.S.C. 5304)

This program provides financial assistance to States for Statewide planning and other technical assistance activities (including supplementing the technical assistance program provided through the Metropolitan Planning program), planning support for nonurbanized areas, research, development and demonstration projects, fellowships for training in the public transportation field, university research, and human resource development.

1. Authorized Amounts

SAFETA–LU authorizes the following amounts to carryout section 5305 Planning programs for fiscal years 2006–2009:

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$95,000,000	$99,000,000	$107,000,000	$113,500,000

As specified in law, 17.28 percent of the amounts authorized for section 5305 are allocated to the Statewide Planning and Research program. The table below shows the amount of funding authorized under section 5305 to be allocated to the Statewide Planning and Research program.

Fiscal Year	2006	2007	2008	2009
Statewide Planning and Research	$16,416,000	$17,107,200	$ 18,489,600	$ 19,612,800

2. Basis for Apportionment Formula

Funds are apportioned to States by a statutory formula that is based on information received from the latest decennial census, and the State's UZA population as compared to the UZA population of all States. However, a State must receive at least 0.5 percent of the amount apportioned under this program.

3. Requirements

Funds are provided to States for statewide planning and research programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, management training, and cooperative research. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the Statewide Planning and Research program is found in FTA Circular C8200.1, Program Guidance and Application Instructions for State Planning and Research Program Grants, dated December 27, 2001. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

4. Period of Availability

The funds apportioned under the Statewide Planning and Research program will remain available to be obligated by FTA to recipients for four fiscal years'which include the year of apportionment plus three additional fiscal years. Any apportioned funds that remain unobligated at the end of this period will revert to FTA for reapportionment under the program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal capital and operating assistance for transit in UZAs. A UZA is an area with a population of 50,000 or more that has been defined and designated as such in the most recent decennial census by the U.S. Census Bureau. The Urbanized Area Formula Program also supports planning, in addition to that funded under the Metropolitan Planning program described above. Funding is apportioned directly to each UZA with a population of 200,000 or more, and to the State Governors for UZAs with populations between 50,000 and 200,000. Generally, operating assistance is not an eligible expense for UZAs with populations of 200,000 or more. However, there are several exceptions to this restriction. The exceptions are described in section 2(e) below.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts under section 5307 to provide financial assistance to UZAs for fiscal years 2006–2009:

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$3,466,681,000	$3,606,175,000	$3,910,843,000	$4,160,365,000

SAFETEA–LU directs that there be a one percent takedown from the funds made available under section 5307. This takedown amount will be for apportionment under the new Small Transit Intensive Cities (STIC) formula.

Fiscal Year	2006	2007	2008	2009
STIC Takedown	$ 34,666,810	$ 36,061,750	$ 39,108,430	$ 41,603,650

Under the formula for STIC, funds are apportioned to UZAs with a population less than 200,000 that meet or exceed the average level of service for all UZAs with populations between 200,000 and 1,000,000.

In addition to the funds made available to UZAs under section 5307, approximately 84 percent of the funds authorized for the new section 5340 Growing States and High Density States formula factors will be apportioned to UZAs. The portion of authorized section 5340 funds allocable to UZAs, based on the section 5340 formulas, is shown in the following table.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 388,000,000	$ 404,000,000	$ 438,000,000	$ 465,000,000
UZA Portion	$ 327,616,605	$ 341,126,568	$ 369,835,239	$ 392,633,302

Language in the SAFETEA–LU conference report indicates that FTA is to show a single apportionment amount for 5307, STIC and 5340. Accordingly, the apportionment amount for a UZA that will be displayed in the Urbanized Area Formula apportionment table to be published in the FTA FY 2006 apportionments and allocations Notice, after FY 2006 funding is appropriated, will include regular 5307 funds (that amount remaining after the one percent takedown for STIC), STIC funds, and Growing States and High Density States funding for the area. Although a single UZA amount will be shown to comply with conference report language (as noted above), separate formula calculations will be used to generate the respective apportionment amounts for the 5307, STIC and 5340.

2. Requirements

Program guidance for the Urbanized Area Formula Program is presently found in FTA Circular C9030.1C, Urbanized Area Formula Program: Grant Application Instructions, dated October 1, 1998, and supplemented by additional information or changes provided in this document. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU. Several important program requirements are highlighted below.

(a) Urbanized Area Formula Apportionments to Governors

For small UZAs, the funds are apportioned to the Governor of each State for distribution. A single total Governor apportionment amount for the Urbanized Area Formula, STIC, and Growing States and High Density States will be shown in the Urbanized Area Formula Apportionment table to be published in the FTA FY 2006 apportionments and allocations Notice, after FY 2006 funding is appropriated. The table will also show the apportionment amount attributable to each small UZA within the State. The Governor may determine the suballocation of funds among the small UZAs except that funds attributed to a small UZA that is located within the planning boundaries of a Transportation Management Area (TMA) must be obligated to that small UZA, as discussed in subsection (g) below.

(b) STIC Apportionments

SAFETEA–LU establishes a one percent set-aside program from section 5307 that provides funding to UZAs under 200,000 in population that operate at a level of service equal to or above the industry average level of service for all UZAs with a population of at least 200,000 but not more than 999,999, in one or more of six performance categories: Passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita. The data for these categories comes from the most current National Transit Database (NTD) reports. This data is used to determine a UZA's eligibility under the STIC formula, and is also used in the STIC apportionment calculations. Because this performance data change with each year's NTD reports the eligible STIC UZAs may vary each year. The performance categories for providing bonus grants to STIC were established in the September 2000 FTA report to Congress called ''The Urbanized Area Formula Program and the Needs of Small Transit Intensive Cities.''

(c) Transit Enhancements

SAFETEA–LU requires that one percent of section 5307 funds apportioned to UZAs with populations of 200,000 or more be spent on eligible transit enhancement activities or projects. This requirement is now treated as a certification, rather than as a set-aside as was the case under TEA–21. Grantees in UZAs with populations of 200,000 or more will be certifying they are spending not less than one percent of section 5307 funds for transit enhancements and will be required to

submit an annual report on how they spent the money. The report must be submitted with the Federal fiscal year's final quarterly progress report in TEAM-Web. The report should include the following elements: (a) Grantee name, (b) UZA name and number, (c) FTA project number, (d) transit enhancement category, (e) brief description of enhancement and progress towards project implementation, (f) activity line item code from the approved budget, and (g) amount awarded by FTA for the enhancement. The list of transit enhancement categories and activity line item (ALI) codes may be found in FTA Circular 9030.1C, Urbanized Area Formula Program: Grant Application Instructions, dated October 1, 1998, and in the table of Scope and ALI codes on TEAM-Web, which can be accessed at *http://FTATEAMWeb.fta.dot.gov*.

The term ''transit enhancement'' includes projects or project elements that are designed to enhance mass transportation service or use and are physically or functionally related to transit facilities. Eligible enhancements include the following: (1) Historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities); (2) bus shelters; (3) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights; (4) public art; (5) pedestrian access and walkways; (6) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles; (7) transit connections to parks within the recipient's transit service area; (8) signage; and (9) enhanced access for persons with disabilities to mass transportation.

It is the responsibility of the MPO to determine how the one percent for transit enhancements will be allotted to transit projects. The one percent minimum requirement does not preclude more than one percent being expended in a UZA for transit enhancements. However, items that are only eligible as enhancements—in particular, operating costs for historic facilities—may be assisted only within the one-percent funding level.

(d) Transit Security Projects

Each recipient of Urbanized Area Formula funds must certify that of the amount received each fiscal year, it will expend at least one percent on ''public transportation security projects'' or must certify that it has decided the expenditure is not necessary. For applicants not eligible to receive section 5307 funds for operating assistance, only capital security projects may be funded with the one percent. SAFETEA–LU, however, expanded the definition of eligible ''capital'' projects to include specific crime prevention and security activities, including: (1) Projects to refine and develop security and emergency response plans; (2) projects aimed at detecting chemical and biological agents in public transportation; (3) the conduct of emergency response drills with public transportation agencies and local first-response agencies; and (4) security training for public transportation employees but excluding all expenses related to operations, other than such expenses incurred in conducting emergency drills and training. New ALI codes have been established for these four new capital activities. The one percent may also include security expenditures included within other capital activities, and, where the recipient is eligible, operating assistance. The relevant ALI codes would be used for those activities.

Given the importance of transit security, FTA is often called upon to report to Congress and others on how grantees are expending Federal funds for security enhancements. To facilitate tracking of grantees' security expenditures, which are not always evident when included within larger capital or operating activity line items in the grant budget, we have established a new non-additive (''non-add'') scope code for security expenditures—Scope 991. The non-add scope is to be used to aggregate activities included in other scopes, and it does not increase the budget total. Section 5307 grantees should include this non-add scope in the project budget for each new section 5307 grant application or amendment. Under this non-add scope, the applicant should repeat the full amount of any of the line items in the budget that are exclusively for security and include the *portion* of any other line item in the project budget that is attributable to security, using under the non-add scope the same line item used in the project budget. The grantee can modify the ALI description or use the extended text feature, if necessary, to describe the security expenditures.

If the grantee has certified that it is not necessary to expend one percent for security, the section 5307 grant application must include information to support that certification.

To summarize, a grant application requesting 5307 funds cannot be considered complete until the applicant has indicated whether it will or will not expend one percent of the 5307 funds being requested for security purposes. If the applicant has determined expenditure for security purposes is not necessary, an explanation must be provided. FTA is implementing these new grant application procedures in response to requests for information from the Inspector General.

(e) FY 2006 Operating Assistance

Several SAFETEA-LU provisions allow FY 2006 Urbanized Area Formula funds to be used for operating assistance in a UZA with a population of 200,000 or more. They include: (1) Continuation of the operating assistance flexibility provisions of TEA–21 that allows transit systems in UZAs that crossed over the 200,000 population threshold, as a result of the 2000 Census, to use 5307 funds for operating assistance; (2) a provision applicable to portions of the UZAs between 200,000 and 225,000 in population that meet certain criteria; (3) a provision for certain local governmental authorities that lie outside the service area of the principal public transportation agency that serves the Houston, TX UZA; and (4) language that stipulates that section 5307 funds made available to the Anchorage UZA under fixed guideway tiers of the section 5307 apportionment formula shall be made available to the Alaska Railroad for any costs related to passenger operations. In addition, language in section 3027(c)(3) of TEA–21, as amended, is still applicable and allows the use of funds for operating assistance by certain recipients of section 5307 funds, in a UZA at least 200,000 in population, that provide service exclusively for elderly persons and persons with disabilities and operate 20 or fewer vehicles.

The requirements for each of the above provisions are described below.

(1) Section 5307(b)(2) provides exception to the use of operating assistance in UZAs that grew in population from under 200,000 to over 200,000, as a result of the 2000 Census. This exception allows for the use of funds for operating assistance in eligible UZAs at 100% of the grandfathered amount for FY 2005 funds, but this amount ''phases down and out'' to 50 percent in FY 2006, 25 percent in FY 2007, and zero percent in FY 2008. FTA has identified and listed all eligible UZAs in previous years apportionment notices (FY 2003–FY 2005), along with the maximum amount of the area's 5307 fund that could be used for operating. A similar list will be included in the FY 2006 apportionment Notice.

(2) Section 5307(b)(1)(E) provides for grants for the operating costs of equipment and facilities for use in public transportation in the Evansville,

IN-KY urbanized area, for a portion or portions of the UZA if: The portion of the UZA includes only one State; the population of the portion is less than 30,000; and the grants will be not used to provide public transportation outside of the portion of the UZA.

(3) Section 5307(b)(1)(F) provides operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas UZA as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston UZA.

(4) Section 5336(a)(2) prescribes the formula to be used to apportion section 5307 funds to UZAs with population of 200,000 or more. SAFETEA–LU amended 5336(a)(2) to add language that stated, ''* * * except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations.'' This language has the effect of directing that funds apportioned to the Anchorage urbanized area, under the fixed guideway tiers of the section 5307 apportionment formula, be made available to the Alaska Railroad, and that these funds may be used for any capital or operating costs related to its passenger operations.

(5) Section 3027(c)(3) of TEA–21, as previously amended, provides an exception to the restriction on the use of operating assistance in a UZA with a population of 200,000 or more, by allowing transit providers/grantees that provide service exclusively to elderly persons and persons with disabilities and that operate 20 or fewer vehicles to use section 5307 funds apportioned to the UZA for operating assistance. The total amount of funding made available for this purpose under section 3027(c)(3) of TEA–21, as amended, is $1.4 million. Transit providers/grantees eligible under this provision have already been identified.

Unless one of the exceptions noted above applies, the use of FY 2006 Urbanized Area Formula funds for operating assistance is available only to small UZAs. For small UZAs, there is no limitation on the amount of the Governor's apportionment that may be used for operating assistance, and the Federal/local share ratio is 50/50.

(f) Expansion of Local Match Eligibility

SAFETEA–LU expands the categories of funds that can be used as local match for section 5307 projects. The newly eligible sources are advertising and concessions revenue, social service contract revenue, and revenue bonds proceeds.

Pursuant to 49 U.S.C. 5307(e) the Federal share of a grant under Section 5307 is 80 percent of net project cost for a capital project and 50 percent of net project cost for operating assistance. The remainder of the net project cost (*i.e.*, 20 percent and 50 percent, respectively) shall be provided from the following sources:

1. In cash from non-Government sources other than revenues from providing public transportation services;

2. From revenues derived from the sale of advertising and concessions;

3. From an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

4. From amounts received under a service agreement with a State or local social service agency or private social service organization; and

5. Proceeds from the issuance of revenue bonds. In addition, funds from section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) can be used to match Urbanized Area Formula funds.

(g) Designated Transportation Management Areas (TMA)

Guidance for setting the boundaries of TMAs is in the joint transportation planning regulations codified at 23 CFR part 450 and 49 CFR part 613. In some cases, the TMA planning boundaries established by the MPO for the designated TMA includes one or more small UZAs. In addition, one small UZA (Santa Barbara, CA) has been designated as a TMA. In either of these situations, the Governor cannot allocate ''Governor's Apportionment'' funds attributed to the small UZAs to other areas; that is, the Governor only has discretion to allocate Governor's Apportionment funds attributable to areas that are outside of designated TMA planning boundaries.

The list of small UZAs included within the planning boundaries of designated TMAs is provided in the table below.

Designated TMA	Small Urbanized Area Included in TMA Planning Boundary
Albany, NY	Saratoga Springs, NY
Houston, TX	Galveston, TX; Lake Jackson-Angleton, TX; Texas City, TX; The Woodlands, TX
Jacksonville, FL	St. Augustine, FL
Orlando, FL	Kissimmee, FL
Palm Bay-Melbourne, FL	Titusville, FL
Philadelphia, PA-NJ-DE-MD	Pottstown, PA
Pittsburgh, PA	Monessen, PA; Weirton, WV-Steubenville, OH-PA (PA portion); Uniontown-Connellsville, PA
Seattle, WA	Bremerton, WA
Washington, DC-VA-MD	Frederick, MD

The MPO must notify the Associate Administrator for Program Management, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590, in writing, no later than July 1 of each year, to identify any small UZA within the planning boundaries of a TMA.

(h) Urbanized Area Formula Funds Used for Highway Purposes

Funds apportioned to a TMA are eligible for transfer to FHWA for

highway projects. However, before funds can be transferred, the following conditions must be met: (1) Such use must be approved by the MPO in writing, after appropriate notice and opportunity for comment and appeal are provided to affected transit providers; (2) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990 (ADA); and (3) the MPO determines that local transit needs are being addressed.

The MPO should notify the appropriate FTA Regional Administrator of its intent to use FTA funds for highway purposes, as prescribed in section VIII D below. Urbanized Area Formula funds that are designated by the MPO for highway projects will be transferred to and administered by FHWA.

3. Basis for Formula Apportionment

Urbanized Area Formula Program funds are apportioned based on legislative formulas. Different formulas are used for UZAs with populations of 200,000 or more and UZAs with populations of less than 200,000. For UZAs of 50,000 to 199,999 in population, the formula is based simply on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, fixed guideway revenue vehicle miles, and fixed guideway route miles, as well as population and population density.

To comply with language in the SAFETEA–LU conference report, we will combine a UZA's section 5307, STIC, and section 5340 apportionment amounts and publish a single amount. For technical assistance purposes we will identify the UZAs that received STIC funds each year and will make available breakouts of the funding allocated to each UZA under 5307, STIC and 5340 formulas, upon request to the regional office.

4. Period of Availability

Urbanized Area Formula funds will remain available to be obligated by FTA to recipients for four fiscal years—which include the year of apportionment plus three additional years. Any apportioned funds that remain unobligated after this period will revert to FTA for reapportionment.

5. Other Program Information

Population and population density statistics from the 2000 Census and (when applicable) validated mileage and transit service data from transit providers' 2004 NTD Report Year will be used to calculate a UZA's FY 2006 Urbanized Area Formula apportionment when FY 2006 funds are appropriated.

We will calculate dollar unit values for the formula factors used in the Urbanized Area Formula program apportionment. These values represent the amount of money each unit of a factor is worth in the FY 2006 apportionment. The unit values change each year as a result of changes in the data used to calculate a particular year's apportionments. The FTA apportionment amount for a UZA may be replicated by multiplying the dollar unit value by the appropriate formula factor.

D. Clean Fuels Grant Program (49 U.S.C. 5308)

SAFETEA–LU establishes the Clean Fuels Grant Program—formerly the Clean Fuels Formula Program under TEA–21—to support the use of alternative fuels in air quality maintenance or nonattainment areas for ozone or carbon monoxide.

1. Total Allocations

SAFETA–LU authorizes the following amounts for the Clean Fuels Grant Program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$43,000,000	$45,000,000	$49,000,000	$51,500,000

2. Basis for Allocation of Funds

Under SAFETEA–LU, funding for the Clean Fuels program is now appropriated on a discretionary basis rather than by formula. [Note: Congress never appropriated funds for the formula program authorized by TEA–21.]

SAFETEA–LU includes 16 projects to be funded through the Clean Fuels program in section 3044, Projects for Bus and Bus-Related Facilities and Clean Fuels Buses. Table 5 displays the SAFETEA–LU authorized Clean Fuels earmarked projects.

It is important to note that these allocations are subject to be changed by subsequent appropriations acts and additional projects may be earmarked during the appropriations process. Final Clean Fuels program allocations for FY 2006 will be published after enactment of the FY 2006 Appropriations Act.

3. Requirements

Clean Fuels program funds may be made available to any grantee in a UZA that is designated as maintenance or nonattainment area for ozone or carbon monoxide as defined in the Clean Air Act. Eligible recipients include section 5307 designated recipients as well as recipients in small UZAs. In the case of a small UZA, the State in which the area is located will act as the recipient.

Eligible projects include the purchase or lease of clean fuel buses (including buses that employ a lightweight composite primary structure), the construction or lease of clean fuel buses or electrical recharging facilities and related equipment for such buses, and construction or improvement of public transportation facilities to accommodate clean fuel buses.

If a recipient wishes to use funds designated under the program in SAFETEA–LU for eligible project activities outside the scope of a project designation, the recipient must submit its request for reprogramming to the House and Senate Authorizing Committees for resolution. Changes to designations that are in statute, as opposed to report language, can only be made in law. If in the future, Congress designates projects in report language, FTA will not reprogram the projects without direction from the Appropriations Committees.

Unless otherwise specified in law, grants made under the Clean Fuels program must meet all other eligibility requirements as outlined in section 5308.

4. Period of Availability

Funds designated for specific Clean Fuels Program projects will remain available for obligation for three fiscal years, which includes the year of appropriation plus two additional fiscal years. Clean Fuels funds not obligated in a FTA grant for their original purpose at the end of the period of availability will generally be made available for other projects.

E. Capital Investments Program (49 U.S.C. 5309)—Fixed Guideway Modernization

This program provides capital assistance for the modernization of existing fixed guideway systems. Funds

are allocated by a statutory formula to UZAs with fixed guideway systems that have been in operation for at least seven years. A ''fixed guideway'' refers to any transit service that uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes heavy rail, commuter rail, light rail, monorail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, that portion of motor bus service operated on exclusive or controlled rights-of-way, and high-occupancy-vehicle (HOV) lanes.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts for the Fixed Guideway Modernization for fiscal years 2006–2009:

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$1,391,000,000	$1,448,000,000	$1,570,000,000	$1,666,500,000

2. Basis for Formula Apportionment

The formula for allocating the Fixed Guideway Modernization funds contains seven tiers. The apportionment of funding under the first four tiers is based on amounts specified in law and NTD data used to apportion funds in FY 1997. Funding under the last three tiers is apportioned based on the latest available data on route miles and revenue vehicle miles on segments at least seven years old, as reported to the NTD. Because the Fixed Guideway Modernization apportionment formula did not change from TEA–21 to SAFETEA–LU, you may refer to Table 8 of the FTA Fiscal Year 2005 Apportionments, Allocations and Program Information Notice for additional information and details on the formula.

3. Requirements

Fixed Guideway Modernization funds must be used for capital projects to maintain, modernize, or improve fixed guideway systems. Eligible UZAs (those with a population of 200,000 or more) with fixed guideway systems that are at least seven years old are entitled to receive Fixed Guideway Modernization funds. A threshold level of more than one mile of fixed guideway is required in order to receive Fixed Guideway Modernization funds. Therefore, UZAs reporting one mile or less of fixed guideway mileage under the NTD are not included. Program guidance for Fixed Guideway Modernization is presently found in FTA Circular C9300.1A, Capital Program: Grant Application Instructions, dated October 1, 1998. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

4. Period of Availability

Funds apportioned under the Fixed Guideway Modernization Program will remain available to be obligated by FTA to recipients for four fiscal years—which include the year of apportionment plus three additional years. Any apportioned funds that remain unobligated at the end of this period will revert to FTA for reapportionment under the program.

5. Other Program Information

Generally, there were no changes to the formula or eligibility criteria for the program in SAFETEA–LU from those specified in TEA–21. However, sections 5337(f) (g) of SAFETEA–LU provides for the inclusion of Morgantown, WV (population 55,997) as an eligible UZA for purposes of apportioning fixed guideway modernization funds. Also, language in section 5336(b) has the impact of directing FTA to use 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations system to calculate apportionments for the Anchorage, AK UZA under the 5307 and Fixed Guideway Modernization formulas.

F. Capital Investments (49 U.S.C. 5309)—Bus and Bus-Related Facilities

The Bus and Bus-Related Facilities program provides capital assistance for new and replacement buses and related equipment and facilities.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts for the Bus and Bus-Related Facilities program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 822,250,000	$ 855,500,000	$ 927,750,000	$ 984,000,000

2. Basis for Allocation of Funds

Funding is appropriated on a discretionary basis. SAFETEA–LU includes 646 earmarked projects to be funded through the Bus Program in section 3044, Projects for Bus and Bus-Related Facilities and Clean Fuels Buses. Table 4 displays the SAFETEA–LU authorized earmarked projects.

It is important to note that these allocations are subject to be changed by subsequent appropriations acts and additional projects may be earmarked during the appropriations process. Final Bus and Bus-Related Facilities program allocations for FY 2006 will be published after enactment of the FY 2006 Appropriations Act.

3. Requirements

Eligible capital projects include the acquisition of buses for fleet and service expansion, bus maintenance and administrative facilities, transfer facilities, bus malls, transportation centers, intermodal terminals, park-and-ride stations, acquisition of replacement vehicles, bus rebuilds, bus preventive maintenance, passenger amenities such as passenger shelters and bus stop signs, accessory and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers, and shop and garage equipment.

A general provision in the appropriations acts of FY 2004 (section 547) and FY 2005 (section 125) contained language making the earmarked projects eligible under the program ''notwithstanding any other provision of law.'' SAFETEA–LU did not include a similar ''Notwithstanding'' provision, but the wording of certain bus program earmarks included expanded eligibility. The FY 2006 Appropriations Act might modify some of the authorized earmarks. Unless stated in law to the contrary, projects

earmarked prior to FY 2004 must conform to the eligibility requirements of the Bus and Bus-Related Facilities program.

If a recipient wishes to apply for use of funds designated under the Bus and Bus-Related Facilities program in SAFETEA–LU for project activities outside the scope of the project designation, the recipient must submit its request for reprogramming to the House and Senate Authorizing Committees for resolution. Changes to earmarks that are in statute, as opposed to report language, can only be made in law. FTA will not reprogram projects earmarked by Congress in report language without direction from the Appropriations Committees.

Grants made under the Bus and Bus-Related Facilities program must meet all other eligibility requirements as outlined in section 5309 unless otherwise specified in law.

Program guidance for Bus and Bus-Related Facilities is found in FTA Circular C9300.1A, Capital Program: Grant Application Instructions. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

4. Period of Availability

Funds designated for specific Bus Program projects remain available for obligation for three fiscal years—which includes the fiscal year in which the amount is made available or appropriated plus two additional years. Bus and Bus-Related Facilities funds not obligated in a FTA grant for their original purpose by the end of this period will generally be made available for other projects.

Prior year unobligated balances for Bus and Bus-Related Facilities allocations in the amount of $723,995,747 remain available for obligation in FY 2006. The amounts that remain unobligated as of September 30, 2005, can be found in Table 6. Projects appropriated prior to FY 2004 and extended in the FY 2006 Appropriations Act or accompanying Conference Report will be included in the FY 2006 Apportionments and Allocations Notice.

5. Other Program Information

The Bus Program remains largely unchanged with the passage of SAFETEA–LU; however, one significant change is the inclusion of private companies engaged in public transportation and private non-profit organizations as eligible subrecipients of FTA grants. Prior to SAFETEA–LU, private non-profit entities could only receive FTA funds if they were selected by a public authority through a competitive process, and private operators were not eligible subrecipients. Private operators may now receive FTA funds as a pass-through without competition if they are included in a program of projects submitted by the designated public authority acting as the direct recipient of a grant.

G. Capital Investment Program (49 U.S.C. 5309)—New Starts

SAFETEA–LU made several changes in the way funding is allocated for New Starts projects. Beginning in FY 2007, $200,000,000 each year is designated for ''Small Starts'' (section 5309(e)) projects with a New Starts share of less than $75,000,000 and a net project cost of less than $250,000,000. Major Capital Investment grants of $75,000,000 or more (section 5309 (d)) will receive $7.4 billion over the five years. In addition, SAFETEA–LU authorizes 38 projects for FD and 264 projects for PE. The total amount of FY 2006–2009 funding for 31 existing FFGA projects is $2,136,764,604. Fifty-two additional New Starts projects are authorized for a total of $3,237,700,000 during SAFETEA–LU.

Congress allocated $10,500,000 to Alaska and Hawaii for ferryboats each year of TEA–21 and for FY 2005. SAFETEA–LU allocates $15,000,000 to Alaska and Hawaii for ferryboats for FY 2006–FY 2009. The allocation is split equally between Alaska and Hawaii.

SAFETEA–LU also makes $5,000,000 available for each year, FY 2006–FY 2009, to the Denali Commission in Anchorage, Alaska under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121) for docks, waterfront development projects and related transportation infrastructure. The Commission was established to (1) deliver the services of the Federal Government cost effectively, (2) provide job training and other economic development services in rural communities, and (3) promote rural development, provide power generation and transmission facilities, modern communication systems, water and sewer systems and other infrastructure needs.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts for the New Starts program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$1,503,000,000	$1,566,000,000	$1,700,000,000	$ 1,809,250,000

2. Requirements

Because New Starts projects are earmarked in law rather than report language, reprogramming for a purpose other than that specified must also occur in law. New Starts projects are subject to a complex set of approvals related to planning and project development set forth in 49 CFR part 611. Program guidance for New Starts is found in FTA Circular C9300.1A, Capital Program: Grant Application Instructions, dated October 1, 1998; and C5200.1A, Full Funding Grant Agreement Guidance, dated December 5, 2002. FTA is in the process of updating these circulars to incorporate changes resulting from language in SAFETEA–LU.

3. Period of Availability

New Starts funds remain available for three fiscal years—which includes the fiscal year the funds are made available or appropriated plus two additional years. Funds may be extended by Congress or made available for other projects after the period of availability has expired.

4. Other Program Information and Highlights

Prior year unobligated allocations for New Starts in the amount of $557,727,154 remain available for obligation in FY 2006. This amount includes $112,052,679 in FY 2004 and $445,674,475 in FY 2005 unobligated allocations. These unobligated amounts are displayed in Table 7.

H. Special Needs of Elderly Individuals and Individuals with Disabilities Program (49 U.S.C. 5310)

This program provides formula funding to States for capital projects to assist in meeting the transportation needs of the elderly and persons with disabilities. The State (or State-designated agency) administers the section 5310 program. The State's responsibilities include: notifying eligible local entities of funding

availability; developing project selection criteria; determining applicant eligibility; selecting projects for funding; and ensuring that all subrecipients comply with Federal requirements. Eligible nonprofit organizations or public bodies must apply directly to the designated State agency for assistance under this program.

FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the Special Needs of Elderly Individuals and Individuals with Disabilities program. Additionally, FTA seeks comment on strategies and measures that could be employed to evaluate the successes of this program.

1. Authorized Amounts

SAFETEA–LU authorizes the following amounts for the Special Needs of Elderly Individuals and Individuals with Disabilities program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 112,000,000	$ 117,000,000	$ 127,000,000	$ 133,500,000

2. Basis for Formula Apportionment

Funds are allocated according to a formula based on the number of elderly individuals and individuals with disabilities in each State using Census 2000 data.

3. Requirements and Eligible Expenses

Funds are available to support the capital costs of transportation services for older adults and people with disabilities. Uniquely under this program, eligible capital costs include the acquisition of service. Capital assistance is provided on an 80 percent Federal, 20 percent local matching basis except that SAFETEA–LU allows states eligible for the sliding scale match under FHWA programs to use that match ratio for section 5310 capital projects. Funds provided under other Federal programs (other than those of the Department of Transportation, with the exception of the Federal Lands Highway Program established by section 204 of Title 23 U.S.C.) may be used as match for capital funds provided under section 5310. Revenue from service contracts may also be used as local match.

Those eligible to receive section 5310 funding include private nonprofit agencies, public bodies approved by the state to coordinate services for elderly persons and persons with disabilities, or public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service.

States may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. Beginning in FY 2006, no local share is required for these program administrative funds. FTA previously administratively allowed States to use ten percent of the capital funds for administration at the capital matching share, but SAFETEA–LU specifically allows ten percent for administration.

The section 5310 program was previously subject to the requirements of section 5309 to the extent the Secretary determined appropriate. SAFETEA–LU changed the applicable requirements to 5307, to the extent the Secretary determines appropriate. FTA is not applying any new requirements to the section 5310 program as a result of this technical change.

4. Planning and Consultation

Beginning in FY 2007, the State recipient must certify that: the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public. Projects in the locally developed, coordinated public transit-human services transportation plan must be integrated into and consistent with the metropolitan and state planning processes. Finally, each grant recipient must certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

The planning requirement is also a requirement in two additional programs. The Job Access Reverse Commute program (in FY 2006) and the New Freedom program (in FY 2007) will also be required to have a coordinated human service plan. It is anticipated that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs. FTA seeks comment on the specific aspects of the collaborative planning process (for example, participants, elements, measures, etc.). FTA also seeks comment on the relationship between the public transit-human services plans and other planning processes.

Program guidance is found in FTA C 9070.1E, dated October 1, 1998. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

5. Period of Availability

There is no statutory period of availability for section 5310. Given the relatively simple nature of the state administered program with many subrecipients receiving small capital grants, FTA previously allowed only one year of availability. Given the new common planning requirement with JARC and New Freedom, beginning with FY 2006 funding, FTA is extending the period of availability for section 5310 to three years, which includes the year funds are apportioned plus two additional years, consistent with the other two programs.

6. Other Program Information

Under Title III of SAFETEA–LU section 3012(b), the following states are named as eligible to use up to 33 percent of their section 5310 funds starting in FY 2006 for operating expenses: Wisconsin, Alaska, Minnesota, and Oregon. FTA is authorized to select an additional three states to participate in the pilot. FTA issued a separate **Federal Register** Notice on November 14, 2005, specifying the guidelines for States participation in the pilot and soliciting proposals from states to participate. If possible, given the timing of the FY 2006 appropriations act, we anticipate announcing the participants with the FY 2006 apportionments.

7. Transfer of 5310 Funds to Other FTA Programs

Section 5310 funds may be transferred to the section 5311 or the section 5307 program, but only to implement projects competitively selected under the section 5310 program. The purpose of the transfer provision under SAFETEA–LU is for administrative streamlining of grant making, not to supplement the resources available under the Urbanized Area Formula or Non-urbanized Area Formula programs, as was the case under TEA–21. A State that transfers section 5310 funds to section 5307 must certify that each project for which the

funds are transferred has been coordinated with private nonprofit providers of services. FTA has established a new scope code (641) to track 5310 projects included within a section 5307 or 5311 grant. Transfer to section 5307 or 5311 is permitted but not required. FTA will also award stand-alone section 5310 grants with the section code 16 in the project number.

I. Nonurbanized Area Formula Program (49 U.S.C. 5311)

This program provides formula funding to States and Indian Tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, State administration, and project administration expenses. Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources. SAFETEA–LU identifies Indian Tribes as direct recipients under section 5311.

1. Authorized Amounts

SAFETA–LU authorizes the following amounts for the Nonurbanized Areas Formula program.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 388,000,000	$ 404,000,000	$ 438,000,000	$ 465,000,000

In addition to the funds made available to States under section 5311, approximately 16 percent of the funds authorized for the new section 5340 Growing States and High Density States formula factors will be apportioned to States for use in nonurbanized areas. The portion of the section 5340 authorized funds allocable to States for nonurbanized areas is shown in the following table.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 388,000,000	$ 404,000,000	$ 438,000,000	$ 465,000,000
Nonurbanized Area Portion	$ 60,383,395	$ 62,873,432	$ 68,164,761	$ 72,366,698

The States receive funding for nonurbanized areas only from the Growing States portion of the 5340 formulas. Fifty percent of the funds authorized for section 5340 are allotted to Growing States and the other 50 percent goes to High Density. The High Density formula allocates all of its funds to urbanized areas.

Funding for the Tribal Transit Program, oversight, and the Rural Transportation Assistance Program (RTAP) will be taken off the top before amounts are apportioned to the States. Takedowns for Tribal Transit and RTAP based on authorized funding levels are shown below.

Fiscal Year	2006	2007	2008	2009
RTAP	$ 7,760,000	$ 8,080,000	$ 8,760,000	$ 9,300,000
Tribal Transit	$ 8,000,000	$ 10,000,000	$ 12,000,000	$ 15,000,000

2. Basis for Formula Apportionment

SAFETEA–LU changed the formula for section 5311. Starting in FY 2006, twenty percent of the funds available will be apportioned to the states based on land area in nonurbanized areas with no state receiving more than 5 percent of the amount apportioned. The remaining eighty percent will be apportioned based on nonurbanized population, as before. The effect of this change is to provide additional resources to low density States.

3. Requirements

The Nonurbanized Area Formula Program provides capital, operating and administrative assistance for areas with a population under 50,000. The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that SAFETEA–LU allows states eligible for the sliding scale match under FHWA programs to use that match ratio for section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects.

Each State must spend no less than 15 percent of its FY 2005 Nonurbanized Area Formula apportionment for the development and support of intercity bus transportation, unless the State certifies, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being adequately met. SAFETEA–LU added this requirement for consultation with the industry to strengthen the certification requirement. FTA also encourages consultation with other stakeholders, such as communities affected by loss of intercity service.

Program guidance for the Nonurbanized Area Formula Program is found in FTA C 9040.1E, Nonurbanized Area Formula Program Guidance and Grant Application Instructions, dated October 1, 1998. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU.

4. Period of Availability

Funds apportioned to States under the Nonurbanized Area Formula Program will remain available for three fiscal years—which includes the fiscal year the funds were apportioned plus two additional years. Any funds that remain unobligated at the end of this period will revert to FTA for allocation among the States under the Nonurbanized Area Formula Program.

5. Other Program Information

SAFETEA–LU added a requirement to provide rural transit data to the NTD. Each recipient under the section 5311 program shall submit an annual report to the Secretary, containing information

on capital investments, operations, and service provided with funds received under the section 5311 program. SAFETEA–LU specifies that the report should include information on total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size and type, and related facilities, revenue vehicle miles, and ridership. In consultation with State Departments of Transportation, FTA previously developed a voluntary state-based rural data module for the NTD. The existing NTD Rural Data Reporting Module manual and reporting instructions can be reviewed on the NTD Web site, *http://www.ntdprogram.com.* For each 5311 subrecipient, the State Department of Transportation will complete a one-page form of basic data. The existing module will serve as a basis for reporting requirements for the new, mandatory Rural Reporting Module of the NTD. Pursuant to SAFETEA–LU, mandatory reporting will begin with the FY 2006 NTD Report Year. The first reports will be due on October 28, 2006, for those States with fiscal years ending between January 1 and June 30, 2006; on January 28, 2007, for those States with fiscal years ending between July 1 and September 30, 2006; and April 30, 2007, for those States with fiscal years ending between October 1 and December 31, 2006. To enter data and receive additional instructions, State Departments of Transportation can go to the NTD Web site. FTA requests public comment on whether the State-based rural data module should serve as the basis for the new mandatory reporting requirements.

J. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(2))

This program provides funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in nonurbanized areas.

1. Authorized Amounts

SAFETEA–LU changes the source of funding for RTAP. Previously funded under the National Planning and Research Program, starting in FY 2006, RTAP is funded as a two percent takedown from the amount authorized and appropriated for section 5311. The takedown amount based on funds authorized for section 5311 for fiscal years 2006–2009 is as follows:

Fiscal Year	2006	2007	2008	2009
RTAP	$ 7,760,000	$ 8,080,000	$ 8,760,000	$ 9,300,000

Of the takedown, FTA may use up to 15 percent for projects of a national scope. The remaining 85 percent is allocated to the States.

2. Basis for Formula Apportionment

For FY 2006, FTA will use the current administrative formula. Funds are allocated to the States by an administrative formula consisting of a $65,000 floor for each State ($10,000 for territories), with the balance allocated based on nonurbanized population in the 2000 Census. The floor was raised from $50,000 to $65,000 in FY 1999. Comments are invited on whether the floor should again be raised and whether the low density portion of the section 5311 formula should be used.

3. Program Requirements

Funds are allocated to the States to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with a State's administration of the Nonurbanized Area Formula Program.

4. Period of Availability

Funds apportioned to States under RTAP will remain available for three fiscal years—which includes the fiscal year the funds were apportioned plus two additional years. Any funds that remain unobligated after the end of this period will revert to FTA for allocation among the States under the RTAP.

5. Other Program Information

The National RTAP project is administered by the American Public Works Association in consortium with the Community Transportation Association of America, under a cooperative agreement re-competed at five-year intervals. The projects are guided by a project review board of managers of rural transit systems and State Department of Transportation rural transit programs. National RTAP resources have also supported the biennial TRB National Conference on Rural Public and Intercity Bus Transportation. The percentage takedown for RTAP, combined with rising funding levels for section 5311, make additional resources available for national projects such as providing technical assistance for the new tribal transit program. FTA invites comments on use of the National RTAP resource.

K. Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1))

SAFETEA–LU creates a new Tribal Transit Program as a takedown under the section 5311 program. Indian Tribes are defined as eligible direct recipients. The funds are to be apportioned for grants to Indian Tribes for any purpose eligible under section 5311, which includes capital and operating assistance for rural public transit services. Support for rural intercity bus service, including planning and marketing, is eligible. Planning for rural transit is not eligible. FTA will develop procedures for the Tribal Transit program in consultation with tribal leaders and other interested stakeholders and will provide an opportunity for the public to comment on its new methodology.

1. Authorized Funding

The takedown amount authorized for Tribal Transit for fiscal years 2006–2009 is as follows:

Fiscal Year	2006	2007	2008	2009
Tribal Transit	$ 8,000,000	$ 10,000,000	$ 12,000,000	$ 15,000,000

2. Basis for Formula Apportionment

SAFETEA–LU does not specify a basis for formula apportionment. FTA will develop procedures for allocating the funds in consultation with the Tribes and with opportunity for public comment. An interim measure would be to allocate FY 2006 funds based on responses to a request for letters of interest. FTA requests comments on the feasibility of allocating FY 2006 funds based on this approach. Because planning is not an eligible activity under the program, FTA is considering limiting transit participation to Tribes which already have transit options or which have already conducted planning and are prepared to implement new transit service. We seek comments on what criteria should be considered in selecting Tribes to receive funding and what factors should be used in allocating available funds among successful applicants.

3. Requirements

Grants may be made to Indian Tribes for any purpose eligible under section 5311. Eligibility under section 5311 includes capital and operating assistance for local public transportation service in other than urbanized areas. Planning is not an eligible activity except under section 5311(e), which allows States to use 15 percent of a States' apportionment for administration, planning, and technical assistance, and 5311(f), which allows planning for intercity bus transportation. Support for rural intercity bus service is eligible under section 5311.

FTA may establish the terms and conditions for the program. FTA seeks comments about appropriate terms and conditions for the program. We especially invite comments from Tribes that previously received FTA funding about which requirements we should consider waiving for the Tribal Transit program.

4. Period of Availability

Funds will remain available for three fiscal years, which includes the fiscal year the funds were apportioned or appropriated plus two additional years. Any funds that remain unobligated after this period will revert to FTA for reallocation among the Tribes.

5. Other Program Information

The funds set aside for Indian Tribes are not meant to replace or reduce funds that Indian Tribes receive from states through the section 5311 program but are to be used to enhance public transportation on Indian reservations. Funds allocated to Tribes by the States may be included in the State's section 5311 application or awarded by FTA in a grant directly to the tribe. We encourage Tribes intending to apply to FTA as direct recipients to contact the appropriate FTA regional office at the earliest opportunity.

Planning for Tribal Transit projects may be funded under the following programs: FTA and FHWA Statewide Planning programs; the State's apportionment under section 5311; and the Indian Reservation Roads Program (IRR). Technical assistance for Tribes may be available from the State DOT using the State's allocation of RTAP or funds available for State administration under section 5311, from the Tribal Transportation Assistance Program (TTAP) Centers supported by FHWA, and from the Community Transportation Association of America under a program funded by the United States Department of Agriculture (USDA). The National RTAP will also be developing new resources for Tribal Transit.

L. National Research Program (49 U.S.C. 5314)

FTA's National Research Programs include the National Research and Technology Program (NRTP), Project ACTION, the National Technical Assistance Center for Senior Transportation, and the Medical transportation grants program.

Through funding under these programs, FTA seeks to deliver solutions that improve public transportation. FTA's Strategic Research Goals are to provide transit research leadership, increase transit ridership, improve capital and operating efficiencies, improve safety and emergency preparedness, and to protect the environment and promote energy independence. For more information contact Bruce Robinson, Office of Research, Demonstration and Innovation, at (202) 366–4209.

1. Authorized Funding

SAFETEA–LU authorizes the following amounts for the National Research Program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 37,700,000	$ 40,400,000	$ 44,600,000	$ 48,450,000

SAFETEA–LU project authorizations under the National Research Program are listed in Table 8.

All research and research and development projects are subject to a 2.6% reduction for the Small Business Innovative Research Program (SBIR). FTA will make the determination as to whether or not the SBIR reduction will be applied to a particular project—based on our review of the proposed scope of work for the project.

2. Basis for Allocation of Funds

Funds not designated by Congress for specific projects and activities will be programmed by FTA based on FTA's Strategic Research Plan using competitive procedures to the maximum extent possible.

3. Requirements

Application Instructions and Program Management Guidelines are set forth in FTA Circular 6100.1C. FTA is in the process of updating this circular to incorporate changes resulting from language in SAFETEA–LU. Research projects must support FTA's Strategic Research Goals and meet the Office of Management and Budget's Research and Development Investment Criteria. All research recipients are required to work with FTA to develop approved Statements of Work. A plan to evaluate research results must be in place before award of a research grant.

Eligible activities under the NRTP include research, development, demonstration and deployment projects as defined by 49 U.S.C. 5312 (a); Joint Partnership projects for deployment of innovation as defined by 49 U.S.C. 5312(b); International Mass Transportation Projects as defined by 49 U.S.C. 5312(c); and, human resource programs as defined by 49 U.S.C. 5322.

4. Period of Availability

Funds are available until expended.

5. Other Related Information

Requests for research proposals will be published in grants.gov under CFDA 20.514.

M. Job Access and Reverse Commute Program (49 U.S.C. 5316)

The Job Access and Reverse Commute (JARC) program provides formula funding to States and Designated Recipients to support the development and maintenance of job access projects designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, and for reverse commute projects designed to transport residents of UZAs and other than urbanized to suburban employment opportunities. FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the JARC program.

1. Authorized Funding

SAFETEA–LU authorizes the following amounts for the Job Access and Reverse Commute Program for fiscal years 2006–2009:

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 138,000,000	$ 144,000,000	$ 156,000,000	$ 164,500,000

2. Basis for Formula Apportionment

SAFETEA–LU establishes JARC as a formula program and provides that 60% of funds available be allocated to UZAs with populations of 200,000 or more persons (large UZAs); 20% to urbanized areas with populations ranging from 50,000 to 200,000 persons (small UZAs), and 20% to rural and small urban areas with populations of less than 50,000 persons. Funds are allocated to the States for small UZAs and rural and small urban areas and to designated recipients in large UZAs. A single apportionment will be published for each large UZAs.

Formula allocations are based upon the number of persons with disabilities residing in a state or metropolitan area. These figures are drawn from Census 2000 figures. In cases where a large UZA has more than one designated recipient, they may agree upon a single competitive selection process or sub-allocate funds to each designated recipient, based upon a percentage split agreed upon locally, and conduct separate planning processes and competitions.

States and designated recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the designated recipient, consistent with the Federal JARC program objectives. In the case of large UZAs, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

3. Eligible Expenses

Funds are available to support the capital and operating costs of transportation services that address the needs of welfare recipients and eligible low-income individuals that are not met by other transportation services. Federal JARC funds may be used for 80% of capital expenses and 50% of operating expenses. Funds provided under other Federal programs (other than those of the Department of Transportation) may be used for local/state match for funds provided under section 5316, and revenue from service contracts may be used as local match.

Funding is available for transportation services provided by public, non-profit, or private-for-profit operators. Assistance may be provided for a variety of transportation services and strategies directed at assisting welfare recipients and eligible low-income individuals address unmet transportation needs. Examples of projects and activities that might be funded under the program include, but are not limited to:

- Transportation projects to finance planning, capital, and operating costs of providing access to jobs;
- Promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;
- Promoting the use of transit vouchers for welfare recipients and eligible low-income individuals;
- Promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986;
- Subsidizing the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;
- Subsidizing the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to workplaces;
- Facilitating the provision of public transportation services to suburban employment opportunities.

States and designated recipients may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. Beginning in FY 2006, no local share is required for these program administrative funds.

4. Planning and Consultation

A recipient of JARC funds must certify that projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private and non-profit transportation and human service providers; participation by the public; and included those representing the needs of welfare recipients and eligible low-income individuals. Projects in the locally developed, coordinated public transit-human services transportation plan must be integrated into and consistent with the metropolitan and state planning processes. Finally, recipients must certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

The planning requirement applies not only to JARC, but beginning in FY 2007 to the section 5310 and section 5317 (New Freedom) programs. It is anticipated that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs. In FY 2006, in areas with no current JARC plan, the planning partners should at a minimum be consulted about projects and where possible expressions of support should be obtained and documented. For areas that previously received JARC discretionary funding, the previous JARC plan may satisfy the requirement in FY 2006. FTA seeks comment on the specific aspects of the collaborative planning process (for example, participants, elements, measures, etc.). FTA also seeks comment on the relationship between the public transit-human services plans and other planning processes.

5. Period of Availability

While there is no statutory period of availability for JARC funds, FTA is establishing a consistent three-year period of availability for JARC, New

Freedom, and the section 5310 program, which includes the year of apportionment plus two additional years. Any funding that remains unobligated at the end of this period will revert to FTA for reapportionment among the States and large UZAs under the JARC program.

6. Program Requirements

Grants are subject to the requirements of section 5307, including certification of labor protection arrangements.

7. Transfer of JARC funding to Other FTA Programs

Administrative Transfers

States may transfer funds to FTA's section 5307 or section 5311 programs. Funds so transferred must be used for the express purposes designated by the JARC program and must meet all associated requirements. The projects for which the funds are transferred must have been competitively selected and derived from the locally coordinated public transit—human services transportation plan. The purpose of the transfer provision under SAFETEA–LU is for administrative streamlining of grant making, not to supplement the resources available under the Urbanized Area Formula or Non-urbanized Area Formula programs. This provision allows the small UZAs to apply for funding directly from FTA, rather than through a statewide grant and allows Tribes to be direct recipients. A State that transfers funds to section 5307 must certify that the JARC projects being funded have been coordinated with nonprofit providers of service.

FTA has established a new scope code (646) to be used when JARC projects are funded within a 5307 or 5311 grant. Transfer to section 5307 or 5311 is permitted but not required. FTA will also award stand-alone JARC grants with the section code 37 in the project number.

Transfers Between Categories

States may move funds between the small UZA and the nonurbanized parts of the state apportionment, if the Governor certifies that all of the objectives of JARC are met in the specified area. States may also transfer funds in the small UZA and nonurbanized areas for projects anywhere in the State if the State has established a statewide program for meeting the objectives of JARC.

8. Prior Year Carryover

JARC earmarks carried over from TEA–21 are subject to the terms and conditions under which they were originally appropriated. The local match for both capital and operating assistance remains consistent with the TEA–21 authorization as a 50/50 match. All projects should be in the regional JARC Plan as required under TEA–21. Prior year carryover is shown in Table 9.

9. Evaluation

SAFETEA–LU requires FTA to conduct a study to evaluate the effectiveness of the JARC program (49 U.S.C. 5316(i)(2)). FTA seeks comment on strategies and measures that will evaluate the successes of this program.

N. New Freedom Program (49 U.S.C. 5317)

The New Freedom Program (NFP) was established in SAFETEA–LU. The program purpose is to provide new public transportation services and public transportation alternatives beyond those currently required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the New Freedom program. Additionally, FTA seeks comment on strategies and measures that could be employed to evaluate the successes of this program.

1. Authorized Funding

SAFETA–LU authorizes the following amounts for the New Freedom program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 78,000,000	$ 81,000,000	$ 87,500,000	$ 92,500,000

2. Basis for Formula Apportionment

SAFETEA–LU establishes a New Freedom Program as a formula program and provides that 60% of funds available be allocated to urbanized areas with populations of 200,000 or more persons (large urbanized areas); 20% to urbanized areas with populations ranging from 50,000 to 200,000 persons (small UZAs), and 20% to rural and small urban areas with populations of less than 50,000 persons (nonurbanized areas). Funds are allocated to the States for small UZAs and nonurbanized areas and to designated recipients in metropolitan areas with populations of 200,000 or more.

Formula allocations are based upon the number of persons with disabilities residing in a State or metropolitan area. The data includes elderly persons with disabilities. These figures are drawn from Census 2000 figures. In cases where a large UZA has more than one designated recipient, they may agree upon a single competitive selection process or sub-allocate funds to each designated recipient, based upon a percentage split agreed upon locally, and conduct separate planning processes and competitions.

States and designated recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the recipient. In the case of large urbanized areas, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

3. Eligible Expenses

Funds are available to support the capital and operating costs of new public transportation services and public transportation alternatives that are beyond those required by the Americans with Disabilities Act. Federal New Freedom funds may be used for 80 percent of capital expenses and 50 percent of operating expenses. There is no limitation on the amount of funds that can be used for operating expenses. Funds provided under other Federal programs (other than those of the DOT) may be used as match for capital funds provided under section 5317, and revenue from contract services may be used as local match.

Funding is available for transportation services provided by public, non-profit, or private-for-profit operators. Assistance may be provided for a variety of transportation services and strategies directed at assisting persons with disabilities address unmet transportation needs. The conference report stated that examples of projects and activities that might be funded under the program include, but are not limited to:

• Purchasing vehicles and supporting accessible taxi, ride-sharing, and vanpooling programs.

• Providing paratransit services beyond minimum requirements (¾ mile to either side of a fixed route), including for routes that run seasonally.

• Making accessibility improvements to existing transit and intermodal stations not designated as key stations.

• Supporting voucher programs for transportation services offered by human service providers.

• Supporting volunteer driver and aide programs.

• Acquisition of transportation services by a contract, lease, or other arrangement.

• Supporting mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.

We invite comment on the projects and activities listed above and how they relate to what is ''beyond the ADA.'' We invite comment on activities related to ADA complementary paratransit services beyond the minimum requirements outlined in 49 CFR part 37. Further, we invite comment regarding the types of projects and services that should be considered for eligibility under New Freedom as they relate to new public transportation beyond the ADA and alternatives to public transportation beyond the ADA.

States and designated recipients may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds.

4. Planning and Consultation

Beginning in FY 2007, a recipient of New Freedom funds must certify that projects selected are derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private and non-profit transportation and human service providers; participation by the public; and representatives addressing the needs of persons with disabilities. In FY 2006, the planning partners should at a minimum be consulted about projects and where possible expressions of support should be obtained and documented. Finally, each grant recipient must certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

The planning requirement is also a requirement in two additional programs. The Job Access Reverse Commute program (in FY 2006) and the Capital Program for Elderly and People with Disabilities (in FY 2007) will also be required to have a locally developed, coordinated public transit-human services transportation plan. It is anticipated that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs.

5. Period of Availability

While there is no statutory period of availability for New Freedom, FTA is establishing a consistent three-year period of availability for JARC, New Freedom, and the section 5310 program, which includes the year of apportionment plus two additional years. Funds allocated to States under the New Freedom program that remain unobligated at the end of this period will revert to FTA for reapportionment among the States and large UZAs under the New Freedom program.

6. Program Requirements

Grants are subject to the requirements of section 5310 to the extent the Secretary deems appropriate. FTA will not require labor protective arrangements for this program.

7. Transfer of New Freedom funding to Other FTA Programs

States may transfer funds to FTA's section 5307 or section 5311 programs. Funds so transferred must be used for the express purposes designated by the New Freedom Program and must meet all associated requirements. The projects for which the funds are transferred must have been competitively selected and derived from the locally developed, coordinated public transit-human services transportation plan. The purpose of the transfer provision under SAFETEA–LU is for administrative streamlining of grant making, not to supplement the resources available under the urbanized or non-urbanized formula programs. This provision allows the small UZAs to apply for funding directly from FTA, rather than through a statewide grant and allows Tribes to be direct recipients. A State that transfers funds to section 5307 must certify that New Freedom projects being funded have been coordinated with nonprofit providers of service.

FTA has established a new scope code (647) to be used when New Freedom Projects are funded within a 5307 or 5311 grant. Transfer of funds to section 5307 or 5311 is permitted but not required. FTA will also award stand-alone New Freedom grants with the section code 57 in the project number.

O. Alternative Transportation in the Parks and Public Lands Program (49 U.S.C. 5320)

FTA will work with the Department of Interior and other Federal land management agencies to implement this program during FY 2006. No procedures for allocating the funds have yet been established.

P. Alternative Analysis Program (49 U.S.C. 5339)

Alternative Analysis projects are studies conducted as part of the transportation planning process required under sections 5303 and 5304. Beginning in FY2006, funding is provided under section 5339 instead of within the eight percent allowed for projects prior to FD and Construction under TEA–21.

1. Total Allocation

SAFETEA–LU authorizes the following amounts for the Alternative Analysis program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$25,000,000	$25,000,000	$25,000,000	$25,000,000

In FY 2006 and FY 2007 there are 18 projects authorized for a total of $18,900,000 each year, leaving $6,100,000, which could be allocated to other projects during those years. There are no projects authorized in FY 2008 or FY 2009. The projects authorized in SAFETEA–LU are listed in Table 3. It is important to note that these allocations are subject to be changed by subsequent appropriations acts and additional projects may be earmarked during the appropriations process. Final Alternative Analysis program allocations for FY 2006 will be published after enactment of the FY 2006 Appropriations Act.

2. Program Requirements

The transportation planning process of Alternative Analysis includes (a) An assessment of a wide range of public transportation alternatives, which will address transportation problems within a corridor or subarea; (b) ample information to enable the Secretary to make the findings of project justification and local financial commitment; (c) the selection of a locally preferred alternative; and (d) the adoption of the locally preferred alternative, which will be part of the long-range transportation plan. The Government's share of the total cost of a project under this section is 80 percent. The funds will be awarded as separate section 5339 grants. The grant requirements under this program will be comparable to those for section 5309 grants.

3. Period of Availability

Funds shall remain available for three fiscal years, which includes the fiscal year the funds are made available or appropriated plus two additional years.

Q. Growing States and High States Density Formula Factors

A new section 5340 is added by SAFETEA–LU to allocate funds to Growing States and High Density States. For this section, the term 'State' is defined only to mean the 50 States. For the Growing State portion of section 5340, funds are allocated based on the population forecasts for fifteen years after the date of that census. Forecasts are based on the trend between the most recent decennial census and Census Bureau population estimates for the most current year. Funds allocated to the States are then sub-allocated to urbanized and non-urbanized areas based on forecast population, where available. If forecasted population data at the urbanized level is not available, funds are allocated to current urbanized and non-urbanized areas on the basis of current population. Funds allocated to urbanized areas are included in their section 5307 apportionment. Funds allocated for non-urbanized areas are included in the states' section 5311 apportionments.

Funding for the High Density States portion of section 5340 is allocated to the seven States with population densities in excess of 370 persons per square mile, based on 2000 Census information. Each State receives a prorated share of the available funds. To arrive at a State's prorated share the formula requires that a series of mathematical calculations be performed using 2000 Census population, land area, and UZA population data for each State to produce the State's apportionment factor. The steps used to compute a State's apportionment factor are as follows:

Step 1: State land area, in square miles, is multiplied by 370.

Step 2: the product from step 1 is then multiplied by the State's UZA population.

Step 3: the product from step 2 is divided by the State total population.

Step 4: the quotient derived from step 3 is the State apportionment factor.

The factors for the seven States are summed and divided by the individual State factor to arrive at the State ratio or percentage. This ratio is multiplied by the available funding to arrive at the State's apportionment of High Density funding. The allocation of a State's High Density apportionment among the UZAs in each State is based on each UZA receiving a proportional share of the State's apportionment according to a UZA's population within the State, as related to the total UZA population for the State. Population, population density and land area data from the most recent Decennial Census is used in the High Density formula.

FTA will publish single urbanized and rural apportionments that show the total amount for 5307 and 5311 programs that includes apportionments these programs formulas together with 5340.

R. Over-the-Road Bus Accessibility Program (Pub. L. 105–85, Section 3038)

The Over-the-Road Bus Accessibility (OTRB) Program authorizes FTA to make grants to operators of over-the-road buses to help finance the incremental capital and training costs of complying with the DOT over-the-road bus accessibility final rule, 49 CFR part 37, published on September 28, 1998 (63 FR 51670). FTA conducts a national solicitation of applications, and grantees are selected on a competitive basis.

1. Total Allocation

SAFETA–LU authorizes the following amounts for the OTRB program for fiscal years 2006–2009.

Fiscal Year	2006	2007	2008	2009
Funds Authorized	$ 7,500,000	$ 7,600,000	$ 8,300,000	$ 8,800,000

Of the authorized amounts, the following funding is allocable to providers of intercity fixed-route service (75 percent) and to other providers of over-the-road bus services, including local fixed-route service, commuter service, and charter and tour service (25 percent).

Fiscal Year	2006	2007	2008	2009
Intercity	$ 5,625,000	$ 5,700,000	$ 6,225,000	$ 6,600,000
Other	$ 1,875,000	$ 1,900,000	$ 2,075,000	$ 2,200,000

2. Basis for Allocations

FTA allocates the funds appropriated annually among eligible private operators of over-the-road buses that apply in response to a request for proposals published in the **Federal Register** and announced on Grants.Gov. A separate **Federal Register** notice will be published later this fall announcing the competitive selection process for funds appropriated in FY 2006.

FTA will screen all applications to determine whether all required eligibility elements are present. An FTA evaluation team will evaluate each application according to the criteria described in the announcement. FTA will notify all applicants, both those selected for funding and those not selected when the competitive selection process is complete. Projects selected for funding will be published in a **Federal Register** notice. Applicants selected for funding must apply to the FTA regional office for the actual grant award, sign Certifications and

Assurances, and execute a grant contract before funds can be drawn down.

3. Program Requirements

Projects are competitively selected. The Federal share of the project is 90 percent of net project cost. Program guidance is provided in the **Federal Register** notice soliciting applications. Assistance is available to operators of buses used substantially or exclusively in intercity, fixed route, over-the-road bus service. Capital projects eligible for funding include projects to add lifts and other accessibility components to new vehicle purchases and to purchase lifts to retrofit existing vehicles. Eligible training costs include developing training materials or providing training for local providers of over-the-road bus services.

4. Period of Availability

Funds are available until expended.

VII. FTA National Planning Emphasis Areas

The FTA has identified a series of national Planning Emphasis Areas (PEAs) to promote as priority themes for consideration in developing the annual work programs for Statewide Planning (State Planning and Research, or SP&R) and Metropolitan Planning (Unified Planning Work Program, or UPWP). The PEAs represent topics in statewide and metropolitan planning that are of strategic national importance and are proposed for consideration by State and local officials as they prepare UPWPs and SP&R programs during the next applicable annual planning program cycle. This year's PEAs broadly promote improved person mobility, while addressing Core Accountabilities of FTA's Strategic Business Plan. The Strategic Business Plan may be viewed at the FTA Web site, *http://www.fta.dot.gov*. Because of the wide range in fiscal years across the States, it is understood that full consideration to include the PEAs may not take place until FY 2007. FTA invites comments from all interested parties on the PEAs outlined in the following pages—both the planning topics that are listed, as well as the specific themes under each topic.

A dedicated program of technical assistance and informational support is being made available to States, MPOs, and public transportation operators to aid in carrying out work activities that support the PEAs. The Transportation Planning Capacity Building Program (TPCB), accessible on-line at *http://www.planning.dot.gov*, is an important component of this support, with additional resources also to be made available through the FTA Web site, *http://www.fta.dot.gov*. The TPCB is an on-line accessible portfolio of informational reports and services sponsored jointly by FTA and the Federal Highway Administration (FHWA) providing useful guidelines and case studies of innovative practice related to statewide and metropolitan planning. A key element of the TPCB is the Peer Exchange Program, which provides support for sharing experiences among planning practitioners of innovative practices on these PEAs, as well as other planning topics, on request. Requests for information and technical support through the TPCB can be made by accessing the Web site noted above, or by contacting the FTA Region Office or FHWA Division Office representatives in your areas. In addition, training courses that address these PEAs in a variety of planning contexts are available through the National Transit Institute (NTI) and the National Highway Institute (NHI). Please go to the following Web sites: *http://www.ntionline.com and http://www.nhi.fhwa.dot.gov.*

Finally, FTA is interested in identifying and showcasing examples of effective and innovative practice in Statewide and Metropolitan Planning that support the PEAs. States, MPOs, and public transportation operators are encouraged to forward work scopes and reports documenting their innovative efforts to their respective FTA Region Offices, so they may be reviewed and forwarded to Headquarters for national dissemination through a dedicated webpage to be developed over the coming year.

FTA has identified five key themes as PEAs for the current and upcoming fiscal year: (1) Incorporating Safety and Security in Transportation Planning; (2) Participation of Transit Operators in Metropolitan and Statewide Planning; (3) Coordination of Non-Emergency Human Service Transportation; (4) Planning for Transit Systems Management/Operations to Increase Ridership; and (5) Support Transit Capital Investment Decisions through Effective Systems Planning.

1. Incorporating Safety and Security in Transportation Planning

Since passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991, and in all subsequent surface transportation authorizing legislation, States and MPOs have been encouraged to incorporate safety and security in their plans, programs, and ongoing planning activities. Most recently, SAFETEA-LU has expanded emphasis on safety and security by decoupling the two concepts and elevating their status as individual factors in the planning process. Communication and collaboration among safety professionals, emergency service providers, the enforcement community, and transportation planners is essential to successfully integrate safety and security into all stages of transportation planning and decision-making.

Regarding transportation system safety, information describing the tools and strategies associated with the implementation of transportation safety planning within statewide and metropolitan transportation planning processes, including resources targeted to the planning organizations, is available at *http://www.tfhrc.gov/pubrds/pubrds.htm*. A training course titled ''Safety Conscious Planning'' is available through NTI (see Web site above) with additional information available from TPCB Web site and FHWA and FTA, as follows: *http://www.fhwa.dot.gov/planning/scp/index.htm* and *http://transit-safety.volpe.dot.gov/.*

The types of planning work activities addressed under this emphasis area can include, among others, education, training, and development/application of analytical processes related to addressing safety and security in planning on a systematic basis, and development and use of approaches to considering safety and security in setting implementation priorities in plans and programs. The ''security'' component of this emphasis area refers to both maintaining the personal security of transportation system operators and users, as well as strategies for system operations that support the ''homeland'' security of localities, regions, States, and the nation. Coordinated approaches to the training of operators, deployment of communications and control technologies, and general coordination of emergency preparedness are among the types of planning activities that fall under this category.

A high-profile theme that spans both security and safety is disaster planning. In particular, areas that are vulnerable to disasters of either man-made or natural origin are encouraged to consider including disaster planning work activities into their SP&Rs and UPWPs. Examples of planning-related disaster planning activities include all stages of emergency preparedness planning—ranging from preparing multimodal evacuation plans before a possible event, to strategies for bringing emergency supplies and relief aid to affected areas after the event. Additional

information is available at the following Web sites:

- *http://www.planning.dot.gov/Documents/Securitypaper.htm.*
- *http://www.fhwa.dot.gov/planning/scp/index.htm.*
- *http://www.planning.dot.gov/Peer/Michigan/detroitSafety.htm.*

2. Participation of Transit Operators in Metropolitan and Statewide Planning

SAFETEA–LU expands the mandate and opportunities for transit operator participation in multimodal transportation decision-making through Statewide and Metropolitan planning. This PEA outlines a set of strategies for realizing the full potential and benefits of multimodal decision-making. A recent FTA publication, Transit at the Table: A Guide to Participation to Metropolitan Decision Making, available online and in hard-copy, provides candid testimonials of the values and strategies for full achievement of ''transit-at-the-table'' by transit and MPO leaders from 25 metropolitan areas across the U.S.

Among the planning activities that support this emphasis area are (a) establishing program, project, and technical advisory committees that include representation and active participation by transit operators, (b) developing and monitoring transportation system performance indicators that include measures that involve public transportation, (c) ensuring that travel forecasting methods are sensitive to policies affecting the full range of modal options and that transit ridership forecasts have been validated and are credible, and (d) using criteria for setting project priorities for inclusion in plans and programs that are mode-neutral.

Training on ways to ensure that planning processes are modally-balanced and the resulting decisions mode-neutral are available through the National Transit Institute (*http://www.ntionline.com*) and the National Highway Institute (*http://www.nhi.fhwa.dot.gov*), with additional information available through the Transportation Planning Capacity Building Web site (*http://planning.dot.gov*) and the Travel Model Improvement Program (*http://tmip.fhwa.dot.gov/*). Over the past two years, the TPCB has sponsored a number of transit-at-the-table peer exchange workshops, with the results posted on that Web site. The ''Transit at the Table'' report is available at *http://www.planning.dot.gov/Documents/tat.htm.*

3. Coordination of Non-Emergency Human Service Transportation

Following the theme of Executive Order #13330, Human Service Transportation Coordination, SAFETEA–LU provides expanded program authority and funding opportunities to provide transit service to individuals with job access and specialized transportation needs. However, these programs, 49 U.S.C. 5310 (Special Needs of Elderly Individuals and Individuals with Disabilities), 49 U.S.C. 5316 (Job Access and Reverse Commute), and 49 U.S.C. 5317 (New Freedom) all require an extensive coordination among DOT and non-DOT-funded services, including preparation of a locally-developed coordinated human service-transportation plan as the basis for project-level funding decisions. The plan has to be developed by local area representatives of public, private, and nonprofit transportation human services providers, as well as involve participation by the public, including older adults, people with disabilities, and individuals with lower incomes. SAFETEA–LU further outlines that project ''competition'' for funding awards at the local level should be coordinated with the MPO.

Support of the emphasis area could involve a wide range of work activities in Statewide and metropolitan planning, including forming and hosting meetings of a committee of non-emergency service providers, assemblage of a base-year ridership profile of service users and forecasting future usage, and incorporating these programs into the public involvement programs of States and MPOs. United We Ride, an initiative of the Coordinating Council on Access and Mobility has developed a number of tools and strategies for building coordinated human service transportation systems across programs and funding streams. Additional information resources are available at the following Web sites:

- *http://www.fta.dot.gov/16290_17544_ENG_HTML.htm.*
- *http://www.unitedweride.gov/.*
- *http://www.fta.dot.gov/1139_ENG_HTML.htm.*
- *http://www.fta.dot.gov/1266_ENG_HTML.htm.*
- *http://www.planning.dot.gov/Peer/Austin/austin_peer.htm.*

4. Planning for Transit Systems Management/Operations to Increase Ridership

A regionally coordinated, strategic approach to managing and operating transportation systems can yield dramatic improvements in systems productivity and service cost effectiveness. With regard to transit, a key criterion of operational effectiveness is the number of passenger miles traveled. FTA's Strategic Business Plan has a goal calling for an annual increase in passenger miles, discounted for employment. The ability to accomplish this is tied closely to the effective management and operation of transit systems—individually, as well as in within a regional context of multimodal systems management and operations. In addition, transit operational strategies such as fare policies, service characteristics (*e.g.* headways, transfers, frequency of stops), marketing and public awareness/information, and overall facilities maintenance on services and schedules, have a major impact on system ridership.

Work activities in Statewide and Metropolitan planning to address this emphasis area include such efforts as: (a) Convene a system operators coordinating committee to identify issues, share solutions, and establish an ongoing framework for coordination, (b) develop analytical tools and expertise in assessing the impacts of operational strategies, both in conjunction with, and as alternatives to, capital investments, (c) facilitate improved understanding and deployment of advanced technologies to improve the operational efficiency of systems, and (d) improve the tracking, analysis, and use of operational performance data in transportation plan and program development.

FTA has developed an extensive body of information and guidance to assist transit operators in developing strategies that increase use of their systems. The guidance includes technical assistance such as training courses, research studies, and proceedings from conferences that transit operators can use in developing their ridership growth strategies. This guidance is summarized in the report, ''Ridership Guidance Quick Study,'' which is posted at *http://www.fta.dot.gov/17525_ENG_HTML.htm*).

Additional information on achieving ridership growth is available at the following Web sites:

- *http://www.fta.dot.gov/initiatives_tech_assistance/technology/15791_ENG_HTML.htm.*
- *http://www.tcrponline.org.*
- *http://www.plan4operations.dot.gov/.*

5. Support Transit Capital Investment Decisions Through Effective Systems Planning

The information, processes, and decisions of metropolitan systems planning lay the foundation for, and have direct impacts upon, corridor-focused project planning and subsequent stages of project development. There is a strong relationship between systems planning activities, more refined corridor analyses in Alternatives Analysis (or ''AA.'' an FTA requirement for advancing New Starts projects), and their impact on subsequent project development—all within the context of metropolitan planning and decision-making. In systems planning, regional priorities among corridors of need are identified, as well as causes of the corridors' problems and a reasonable range of possible solutions. An AA investigates the range of possible modal solutions within individual corridors in much greater detail, concluding with a ''Locally Preferred Alternative'' (LPA). That LPA, in turn, goes to the Metropolitan Planning Organization (MPO) for adoption into the long-range transportation plan and is, ultimately, programmed in the Transportation Improvement Program. And, as the work of systems planning is carried forward into more focused planning at the corridor level, it becomes readily apparent that the quality of work performed in systems planning sets the foundation—and the quality of that foundation—for subsequent, more detailed planning.

Within systems planning, three planning activities have been found to be the most challenging and, if not performed effectively, to have the most significant impact on the quality and credibility of major transit investment proposals as they advance into project development. These three systems planning topics are: (a) Data, Technical Tools, & Analysis; (b) Regional Needs Identification & Corridor Prioritization; and (c) Financial Planning.

(a) Data, Technical Tools, & Analysis

There is a long and ever-expanding list of planning activities to improve the technical aspects of systems planning. These include ongoing collection of systems usage and performance to understand current travel behavior (*e.g.* onboard transit surveys and monitoring travel—by mode—that crosses a strategically picked network of screen-lines), training for staff to improve their technical skills and expertise. Frequent validation checks should be performed on the travel forecasting models to confirm their reliability for use in assessing the travel implications of policy and network alternatives. Also, as improvements to MPOs' models are made during corridor-level AA studies, those refinements should be cycled back to the MPOs for use in their models.

FTA staff and contractors have identified a wide range of problems with MPO travel demand forecasting models, particularly in locales with no prior experience in conducting AA studies. The ''sponsors'' of candidate projects for New Starts funding (49 U.S.C. 5309) will want to work with FTA staff *before beginning the AA Study* to examine model inputs, policy variables and assumptions, and model outputs for reasonableness.

Informational resources available to State/local planners include:

- National Highway Institute (*http://www.nhi.fhwa.dot.gov*), which offers the course Introduction to Travel Demand Forecasting.
- National Transit Institute (*http://www.ntionline.com*), which offers the advanced course Multimodal Travel Forecasting.
- Travel Model Improvement Program (*http://tmip.fhwa.dot.gov*), a joint FTA/FHWA/EPA program to support local transportation planning agencies and improve their forecasting abilities.

(b) Regional Needs Identification & Corridor Prioritization

Goals and objectives for the transportation system are driven by public input and set by local policy makers and elected officials. These should be based on needs and clearly set forth in the long-range transportation plan. Furthermore, the goals and objectives should drive not only performance measures for the existing system, but also evaluation criteria for any new projects and programs to assist in decision making. If a major transit investment is to be considered in a corridor for study and Federal funding assistance is anticipated for the investment, then project sponsors may want to include FTA's New Starts criteria among the locally developed evaluation criteria.

Systems planning involves identifying corridors with needs in accordance with a set of performance measures and establishing priorities among the corridors for further analysis. Valid, current, and comprehensive data are crucial in understanding transportation problems in the region; they also support rational decision making in formulating solutions. It is important that the planning documents and studies clearly articulate the problem(s) that are to be addressed. This will lead to the discovery the root causes of the problem(s). Knowledge of problems and causes becomes the basis for a project-level ''Purpose and Need'' statement in federal environmental review documentation. The identification of regional transportation problems and their causes through data collection, analysis, and forecasting is the basis for ''telling the story'' of the applicant's local conditions. Good systems planning will help to ''make the case'' for funding potential major transit investments.

Links to informational resources on this topic include:

- *http://www.fta.dot.gov/16231_ENG_HTML.htm.*
- *http://www.fta.dot.gov/16363_ENG_HTML.htm.*
- *http://www.fta.dot.gov/grant_programs/transportation_planning/major_investment/procedures_technical_methods/9949_10244_ENG_HTML.htm.*

(c) Financial Planning

Effective systems planning depends upon sound, defensible financial planning. Otherwise, the plans will always remain just plans and what is implemented will not reflect the vision expressed by decision makers through the metropolitan planning process. Good financial planning, in turn, depends upon credible assumptions, for revenues, expenses, inflation, and realistic project implementation schedules. For transit service and projects, in particular, the concept of maintenance first must take precedence in systems planning. Recapitalization and the ongoing expenses of operating and maintaining (O&M) the existing system over the long-term must be considered. The applicant or proposed project sponsor should be able to demonstrate that the existing transit system can be maintained and operated at current levels of service for the next 20 years. Development of a robust cost model for transit O&M expenses can prove invaluable in systems planning. For new projects, careful estimation of capital and operating costs should also include risk management analysis to challenge assumptions behind the estimates and consider a range of cost impacts should assumptions not hold true.

Additional guidance is available, as follows:

- Standard Cost Categories for Major Capital Projects (*http://www.fta.dot.gov*; Home □ Grant Programs □ New Starts Project Planning & Development □ Technical Guidance).

• Interim FHWA/FTA Guidance on Fiscal Constraint for STIPs, TIPs, and Metro Plans (*http://www.fhwa.dot.gov/planning/fcindex.htm*).

VIII. FTA Policy and Procedures for FY 2006 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

This section includes some changes to the automatic pre-award authority published in previous Notices. Pre-award authority for capital projects beyond design and environmental work is more limited than before. The conditions under which pre-award authority may be used for real property acquisition are also clarified.

While we provide pre-award authority for many projects, we do not recommend that first-time grant recipients utilize the automatic pre-award authority to incur expenses before the grant is actually awarded by FTA. As a new grantee, it is easy to misunderstand pre-award authority conditions and not be aware of all of the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, FTA will be unable to reimburse the project sponsor.

1. Policy

FTA provides blanket, or automatic, pre-award authority in certain program areas described below. This pre-award authority allows grantees to incur certain project costs prior to grant approval and retain their eligibility for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This automatic pre-award spending authority, when triggered, permits a grantee to incur costs on an eligible transit capital or planning project without prejudice to possible future Federal participation in the cost of the project or projects. Pre-award authority for design and environmental work on the project is triggered by the authorization of formula funds or appropriation of funds for discretionary projects and publication of those projects in FTA's annual **Federal Register** Notice of apportionments and allocations. Following authorization of formula funds or appropriation and publication of discretionary projects, pre-award authority for other capital projects including property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials is triggered by completion of the environmental review process with FTA's signing of an environmental Record of Decision (ROD), Finding of No Significant Impact (FONSI), or categorical exclusion (CE) determination. Prior to exercising pre-award authority, grantees must comply with the conditions and Federal requirements outlined in paragraphs 2 and 3 below. Failure to do so will render an otherwise eligible project ineligible for FTA financial assistance. In addition, prior to incurring costs, grantees are strongly encouraged to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and the applicability of the conditions and Federal requirements.

FTA previously extended pre-award authority to all formula funds and flexible funds apportioned during from Fiscal Years 1998 through 2006. In this notice, FTA is extending this pre-award authority for formula funds and flexible funds that will be appropriated through FY 2009 under SAFETEA–LU, but with modifications. Pre-award authority for operating and planning projects under the formula grant programs is not limited to the authorization period. In addition, automatic pre-award authority for section 5303 and 5304 is extended through FY 2009.

Pre-award authority does not apply to the section 5309 Capital Investment Bus and Bus-Related Facilities and Clean Fuels program high priority project designations or any other transit discretionary projects designated in SAFETEA–LU and published in Tables 4 and 5 of this notice. These authorizations are subject to change in future appropriations acts. In fiscal years 2006–2009, after Congress appropriates funds for these and other discretionary projects and the allocations are published in an FTA notice of apportionments and allocations, pre-award authority will be available for those projects and projects for which funds were appropriated in prior years and published in previous notices, except that the triggers for pre-award authority have been changed. For such section 5309 Capital Investment Bus and Bus-Related, Clean Fuels Program, or other transit capital discretionary projects, the date that costs may be incurred is: (1) for design and environmental review, the date that the appropriation bill which funds the project was enacted; and (2) for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, the date that FTA signs the document (ROD, FONSI, or CE determination) that completes the environmental review process required by the National Environmental Policy Act (NEPA) and its implementing regulations. The growing prevalence of new grantees unfamiliar with Federal and FTA requirements has necessitated this change in the pre-award trigger to ensure FTA's continued ability to comply with NEPA and related environmental laws. Because FTA does not sign a final NEPA document until MPO and statewide planning requirements have been satisfied, this new trigger for pre-award will ensure compliance with both planning and environmental requirements prior to irreversible action by the grantee. In previous notices FTA extended pre-award authority to section 330 projects and those surface transportation projects commonly referred to as section 115 projects administered by FTA, for which amounts were provided in the Consolidated Appropriations Act, 2004 and section 117 projects in the 2005 Appropriations Act. The same conditions described for bus projects apply to these projects. We strongly encourage any prospective applicant that does not have a relationship with FTA to review Federal grant requirements with the FTA regional office before incurring costs.

Blanket pre-award authority does not apply to section 5309 Capital Investment New Starts funds. Specific instances of pre-award authority for Capital Investment New Starts projects are described in paragraph 4 below. Pre-award authority does not apply to Capital Investment Bus and Bus-Related or Clean Fuels projects for which funding has been authorized but not yet appropriated. Before an applicant may incur costs for Capital Investment New Starts projects, Bus and Bus-Related projects, or any other projects not yet published in a notice of apportionments and allocations, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described below.

2. Conditions

The conditions under which pre-award authority may be utilized are specified below:

(a) Pre-award authority is not a legal or implied commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all

items undertaken by the applicant will be eligible for inclusion in the project(s).

(b) All FTA statutory, procedural, and contractual requirements must be met.

(c) No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

(d) Local funds expended by the grantee pursuant to and after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s). Local funds expended by the grantee prior to the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds on activities such as land acquisition, demolition, or construction prior to the date of pre-award authority for those activities (*i.e.*, the completion of the NEPA process) would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

(e) The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

(f) For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

(g) When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.

3. Environmental, Planning, and Other Federal Requirements

All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. The growth of the Federal transit program has resulted in a growing number of inexperienced grantees who make compliance with Federal planning and environmental laws increasingly challenging. FTA has therefore modified its approach to pre-award authority to use the completion of the NEPA process, which has as a prerequisite the completion of planning and air quality requirements, as the trigger for pre-award authority for all activities except design and environmental review.

The requirement that a project be included in a locally adopted metropolitan transportation improvement program and Federally-approved statewide transportation improvement program (23 CFR part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-Federal funds under pre-award authority. The conformity requirements of the Clean Air Act, 40 CFR part 93, if applicable, must also be fully met before the project may be advanced into implementation under pre-award authority with non-Federal funds. Compliance with NEPA and other environmental laws and executive orders (*e.g.*, protection of parklands, wetlands, and historic properties) must be completed before State or local funds are spent on implementation activities, such as site preparation, construction, and acquisition, for a project that is expected to be subsequently funded with FTA funds. The grantee may not advance the project beyond planning and preliminary design before FTA has determined the project to be a categorical exclusion, or has issued a finding of no significant impact (FONSI) or an environmental record of decision (ROD), in accordance with FTA environmental regulations, 23 CFR part 771. For planning projects, the project must be included in a locally-approved Planning Work Program that has been coordinated with the State.

In addition, Federal procurement procedures, as well as the whole range of applicable Federal requirements (*e.g.*, Buy America, Davis-Bacon Act, Disadvantaged Business Enterprise), must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

4. Pre-Award Authority for New Starts Projects

(a) *Preliminary Engineering and Final Design*

Projects proposed for section 5309 New Starts funds are required to follow a Federally defined New Starts project development process. This New Starts process includes, among other things, FTA approval of the entry of the project into PE and into FD. In accordance with section 5309(d), FTA considers the merits of the project, the strength of its financial plan, and its readiness to enter the next phase in deciding whether or not to approve entry into PE or FD. Upon FTA approval to enter PE, FTA extends pre-award authority to incur costs for PE activities. Upon FTA approval to enter FD, FTA extends pre-award authority to incur costs for FD activities. The pre-award authority for each phase is automatic upon FTA's signing of a letter to the project sponsor approving entry into that phase. PE and FD are defined in the New Starts regulation entitled Major Capital Investment Projects, found at 49 CFR part 611.

(b) *Real Property Acquisition Activities*

FTA extends automatic pre-award authority for the acquisition of real property and real property rights for a New Starts project upon completion of the NEPA process for that project. The NEPA process is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition for a New Starts project may commence, at the project sponsor's risk, upon completion of the NEPA process.

For FTA-assisted projects, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24. This pre-award authority is strictly limited to costs incurred: (i) to acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the final environmental impact statement (FEIS), environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception. That exception is when a building that has been acquired, has been emptied of its occupants, and awaits demolition poses a potential fire-safety hazard or other hazard to the community in which it is located, or is susceptible to reoccupation by vagrants, demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists.

Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.117(d)(12), and when FTA makes a CE determination for the acquisition of a pre-existing railroad right-of-way in accordance with 49 U.S.C. 5324(c). When a tiered environmental review in accordance with 23 CFR 771.111(g) is being used, pre-award authority is NOT provided upon completion of the first-tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition.

FTA's rationale for providing this pre-award authority was described in the FY 2003 Apportionments and Allocations Notice published in the **Federal Register** on March 12, 2003, (68 FR 1106 *et seq.*). The FY 2003 Notice may be found on the FTA Web site at *http://www.fta.dot.gov/library/legal/federalregister/2003/fr31203.pdf*. Project sponsors should use pre-award authority for real property acquisition and relocation assistance very carefully, with a clear understanding that it does not constitute a funding commitment by FTA.

(c) *National Environmental Policy Act (NEPA) Activities*

NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review, either to support an FTA finding of no significant impact (FONSI) or to demonstrate that the action is categorically excluded from the more rigorous level of NEPA review.

FTA's regulation entitled Environmental Impact and Related Procedures at 23 CFR part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(e)). Accordingly, FTA extends automatic pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities for a proposed New Starts project, effective as of the date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process, and to prepare environmental, historic preservation and related documents. It does not cover PE activities beyond those necessary for NEPA compliance. As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

(d) *Other New Starts Activities Requiring Letter of No Prejudice (LONP)*

Except as discussed in paragraphs (a) through (c) above, a grant applicant must obtain a written LONP from FTA before incurring costs for any activity expected to be funded by New Start funds not yet granted. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for section 5309 New Starts funds not covered under a full funding grant agreement, or for section 5309 Bus and Bus-Related funds not yet appropriated by Congress. At the end of an authorization period, LONPs may be issued for formula funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority.

2. Conditions and Federal Requirements

The conditions for pre-award authority specified in section VIII A2 above apply to all LONPs. The Environmental, Planning and Other Federal Requirements described in section VIII A3, also apply to all LONPs. Because project implementation activities may not be initiated prior to NEPA completion, FTA will normally not issue an LONP for such activities until the NEPA process has been completed with a ROD, FONSI, or Categorical Exclusion determination.

3. Request for LONP

Before incurring costs for a project not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval. As a prerequisite to FTA approval of an LONP for a New Starts project, FTA will require project sponsors to demonstrate project worthiness and readiness that establish the project as a candidate for an FFGA. Projects will be assessed based upon the criteria considered in the New Start evaluation process. Specifically, upon the request for an LONP, the applicant shall provide sufficient information to allow FTA to consider the following items:

(a) Description of the activities to be covered by the LONP.

(b) Justification for advancing the identified activities.

(c) Data that indicates that the project will maintain its ability to receive a rating of ''medium'', or better and that its cost-effectiveness rating will be ''medium'' or better, unless such project has been specifically exempt from such a requirement.

(d) Allocated level of risk and contingency for the activity requested.

(e) Status of procurement progress, including, if appropriate, submittal of bids for the activities covered by the LONP.

(f) Strength of the capital and operating financial plan for the New Starts project and the future transit system.

(g) Adequacy of the Project Management Plan.

(h) Resolution of any readiness issues that would affect the project, such as land acquisition and technical capacity to carry out the project.

C. FTA FY 2006 Annual List of Certifications and Assurances

The FTA ''Fiscal 2006 Annual List of Certifications and Assurances'' will incorporate new or changed requirements due to SAFETEA-LU. The full text of the Fiscal Year 2006 Certifications and Assurances was published in the **Federal Register** on November 15, 2005, and is available on the FTA Web site and in TEAM-WEB. The FY 2006 Certifications and Assurances must be used for all grants made in FY 2006, including obligation of carryover.

D. FHWA Funds Used for Transit Purposes

SAFETEA-LU continues provisions in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and TEA–21 that expanded modal choice in transportation funding by including

substantial flexibility to transfer funds between FTA and FHWA program funding categories.

1. Transfer Process

The process for transferring flexible formula funds between FTA and FHWA programs is described below. For information on the process or the transfer of funds between FTA and FHWA planning programs refer to section VIII E.

Transfer from FHWA to FTA. FHWA funds designated for use in transit capital projects must be derived from the metropolitan and statewide planning and programming process, and must be included in an approved STIP before the funds can be transferred. By letter, the State DOT requests the FHWA Division Office to transfer highway funds for a transit project. The letter should specify the project, amount to be transferred, apportionment year, State, urbanized area, Federal aid apportionment category (*i.e.*, Surface Transportation Program (STP), Congestion Mitigation and Air Quality (CMAQ), Interstate Substitute, or congressional earmark), indication of the intended FTA formula program (*i.e.*, section 5307, 5311 or 5310), and should include a description of the project as contained in the STIP.

The FHWA Division Office confirms that the apportionment amount is available for transfer and concurs in the transfer, by letter to the State DOT and FTA. The FHWA Office of Budget and Finance then transfers obligation authority and an equal amount of cash to FTA. All FHWA CMAQ, STP, and certain Congressionally earmarked funds for transit projects in the Appropriations Act or Conference Report will be transferred to one of the three FTA formula programs (*i.e.* Urbanized Area Formula (section 5307), Nonurbanized Area Formula (section 5311) or Elderly and Persons with Disabilities (section 5310).

The FTA grantee's application for the project must specify which program the funds will be used for, and the application must be prepared in accordance with the requirements and procedures governing that program. Upon review and approval of the grantee's application, FTA obligates funds for the project.

Transferred funds are treated as FTA formula funds, but are assigned a distinct identifying code for tracking purposes. The funds may be used for any capital purpose eligible under the FTA formula program to which they are transferred and, in the case of CMAQ, for certain operating costs. FTA and FHWA have issued guidance on project eligibility under the CMAQ program in a Notice at 65 FR 9040 *et seq.* (February 23, 2000). In accordance with 23 U.S.C. 104(k), all FTA requirements except local share are applicable to transferred funds; FHWA local share requirements apply to funds transferred from FHWA to FTA. Transferred funds should be combined with regular FTA funds in a single annual grant application.

In the event that transferred funds are not obligated for the intended purpose within the period of availability of the program to which they were transferred, they become available to the Governor for any eligible capital transit project.

Transfers from FTA to FHWA. The Metropolitan Planning Organization (MPO) submits a written request to the FTA regional office for a transfer of FTA section 5307 formula funds (apportioned to a UZA 200,000 and over in population) to FHWA based on approved use of the funds for highway purposes, as contained in the Governor's approved State Transportation Improvement Program. The MPO must certify that: (1) The funds are not needed for capital investments required by the Americans with Disabilities Act; (2) notice and opportunity for comment and appeal has been provided to affected transit providers; and (3) local funds used for non-Federal match are eligible to provide assistance for either highway or transit projects. The FTA Regional Administrator reviews and concurs in the request, then forwards the approval in written format to FTA Headquarters, where a reduction equal to the dollar amount being transferred to FHWA is made to the grantee's Urbanized Area Formula Program apportionment.

2. Matching Share for FHWA Transfers

The provisions of Title 23 U.S.C. regarding the non-Federal share apply to Title 23 funds used for transit projects. Thus, FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA.

There are three instances in which a Federal share higher than 80 percent would be permitted. First, in States with large areas of Indian and certain public domain lands and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that State. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transfers used to fund transit projects in these public land States. FHWA develops the sliding scale matching ratios for the increased Federal share.

Second, commuter carpooling and vanpooling projects and transit safety projects using FHWA transfers administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by FHWA.

The third instance is the 100 percent Federally-funded safety projects; however, these are subject to a nationwide 10 percent program limitation.

E. Consolidated Planning Grants

Since FY 1997, FTA and FHWA have offered States the option of participating in a pilot Consolidated Planning Grant (CPG) program. This streamlined fund drawdown process eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first.

Under a CPG administered by FTA, States can report metropolitan planning expenditures (to comply with the Single Audit Act) for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program. Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State (through FTA) can request a waiver of the 20 percent local share requirement in order that all FTA funds used for metropolitan planning in a CPG can be granted at the higher FHWA rate. For some States, this Federal match rate can exceed 90 percent. In FY 2005, the CPG program was expanded to allow the transfer of FTA planning funds to FHWA in addition to the current process whereby FHWA funds for planning are transferred to FTA. For planning projects funded through a CPG, the State DOT requests the transfer of funds in a letter to the FHWA Division Office (if transferring funds to FTA) or to the FTA regional office (if transferring funds to FHWA).

F. Grant Application Procedures

Grantees must provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number for inclusion in all applications for a Federal grant or cooperative agreement submitted on or after October 1, 2003. The DUNS number should be entered into the grantee profile in TEAM-Web. Additional information about this and other Federal grant streamlining initiatives mandated by the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) can be accessed on OMB's Web site at *http://www.whitehouse.gov/omb/grants/reform.html.*

All applications for FTA funds should be submitted to the appropriate FTA regional office. FTA utilizes TEAM-Web, an Internet-accessible electronic grant application system, and all applications are filed electronically. FTA has provided limited exceptions to the requirement for electronic filing of applications.

In FY 2006, FTA is committed to ensuring that the average number of days to process an FTA grant is 36 days, or fewer, after receipt of a completed application by the appropriate regional office. In order for an application to be considered complete and for FTA to assign a grant number, enabling submission in TEAM-Web, the following requirements must be met:

- The project is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP).
- All eligibility issues have been resolved.
- Required environmental findings have been made.
- The project budget's Activity Line Items (ALI), scope, and project description meet FTA requirements.
- Local share funding source(s) have been identified.
- The grantee's required Civil Rights submissions are current.
- Certifications and assurances are properly submitted.
- Funding is available, including any flexible funds included in the budget.
- For projects involving new construction (using at least $100 million in New Starts or formula funds), FTA engineering staff has reviewed the project management plan and given approval.
- When required for grants related to New Starts projects, PE and/or FD has been approved.
- Milestone information is complete, or FTA determines that milestone information can be finalized before the grant is ready for award.

Before FTA can award grants for discretionary projects and activities designated by Congress, notification must be given to members of Congress, and in the case of awards greater than $1 million, to the House and Senate authorizing and appropriations committees.

Other important issues that impact FTA grant processing activities are discussed below.

1. Change in Budget Structure

Because SAFETEA–LU restructured FTA's accounts from all general funded accounts to one solely trust funded account and three general funded accounts, we are not able to mix funds from prior years in the same grant with funds that will be appropriated in FY 2006 and beyond (except for New Starts and research grants). Previously all programs were funded approximately 80 percent trust funds from the Mass Transit Account (MTA) of the Highway Trust Fund and 20 percent General Funds from the U.S. Treasury. The trust funds were transferred into the general funded accounts at the beginning of the year. Under SAFETEA–LU most programs are funded entirely from trust funds derived from the Mass Transit Account, while the New Starts and Research programs are funded with general funds. Carryover FY 2005 and prior funds currently available for obligation as well as FY 2006 funds, when they become available, may be included in an amendment to an existing grant for New Starts and research grants.

For formula programs funded solely from trust funds beginning in FY 2006, grantees must initiate a *new* grant to obligate FY 2006 funds. Grant amendments cannot be made to add FY 2006 and later year funds to a grant that includes FY 2005 or prior funds. Obligations of FY 2005 and prior year carryover funds must be made in the original program accounts established under TEA–21 (either as an amendment to an existing grant or as a new grant) and cannot be combined with funds appropriated in FY 2006 or later. Grantees will, however, be able to amend the new grants established with FY 2006 funds to add funds made available after FY 2006. We regret any inconvenience this accounting change may cause as we implement new statutory requirements under SAFETEA–LU. We encourage grantees to spend down and close out old grants as quickly as possible to minimize the inconvenience.

2. Grant Budgets—SCOPE and ALI Codes

FTA uses the SCOPE and Activity Line Item (ALI) Codes in the grant budgets to track program trends, to report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office (GAO), as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes. We have revised the SCOPE and ALI table to include new codes for the newly eligible capital items, to better track certain expenditures, and to accommodate the new programs. We encourage grantees to review the table before selecting codes from the drop-down menus in TEAM–WEB while creating a grant budget. Additional information about how to use the SCOPE and ALI codes to accurately code budgets will be added to the resources available through TEAM–WEB.

3. Earmark Tracking

FTA is implementing new procedures for relating grants to earmarks. Each earmark published in the **Federal Register** will have a unique identifier associated with it. Tables of earmarks will also be established in TEAM. When applying for a grant using funding designated by Congress, grantees will be asked to identify the amount of funding associated with specific earmarks used in the grant. Further instructions will be posted on the TEAM–WEB site and training will be provided. The carryover tables in this Notice include the new identifiers.

4. New Freedom and JARC—Administering Agency

Before the first grant application to FTA is submitted, the Governor must designate the state agency or agencies charged with administering the New Freedom and JARC formula programs. In large urbanized areas with more than one designated recipient or transit operator, supplemental agreements may be necessary.

5. Payments

Once a grant has been awarded and executed, requests for payment can be processed. To process payments FTA uses ECHO–Web, an Internet accessible system that provides grantees the capability to submit payment requests on-line, as well as receive user-IDs and passwords via e-mail. New applicants should contact the appropriate FTA regional office to obtain and submit the registration package necessary for set-up under ECHO–Web.

6. Oversight

FTA conducts periodic oversight reviews to assess grantee compliance with Federal requirements. Each UZA grantee is reviewed every three years (a triennial review). States are reviewed periodically for their management of the section 5310 and 5311 programs. Other more detailed reviews are scheduled based on an annual grantee risk assessment. FTA will develop appropriate oversight procedures for the new programs authorized by SAFETEA–LU.

7. Technical Assistance

FTA headquarters and regional staff will be pleased to answer your

questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA Web site at *http://www.fta.dot.gov.*

In addition, copies of the following circulars and other useful information are available on the FTA Website and may be obtained from FTA regional offices: 4220.1E, Third Party Contracting Requirements, dated June 19, 2003; and C5010.1C, Grant Management Guidelines, dated October 1, 1998. The FY 2006 Annual List of Certifications and Assurances and Master Agreement are also posted on the FTA Web site. Other documents on the FTA Web site of particular interest to public transit providers and others include the annual Statistical Summaries of FTA Grant Assistance Programs and the NTD Profiles. The DOT final rule on ''Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,'' which was effective July 16, 2003, can be found on the Department's Web site at *http://osdbu.dot.gov/business/DBE/49cfrpart26_final_rule.html.*

Issued on: November 21, 2005.

David B. Horner,

Acting Deputy Administrator.

Appendix A

FTA Regional Offices

Richard H. Doyle, Regional Administrator, Region 1-Boston Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617 494–2055. States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Letitia Thompson, Regional Administrator, Region 2-New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. No. 212 668–2170. States served: New Jersey, New York, and the Virgin Islands.

Susan Borinsky, Regional Administrator, Region 3-Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215 656–7100. States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.

Yvette Taylor, Regional Administrator, Region 4-Atlanta, Atlanta Federal Center, Suite 17T50, 61 Forsyth Street SW., Atlanta, GA 30303, Tel. 404 562–3500. States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee.

Don Gismondi, Deputy Regional Administrator, Region 5-Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312 353–2789. States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Robert C. Patrick, Regional Administrator, Region 6-Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817 978–0550. States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.

Mokhtee Ahmad, Regional Administrator, Region 7-Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816 329–3920. States served: Iowa, Kansas, Missouri, and Nebraska.

Lee O. Waddleton, Regional Administrator, Region 8-Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300. States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Leslie T. Rogers, Regional Administrator, Region 9-San Francisco, 201 Mission, Street, Room 2210, San Francisco, CA 94105–1926, Tel. 415 744–3133. States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands.

Rick Krochalis, Regional Administrator, Region 10-Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206 220–7954. States served: Alaska, Idaho, Oregon, and Washington.

Appendix B

Specific Questions and Issues for Comment

1. FTA seeks public comment on the continued use of the 83 percent Federal share of cost of equipment and facilities for ADA and CAA compliance. (See section IV.A.11).

2. FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the Special Needs of Elderly Individuals and Individuals with Disabilities program. Additionally, FTA seeks comment on strategies and measures that could be employed to evaluate the successes of this program. (See section VI.H).

3. For the Special Needs of Elderly Individuals and Individuals with Disabilities program, FTA seeks comment on the specific aspects of the collaborative planning process (for example, participants, elements, measures, etc.). FTA also seeks comment on the relationship between the public transit-human services plans and other planning processes. (See section VI.H).

4. FTA requests public comment on whether the State-based rural data module should serve as the basis for the new mandatory reporting requirements. (See section VI.I).

5. Concerning the basis for section RTAP formula apportionments, comments are invited on whether the floor should again be raised and whether the low density portion of the section 5311 formula should be used. (See section VI.J).

6. FTA invites comments on use of the National RTAP resource. (See section VI.J).

7. SAFETEA–LU does not specify a basis for formula apportionment for the new Tribal Transit program. FTA will develop procedures for allocating the funds in consultation with the Tribes and with opportunity for public comment. An interim measure would be to allocate FY 2006 funds based on responses to a request for letters of interest. FTA requests comments on the feasibility of allocating FY 2006 funds based on this approach. (See section VI.K).

8. We seek comments on what criteria should be considered in selecting Tribes to receive funding and what factors should be used in allocating available funds among successful applicants. (See section VI.K).

9. FTA may establish the terms and conditions for the Tribal Transit program. FTA seeks comments about appropriate terms and conditions for the program. We especially invite comments from Tribes that previously received FTA funding about which requirements we should consider waiving for the program. (See section VI.K).

10. FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the JARC program. (See section VI.M).

11. For the JARC program, FTA seeks comment on the specific aspects of the collaborative planning process (for example, participants, elements, measures, etc.). FTA also seeks comment on the relationship between the public transit-human services plans and other planning processes. (See section VI.M).

12. SAFETEA–LU requires FTA to conduct a study to evaluate the effectiveness of the JARC program (49 U.S.C. 5316(i)(2)). FTA seeks comment on strategies and measures that will evaluate the successes of this program. (See section VI.M).

13. FTA invites comment regarding technical assistance or training that would be helpful to grantees in implementing the New Freedom program. Additionally, FTA seeks comment on strategies and measures that could be employed to evaluate the successes of this program. (See section VI.N).

14. We invite comment on the projects and activities stated in the SAFETEA–LU that might be funded under the New Freedom program and how they relate to what is ''beyond the ADA.'' We invite comment on activities related to ADA complementary paratransit services beyond the minimum requirements outlined in 49 CFR part 37. Further, we invite comment regarding the types of projects and services that should be considered for eligibility under New Freedom as they relate to new public transportation beyond the ADA and alternatives to public transportation beyond the ADA. (See section VI.N).

15. FTA invites comments from all interested parties on the Planning Emphasis Areas (PEA) identified for FY 2006. (See section VII).

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FEDERAL TRANSIT ADMINISTRATION

TABLE 1

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
Authorized Programs and Funding Levels -- Fiscal Years 2005-2009 (in $000)

Authorization / Program	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total
Alaska Railroad (Section 5307)	$4,811	---	---	---	---	$4,811
Clean Fuels Grant Program (Section 5308)	49,600	43,000	45,000	49,000	51,500	238,100
Over-the-Road Bus Accessibility Program (Section 5310)	6,894	7,500	7,600	8,300	8,800	39,094
Urban Area Formula Grants (Section 5307)	3,593,196	3,466,681	3,606,175	3,910,843	4,160,365	18,737,260
Bus and Bus Facilities Grants (Section 5309)	669,600	822,250	855,500	927,750	984,000	4,259,100
Fixed Guideway Modernization (Section 5309)	1,204,685	1,391,000	1,448,000	1,570,000	1,666,500	7,280,185
Metropolitan Transportation Planning (section 5303)	59,903	78,584	81,893	88,510	93,887	402,777
Statewide Transportation Planning (Section 5304)	12,513	16,416	17,107	18,490	19,613	84,139
Special Needs for Elderly Individuals and Individuals with Disabilities (Section 5310)	94,527	112,000	117,000	127,000	133,500	584,027
Formula Grants for Other Than Urbanized Areas (Section 5311)	250,890	388,000	404,000	438,000	465,000	1,945,890 1/
Rural Transportation Assistance Program (Section 5311(a)(3)) (2% Takedown)	5,208	7,760	8,080	8,760	9,300	39,108
Public Transportation on Indian Reservations (Section 5311(c))	---	8,000	10,000	12,000	15,000	45,000
Job Access and Reverse Commute Formula Program (Section 5316)	124,000	138,000	144,000	156,000	164,500	726,500
New Freedom Program (Section 5317)	---	78,000	81,000	87,500	92,500	339,000
Growing States and High Density States (Section 5340)	---	388,000	404,000	438,000	465,000	1,695,000
National Transit Database (Section 5335)	---	3,500	3,500	3,500	3,500	14,000
Alternatives Analysis Program (Section 5339)	---	25,000	25,000	25,000	25,000	100,000
Alternative Transportation in Parks and Public Lands (Section 5320)	---	22,000	23,000	25,000	26,900	96,900
Major Capital Investment Grants of $75,000,000 or more (Section 5309(d)) (New Starts)	1,437,830	1,503,000	1,366,000	1,500,000	1,609,250	7,416,080
Capital Investment Grants Less Than $75,000,000 (Section 5309(e)) (Small Starts)	---	---	200,000	200,000	200,000	600,000
National Research and Technology Programs (Section 5314)	37,200	37,700	40,400	44,600	48,450	208,350
Transit Cooperative Research (Section 5313(a))	8,184	9,000	9,300	9,600	10,000	46,084
National Transit Institute (Section 5315)	3,968	4,300	4,300	4,300	4,300	21,168
University Research Centers (Section 5506)	5,952	7,000	7,000	7,000	7,000	33,952
Administrative Expenses	77,376	82,000	85,000	92,500	98,500	435,376
Total Funding Federal Transit Administration	**$7,646,336**	**$8,622,931**	**$8,974,775**	**$9,730,893**	**$10,338,065**	**$45,313,000**

1/ The amounts for Section 5311 for fiscal years 2006 - 2009 are the total amounts authorized for the program. Funding for the Rural Transportation Assistance Program and the Public Transportation on Indian Reservation Program, which are authorized takedowns from Section 5311, have not been deducted but are shown for information purposes.

FEDERAL TRANSIT ADMINISTRATION

TABLE 2

SAFETEA-LU Authorized Section 5309 New Starts Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
		Alaska and Hawaii (Section 5309 (m)(6)(B)					
	AK/HI	Alaska and Hawaii Ferry	$15,000,000	$15,000,000	$15,000,000	$15,000,000	$60,000,000
		subtotal	15,000,000	15,000,000	15,000,000	15,000,000	60,000,000
		Denali Commission (Section 5309 (m)(6)(C))					
	AK	Denali Commission	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
		subtotal	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
		Full Funding Grant Agreements (FFGA)					
19	AZ	Phoenix-Central Phoenix/East Valley LRT	90,000,000	90,000,000	90,000,000	90,000,000	360,000,000
9	CA	Los Angeles-Metro Gold Line Eastside Extension	80,000,000	100,000,000	80,000,000	80,000,000	340,000,000
10	CA	Los Angeles-North Hollywood MOS-3	--------	--------	--------	--------	--------
26	CA	San Diego-Mission Valley East LRT Extension	8,353,424	--------	--------	--------	8,353,424
27	CA	San Diego-Oceanside Escondido Rail Corridor	12,651,061	--------	--------	--------	12,651,061
28	CA	San Francisco-BART Extension to San Francisco Airport	82,655,680	--------	--------	--------	82,655,680
7	CO	Denver Southeast Corridor LRT	80,000,000	80,000,000	77,192,758	--------	237,192,758
8	FL	Fort Lauderdale-Tri-Rail Commuter Rail Upgrade	--------	--------	--------	--------	--------
1	GA	Atlanta-North Springs Extension	--------	--------	--------	--------	--------
4	IL	Chicago-Chicago Transit Authority Douglas Branch Reconstruction	45,825,190	--------	--------	--------	45,825,190
5	IL	Chicago-Chicago Transit Authority Ravenswood Expansion Project	40,000,000	40,000,000	40,000,000	65,152,615	185,152,615
11	IL	Metra North Central Corridor Commuter Rail	16,529,452	--------	--------	--------	16,529,452
12	IL	Metra South West Corridor Commuter Rail	11,781,395	--------	--------	--------	11,781,395
13	IL	Metra Union Pacific West Line Extension	14,285,749	--------	--------	--------	14,285,749
18	LA	New Orleans MOS-1 Canal Street	--------	--------	--------	--------	--------
2	MD	Baltimore-Central LRT Double Tracking	12,655,664	--------	--------	--------	12,655,664
31	MD	Washington DC/MD-Largo Metrorail Extension	--------	--------	--------	--------	--------
14	MN	Minneapolis-Hiawatha Corridor LRT	--------	--------	--------	--------	--------
23	MO	St. Louis-Metrolink Extension St. Clair County, IL	--------	--------	--------	--------	--------
3	NC	Charlotte-South Corridor LRT	55,000,000	69,405,565	--------	--------	124,405,565
15	NJ	New Jersey Urban Core-Hudson-Bergen LRT	--------	--------	--------	--------	--------
16	NJ	New Jersey Urban Core-Hudson-Bergen LRT MOS-2	100,000,000	100,000,000	53,202,995		253,202,995
17	NJ	New Jersey Urban Core-Newark-Elizabeth Rail Link MOS-1	--------	--------	--------	--------	--------
6	OH	Cleveland-Euclid Corridor Transportation Project	24,774,513	--------	--------	--------	24,774,513
22	OR	Portland-Interstate MAX LRT Extension	18,292,550	--------	--------	--------	18,292,550
20	PA	Pittsburgh-North Shore LRT Connector	55,000,000	55,000,000	14,421,944		124,421,944
21	PA	Pittsburgh-Stage II LRT Reconstruction	--------	--------	--------	--------	--------
29	PR	San Juan-Tren Urbano	10,555,900	--------	--------	--------	10,555,900
24	UT	Salt Lake City-CBD to University LRT	--------	--------	--------	--------	--------
25	UT	Salt Lake City-Medical Center	--------	--------	--------	--------	--------
30	WA	Seattle-Central Link Initial Segment LRT	80,000,000	80,000,000	70,000,000	24,028,149	254,028,149
		subtotal	838,360,578	614,405,565	424,817,697	259,180,764	2,136,764,604
		Final Design and Construction Projects					
38	AK	Wasilla-Girdwood, Alaska—Commuter Rail					
13	CA	Los Angeles MTA—Exposition LRT					
24	CA	Orange County, California—Rapid Transit Project					
29	CA	Sacramento—South Corridor LRT Extension Phase 2, Meadowview to Consumnes River College					
31	CA	San Diego—Mid-Coast Extension					
32	CA	San Francisco Muni—Third Street LRT13 Phase I/II					
33	CA	San Gabriel Valley—Gold Line Foothill Extension Phase I/Phase II, Los Angeles to Montclair					
34	CA	Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor					

FEDERAL TRANSIT ADMINISTRATION

TABLE 2

SAFETEA-LU Authorized Section 5309 New Starts Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
7	CO	Denver—West Corridor LRT.					
18	CT	New Britain-Hartford Busway Project					
6	DE	Delaware—Wilmington-Newark Commuter Rail Improvements					
3	FL	Central Florida Commuter Rail System					
14	FL	Miami-Dade Transit—North Corridor					
35	FL	Tampa Bay—Regional Rail					
19	LA	New Orleans—Desire Corridor Streetcar					
2	MA	Boston—Silver Line BRT Phase III					
1	MD	Baltimore—MARC Commuter Rail Improvements					
15	MN	Minneapolis—North Star Corridor					
11	MO	Kansas City, Missouri—Southtown BRT					
4	NC	Charlotte—South Corridor LRT					
36	NC	Triangle Transit Authority, North Carolina-Regional Rail Project					
16	NH	Nashua—Commuter Rail					
12	NV	Las Vegas—Resort Corridor Downtown Extension Project					
20	NY	New York—Long Island Railroad Eastside Access Project					
21	NY	New York—Second Avenue Subway					
27	OR	Portland, Oregon—South Corridor I-205/Portland Mall LRT					
37	OR	Washington County, Oregon—Wilsonville to Beaverton Commuter Rail					
9	PA	Harrisburg—Corridor One Commuter Rail MOS-1					
25	PA	Philadelphia—Schuylkill Valley MetroRail					
26	PA	Pittsburgh—North Shore Connector					
28	RI	Providence—South County Commuter Rail					
17	TN	Nashville, Tennessee Commuter Rail					
5	TX	Dallas Area Rapid Transit—Northwest-Southeast LRT Extension					
8	TX	El Paso—Rapid Transit (SMART) Starter Line					
10	TX	Houston Advanced Transit Program Light Rail					
30	UT	Salt Lake City—Weber County to Salt Lake City Commuter Rail					
22	VA	Norfolk Light Rail					
23	VA	Northern Virginia—Dulles Corridor Extension to Wiehle Avenue Phase 1					
		Preliminary Engineering Projects					
20	AL	Birmingham, Alabama—Transit Corridor					
100	AR	Little Rock—River Rail Streetcar Extensions					
101	AR	Little Rock—West Little Rock Commuter Rail					
33	AZ	Central Phoenix—East Valley Corridor LRT Extensions					
255	AZ	Tucson—Old Pueblo Trolley Expansion					
1	CA	Alameda, California—Fixed Guideway Corridor					
2	CA	Alameda, California—Transit Improvements and Multimodal Center					
48	CA	Chula Vista, California—Bus Rapid Transit					
53	CA	Contra-Costa—BART Extension					
80	CA	Glendale, California—Downtown Streetcar					
102	CA	Livermore, California—BART Rail Extension to Livermore					
105	CA	LOSSAN Del Mar-San Diego—Rail Corridor Improvements					
137	CA	Monterey County, California—Commuter Rail					
177	CA	Oakland—Telegraph Avenue/International Blvd/East 14th Street BRT					
179	CA	Orange County, California—Bus Rapid Transit					
201	CA	Riverside County, California—Perris Valley Line Metrolink Extension					
204	CA	Sacramento—Downtown Streetcar Project					
205	CA	Sacramento—Regional Rail, Auburn to Oakland					
206	CA	Sacramento—Downtown/Natomas Airport Transit Corridor					

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(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
217	CA	San Diego—First Bus Rapid Transit					
218	CA	San Diego—San Diego Imperial County Mag-Lev Rail Airport Corridor Project					
219	CA	San Diego—Sprinter Rail Line Extension Project					
220	CA	San Francisco—BART Extension to Livermore					
221	CA	San Francisco—BART Extension to Oakland International Airport					
222	CA	San Francisco—MUNI Geary Boulevard Bus Rapid Transit					
223	CA	San Francisco—Oyster Point Ferry Terminal					
224	CA	San Francisco—Transbay Terminal/Caltrain Downtown Extension Project					
225	CA	San Joaquin, California—Regional Rail Commission Central Valley Rail Service					
226	CA	San Joaquin Regional Rail Commission Commuter Rail (Altamont Commuter Express)					
235	CA	Sonoma/Marin (SMART) Commuter Rail, California					
236	CA	Southern California High Speed Regional Transit					
61	CO	Denver—Gold Line Extension to Arvada					
62	CO	Denver—RR Right of Way Acquisition					
63	CO	Denver—United States Route 36 Transit Corridor					
64	CO	Denver—North Metro Corridor to Thornton					
65	CO	Denver—East Corridor to DIA Airport					
66	CO	Denver—I–225 Transit Corridor					
67	CO	Denver—Southeast Corridor Extension to Lone-Tree/Ridgegate					
68	CO	Denver—Southwest Corridor Extension to C470/Lucent Boulevard					
202	CO	Roaring Fork Valley, Colorado—Bus Rapid Transit					
28	CT	Bridgeport, Connecticut—Bridgeport Intermodal Facility					
145	CT	New Haven, Connecticut-Hartford, Connecticut-Springfield, Massachusetts Commuter Line					
244	CT	Stamford, Connecticut—Boston Post Road Intermodal Center and Capacity Expansion Project					
245	CT	Stamford, Connecticut—Urban Transitway Phase II					
71	DC	District of Columbia—Light Rail Starter Line					
259	DC	Washington, D.C.—Woodrow Wilson Bridge Transit Projects					
263	DE	Wilmington, Delaware—Commuter Rail to Middletown					
29	FL	Broward County, Florida—Bus Rapid Transit					
75	FL	Fort Lauderdale—Downtown Rail Link					
76	FL	Fort Lauderdale—Transit Project from NW 215th and 79th Streets					
90	FL	Jacksonville—East-Southwest BRT					
91	FL	Jacksonville—North-Southeast BRT					
124	FL	Miami-Dade Transit—Douglas Road Extension					
125	FL	Miami-Dade Transit—East-West Corridor					
126	FL	Miami-Dade Transit—Kendall Corridor					
127	FL	Miami-Dade Transit—Northeast Corridor					
128	FL	Miami-Dade Transit—South Dade Corridor					
129	FL	Miami-Dade Transit—Miami Intermodal Center to Earlington Heights					
130	FL	Miami—Downtown Streetcar Project					
180	FL	Orlando-Orange County, Florida—Light Rail Project					
189	FL	Pinellas Mobility Initiative Bus Rapid Transit					
246	FL	Tampa—Bus Rapid Transit Improvements					
247	FL	Tampa—Streetcar Extension to Downtown Tampa					
251	FL	Tri-Rail Dolphin Extension					
252	FL	Tri-Rail Florida East Coast Commuter Rail Extension					
253	FL	Tri-Rail Jupiter Extension					
254	FL	Tri-Rail Scripps Corridor Extension Project					
5	GA	Atlanta—East Line 1–20 Corridor Project					

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TABLE 2

SAFETEA-LU Authorized Section 5309 New Starts Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
6	GA	Atlanta—MARTA Memorial Drive Bus Rapid Transit					
7	GA	Atlanta—GRTA I–75 Corridor, Downtown					
8	GA	Atlanta—Interstate 285 Transit Corridor.					
9	GA	Atlanta—Georgia 400 North Line Corridor Project					
10	GA	Atlanta—Belt Line C–Loop					
11	GA	Atlanta—I–20 East Line I–20 Corridor Project					
12	GA	Atlanta—West Line I–20 Corridor Project					
106	GA	Lovejoy to Griffin, Georgia Commuter Rail					
82	GU	Guam—Tumon Bay-Airport Light Rail					
86	HI	Honolulu—Rapid Transit Project					
32	IA	Cedar Rapids, Iowa—River Rail Project					
21	ID	Boise—Downtown Circulator					
22	ID	Boise, Idaho—Valley Regional Transit					
41	IL	Chicago—Cermack Road BRT					
42	IL	Chicago CTA—Red Line Extension					
43	IL	Chicago CTA—Chicago Transit Hub (Circle Line-Ogden Streetcar)					
44	IL	Chicago CTA—Orange Line Extension (Midway Airport to Ford City)					
45	IL	Chicago CTA—Yellow Line Extension (Dempster-Old Orchard)					
46	IL	Chicago—Ogden Avenue Corridor					
47	IL	Chicago—Pace Golf Road Bus Rapid Transit					
117	IL	Metra BNSF Naperville to Aurora Corridor Extension and Improvements					
118	IL	Metra South Suburban Airport Commuter Rail Extension					
119	IL	Metra SouthEast Service Line Commuter Rail					
120	IL	Metra STAR Line Inter-Suburban Commuter Rail					
121	IL	Metra UP Northwest Line Core Capacity Upgrades					
122	IL	Metra UP West Line Core Capacity Upgrades					
123	IL	Metra-West Line Extension, Elgin to Rockford					
181	IL	Ottawa, Illinois—Illinois Valley Commuter Rail Extension					
203	IL	Rock Island, Illinois—Quad Cities Rapid Transit System					
89	IN	Indianapolis—System of Metropolitan Area Rapid Transit					
169	IN	Northern Indiana—Commuter District Line					
170	IN	Northern Indiana—West Lake Commuter Rail Link (South Shore Commuter Rail)					
17	LA	Baton Rouge—Bus Rapid Transit					
154	LA	New Orleans—Airport-CBD Commuter Rail					
155	LA	New Orleans—Riverfront Streetcar Downriver Extension					
156	LA	New Orleans—Riverfront Streetcar Upriver Extension					
23	MA	Boston—Assembly Square Orange Line Station					
24	MA	Boston—Lechmere Transit Improvement Somerville and Medford					
25	MA	Boston—North Shore Corridor and Blue Line Extension					
26	MA	Boston—North/South Rail Link					
27	MA	Boston—Urban Ring BRT					
73	MA	Fitchburg, Massachusetts—Commuter Rail Extensions and Improvements					
113	MA	Massachusetts—Commuter Rail Extensions to Worcester and New Bedford					
144	MA	New Bedford-Fall River, Massachusetts—Commuter Rail Extension					
16	MD	Baltimore Red Line/Green Line jTransit Project					
110	MD	Maryland—I–270 Corridor Cities Transitway					
111	MD	Maryland—Route 5 Corridor to Waldorf					
112	MD	Maryland—Silver Spring Capacity Improvements					
138	MD	Montgomery and Prince George's Counties, Maryland—Bi-County Transitway (PurpleLine)					
4	MI	Ann Arbor/Downtown Detroit—Transit Improvement Project					

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TABLE 2

SAFETEA-LU Authorized Section 5309 New Starts Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
69	MI	Detroit—Center City Loop					
70	MI	Detroit—Woodward Corridor					
81	MI	Grand Rapids—Fixed Guideway Corridor Project					
97	MN	Lakeville, Minnesota—Cedar Avenue Corridor Bus Rapid Transit					
133	MN	Minneapolis—Northwest Corridor Busway					
134	MN	Minneapolis-St. Paul—Central Corridor Transit Project					
135	MN	Minneapolis-St. Paul-Hinckley, Minnesota—Rush Line Corridor					
243	MN	St. Paul—Red Rock Corridor Commuter Rail Project					
238	MO	St. Louis Metro Link—Scott AFB to Mid America Airport					
239	MO	St. Louis—East/West Gateway					
240	MO	St. Louis—Metro Link Northside Daniel Boone Project					
241	MO	St. Louis—Metro South Corridor					
242	MO	St. Louis—University Downtown Trolley					
92	MO/KS	Kansas City, Missouri-Lawrence, Kansas—Commuter Rail					
136	MO/KS	Missouri/Kansas—Interstate 35 Transit Corridor					
84	MS	Harrison County, Mississippi—Canal Road Intermodal Connector					
34	NC	Charlotte—Charlotte Multimodal Station					
35	NC	Charlotte—North Corridor Project					
36	NC	Charlotte—Northeast Corridor Project					
37	NC	Charlotte—South Corridor LRT Extension 14 to Rock Hill, South Carolina					
38	NC	Charlotte—Southeast Corridor Project					
39	NC	Charlotte—West Corridor Project					
40	NC	Charlotte—Center City Streetcar Project					
188	NC	Piedmont Authority Regional Transportation—East-West Rail Transit Corridor Project					
264	NC	Winston-Salem—Downtown Streetcar System					
139	NH	Nashua-Manchester—Commuter Rail Extension					
18	NJ	Bayonne, New Jersey—Hudson Bergen LRT Extension to NY Harbor					
30	NJ	Camden, New Jersey—North Ferry Terminal					
146	NJ	New Jersey Trans-Hudson Midtown Corridor					
147	NJ	New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements					
148	NJ	New Jersey Transit—Morris/Essex/Boonton Trans-Hudson Commuter Rail Improvements					
149	NJ	New Jersey Transit—New York Susquehanna and Western RR Commuter Extension					
150	NJ	New Jersey Transit—Phillipsburg Extension					
151	NJ	New Jersey Transit—West Trenton Line Commuter Line Service Extension					
153	NJ	New Jersey Urban Core					
199	NJ	Raritan Valley, New Jersey—Commuter Rail					
237	NJ	Southern New Jersey to Philadelphia Transit Project					
250	NJ	Trenton Trolley					
152	NJ/PA	New Jersey-Pennsylvania Lackawanna Cutoff Rail Restoration					
3	NM	Albuquerque—High Capacity Corridor					
19	NM	Bernalillo-Santa Fe—New Mexico Commuter Rail					
229	NM	Santa Fe—El Dorado Rail Link					
85	NV	Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project					
96	NV	Lake Tahoe—Passenger Ferry Service					
99	NV	Las Vegas—Boulder Highway MAX Bus Rapid Transit					
200	NV	Reno, Nevada—Virginia Street Bus Rapid Transit Project					
103	NY	Long Island Railroad—Nassau Hub					
131	NY	Middletown-South Fallsburg, New York, Passenger Rail					

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(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
143	NY	Nassau and Queens Counties, New York—LIRR Main Line Third Track Project					
157	NY	New York—Governors Island Transportation Access					
158	NY	New York—Long Island Sound (Long Island) Ferry Service					
159	NY	New York—Long Island Sound (Westchester) Ferry Service					
160	NY	New York—NYC Bus Rapid Transit					
161	NY	New York—NYC Highline					
162	NY	New York—Penn Station Access Project					
163	NY	New York—Rockaway-Brooklyn Army Terminal-Manhattan Ferry Service					
164	NY	New York—Staten Island to Manhattan High-Speed Ferry Service Extension					
165	NY	New York—Stewart Airport Rail Access					
166	NY	New York—Tappan Zee I–287 Corridor					
167	NY	New York—West Harlem Waterfront Ferry Improvements					
168	NY	Newburg, New York—LRT System					
50	OH	Cleveland-Akron-Canton (Northeast Ohio) Commuter Rail					
52	OH	Columbus—North Corridor LRT Project					
58	OH	Dayton—Aviation Heritage Corridor 21 Streetcar Project					
59	OH	Dayton—Aviation Heritage Corridor Streetcar Project Phase I					
104	OH	Lorain-Cleveland Commuter Rail					
248	OH	Toledo, Ohio—CBD to Zoo					
249	OH	Toledo, Ohio—University Corridor					
98	OR	Lane County, Oregon—Bus Rapid Transit, Phase 2					
194	OR	Portland Streetcar Extensions					
195	OR	Portland-Yarmouth-Brunswick-Lewiston/Auburn Passenger Rail					
72	PA	Erie, Pennsylvania—Ferry Acquisition					
83	PA	Harrisburg, Pennsylvania—Corridor One MOS–2 (East Mechanicsburg to Carlisle)					
183	PA	Philadelphia—Elwyn to Wawa Train Service Restoration					
184	PA	Philadelphia—Navy Yard Transit Extension					
185	PA	Philadelphia—52nd Street City Connector Project					
186	PA	Philadelphia—Route 100 Rapid Trolley Extension					
187	PA	Philadelphia—Broad Street Subway Line Extension					
190	PA	Pittsburgh—Keystone West Passenger Rail Corridor in Blair, Cambria, West Moreland and Allegheny Counties					
191	PA	Pittsburgh—East-West Corridor Rapid Transit					
192	PA	Pittsburgh—Martin Luther King, Jr. Busway Extension					
193	PA	Pittsburgh—Oakland Technology Corridor					
198	PA	Quakertown-Stoney Creek, Pennsylvania—Rail Restoration					
227	PR	San Juan Tren Urbano—Extension from Rio Piedras to Carolina					
228	PR	San Juan—Tren Urbano Minillas Extension					
182	RI	Pawtucket, Rhode Island—Commuter Rail Station					
196	RI	Providence—South County Commuter Rail Phase II					
51	SC	Columbia, South Carolina—Light Rail					
74	SC	Florence-Myrtle Beach, South Carolina—Transit Corridor					
114	TN	Memphis—Downtown Airport Corridor					
115	TN	Memphis—Intermodal Terminal					
116	TN	Memphis Regional Rail Plan					
140	TN	Nashville—Area Transit Corridors					
141	TN	Nashville—Southeast Rail Corridor					
142	TN	Nashville Tennessee Commuter Rail					
234	TN	Sevierville to Pigeon Ford, Tennessee— Bus Rapid Transit					
13	TX	Austin—San Antonio I–35 Commuter Rail					
14	TX	Austin—Rapid Bus Project					

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SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
15	TX	Austin—Urban Commuter Rail					
31	TX	Carrollton, Texas—Regional Intermodal Passenger Rail Facility Project					
54	TX	Corpus Christi—Downtown Rail Trolley					
55	TX	Dallas Area Rapid Transit—Dallas Central Business District					
56	TX	Dallas Area Rapid Transit—Rowlett LRT Extension					
57	TX	Dallas Area Rapid Transit—Beltline to DFW Airport					
60	TX	Denton County Transportation Authority, Texas—Fixed Guideway Project					
77	TX	Fort Worth—Cottonbelt Commuter Rail to DFW					
78	TX	Fort Worth—Trinity Railway Express Commuter Rail Extensions					
79	TX	Galveston—Rail Trolley Extension					
87	TX	Houston—Commuter Rail Service in Harris & Fort Bend Counties					
88	TX	Houston—Advanced Transportation Technology System					
216	TX	San Antonio—Bus Rapid Transit					
178	UT	Ogden—Intermodal-Weber State University Transit Connection					
197	UT	Provo-Orem Utah—Bus Rapid Transit					
207	UT	Salt Lake City—Airport to University LRT					
208	UT	Salt Lake City—Delta Center to Gateway Intermodal Center LRT Extension					
209	UT	Salt Lake City—Draper to Sandy LRT Extension					
210	UT	Salt Lake-Provo—Commuter Rail Extension					
211	UT	Salt Lake City—TRAX Capacity Improvements					
212	UT	Salt Lake City—West Valley City LRT Extension					
213	UT	Salt Lake City—West Valley City 3500 South BRT					
214	UT	Salt Lake City—West Jordan LRT Extension					
215	UT	Salt Lake City to South Davis Transit Connection					
171	VA	Norfolk—Naval Station Corridor					
172	VA	Norfolk-Petersburg—United States Route 460 Commuter Rail Project					
173	VA	Northern Virginia—Crystal City Potomac Yards Transit					
174	VA	Northern Virginia—Columbia Pike Rapid Transit Project					
175	VA	Northern Virginia—Dulles Corridor Extension, Phase 2					
176	VA	Northern Virginia—Richmond Highway (Route 1) Rapid Transit Project					
257	VA	Virginia Beach—Bus Rapid Transit					
258	VA	Virginia Railway Express Capacity Improvements					
262	VA	Williamsburg-Newport News—Peninsula Rail Transit					
49	WA	Clark County, Washington—MAX Extension					
95	WA	King County, Washington—I–405 Corridor Bus Rapid Transit					
230	WA	Seattle—Monorail Project Post—Green Line Extensions					
231	WA	Seattle—Link LRT Extensions					
232	WA	Seattle—Sound Transit Commuter Rail					
233	WA	Seattle—Sound Transit Regional Express Bus					
256	WA	Vancouver—Interstate MAX Extension to Clark County, Washington					
260	WA	Washington State Ferries and Ferry Facilities					
261	WA	Washington State—Issaquah Valley Trolley Project					
93	WI	Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin)					
94	WI	Kenosha, Wisconsin Streetcar Expansion Project					
107	WI	Madison, Wisconsin—Madison Streetcar					
108	WI	Madison, Wisconsin—Light Rail Transportation					
109	WI	Madison and Dane Counties, Wisconsin—Transport 2020 Commuter Rail					
132	WI	Milwaukee—Downtown Dedicated Guideway Transit Connector					

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TABLE 2

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(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
		Other Funded New Starts Projects					
4	AL	Birmingham-Jefferson Transit Authority-I-65 South BRT	--------	--------	--------	--------	100,000,000
21	CA	Los Angeles County Metropolitan Transportation Authority : Mid-City/Exposition Light Rail Transit Project	--------	--------	--------	--------	11,000,000
22	CA	Metro Gold Line Foothill Extension Construction Authority: Gold Line Foothill LRT Project	--------	--------	--------	--------	6,000,000
39	CA	Sacramento-South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College	--------	--------	--------	--------	11,000,000
40	CA	Sacramento Regional Transit District: Downtown Natoma Airport Transit Corridor	--------	--------	--------	--------	5,000,000
41	CA	San Diego-Mid-Coast LRT Extension	--------	--------	--------	--------	11,000,000
42	CA	San Francisco Muni Third St. Light Rail Transit-Phase I/II	--------	--------	--------	--------	15,000,000
43	CA	Santa Clara Valley Transportation Authority-Silicon Valley Rapid Transit Corridor Project	--------	--------	--------	--------	11,000,000
45	CA	Sonoma Marin Area Rail Transit (SMART) Project	--------	--------	--------	--------	5,000,000
10	CO	Denver Regional Transit District-West Corridor	--------	--------	--------	--------	270,000,000
7	CT	Bridgeport, Connecticut-Bridgeport Intermodal Transit Center	--------	--------	--------	--------	28,000,000
27	CT/MA	New Bedford-Fall River, Massachusetts Commuter Rail Extension	--------	--------	--------	--------	10,000,000
28	CT	New Britain-Hartford Busway Project	--------	--------	--------	--------	55,000,000
48	CT	Stamford, Connecticut Urban Transitway Phase II	--------	--------	--------	--------	22,800,000
9	DE	Delaware-Wilmington-Newark Commuter Rail Improvements	--------	--------	--------	--------	14,000,000
52	DE	Wilmington, Delaware-Commuter Rail to Middletown	--------	--------	--------	--------	24,900,000
23	FL	Miami-Downtown Streetcar Project	--------	--------	--------	--------	50,000,000
49	FL	Tampa-Streetcar Extension to Downtown Tampa	--------	--------	--------	--------	3,000,000
30	LA	New Orleans-Airport-CBD Commuter Rail	--------	--------	--------	--------	5,000,000
31	LA	New Orleans-Desire Corridor Streetcar	--------	--------	--------	--------	69,700,000
5	MA	Boston-Assembly Square Orange Line Station	--------	--------	--------	--------	25,000,000
6	MA	Boston-Silver Line BRT Phase II	--------	--------	--------	--------	20,000,000
2	MD	Baltimore Red Line/Green Line Transit Project	--------	--------	--------	--------	102,300,000
1	MI	Ann Arbor Michigan/Downtown Detroit Transit Improvement Project	--------	--------	--------	--------	100,000,000
11	MI	Grand Rapids-Fixed Guideway Corridor Project	--------	--------	--------	--------	14,400,000
24	MN	Minneapolis-North Star Corridor	--------	--------	--------	--------	80,000,000
46	MO	St. Louis-Metro South Corridor Metrolink Light Rail Extension	--------	--------	--------	--------	135,000,000
47	MO	St. Louis-North Side and Daniel Boone Corridors Metrolink Light Rail Extensions	--------	--------	--------	--------	275,000,000
12	MS	Harrison County, Mississippi HOV/BRT Canal Road Intermodal Connector	--------	--------	--------	--------	70,000,000
25	MS	Mississippi-I-69 HOV/BRT	--------	--------	--------	--------	70,000,000
29	NJ	New Jersey Transit-Northeast Corridor Trans-Hudson Commuter Rail Improvements	--------	--------	--------	--------	80,000,000
3	NM	Bernalillo-Santa Fe-New Mexico Commuter Rail	--------	--------	--------	--------	75,000,000
44	NM	Santa Fe-El Dorado Rail Link	--------	--------	--------	--------	5,400,000
13	NV	Henderson-Las Vegas-North Las Vegas-Regional Fixed Guideway Project	--------	--------	--------	--------	32,000,000
16	NV	Lake Tahoe-Passenger Ferry Service	--------	--------	--------	--------	8,000,000
18	NV	Las Vegas-Boulder Highway MAX Bus Rapid Transit	--------	--------	--------	--------	12,000,000
19	NV	Las Vegas-Resort Corridor Downtown Extension Project	--------	--------	--------	--------	16,000,000
38	NV	Reno, Nevada-Virginia Street Bus Rapid Transit	--------	--------	--------	--------	12,000,000
20	NY	Long Island Railroad-Nassau Hub	--------	--------	--------	--------	10,000,000
32	NY	New York-Penn Station Access Project	--------	--------	--------	--------	15,000,000
33	NY	New York-Stewart Airport Rail Access	--------	--------	--------	--------	40,000,000
17	OR	Lane County, Oregon-Bus Rapid Transit, Phase 2	--------	--------	--------	--------	31,000,000
37	PA	Philadelphia-Schuylkill Valley Metro	--------	--------	--------	--------	250,000,000
36	PA/NJ	Pennsylvania-New Jersey Lackawanna Cutoff Rail Restoration	--------	--------	--------	--------	120,000,000
34	RI	Providence-South County Commuter Rail, Phase II	--------	--------	--------	--------	60,000,000
35	RI	Providence-South County Commuter Rail	--------	--------	--------	--------	36,000,000
26	TN	Nashville-Commuter Rail	--------	--------	--------	--------	6,200,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 2

SAFETEA-LU Authorized Section 5309 New Starts Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
8	TX	Dallas Area Rapid Transit-NW/SW Light Rail Transit Minimal Operable Segment	--------	--------	--------	--------	260,000,000
14	TX	Houston-Advanced Transportation Technology System in Harris County	--------	--------	--------	--------	245,000,000
50	UT	Utah-Regional Commuter Rail	--------	--------	--------	--------	200,000,000
51	WA	Washington State Ferries	--------	--------	--------	--------	25,000,000
15	WI	Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin)	--------	--------	--------	--------	80,000,000
		subtotal	--------	--------	--------	--------	3,237,700,000
		Grand Total	$858,360,578	$634,405,565	$444,817,697	$279,180,764	$5,454,464,604

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

SAFETEA-LU Authorized Section 5339 Alternative Analysis Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
5	CA	San Gabriel Valley-Gold Line Foothill Extension Corridor Study	$1,250,000	$1,250,000	---------	---------	$2,500,000
7	IL	Metra BNSF Naperville to Aurora Corridor Study	1,250,000	1,250,000	---------	---------	2,500,000
13	IL	Metra-West Line Extension, Elgin to Rockford Study	1,000,000	1,000,000	---------	---------	2,000,000
12	MD	Baltimore Red Line/Green Line Transit Project Study	1,500,000	1,500,000	---------	---------	3,000,000
1	MN	Minnesota Red Rock Corridor/Rush Line/Central Corridors Studies	2,000,000	2,000,000	---------	---------	4,000,000
14	MS	Madison-Ridgeland Transportation Commission, Mississippi, Madison LRT Corridor Study	350,000	350,000	---------	---------	700,000
11	NC	Piedmont Authority Regional Transportation East-West Corridor Study	1,000,000	1,000,000	---------	---------	2,000,000
2	NJ	Trans-Hudson Midtown corridor Study	1,500,000	1,500,000	---------	---------	3,000,000
6	NJ	Monmouth-Ocean-Middlesex Counties, New Jersey Corridor Study	1,250,000	1,250,000	---------	---------	2,500,000
18	NJ	New Jersey Transit Midtown Project Study	2,500,000	2,500,000	---------	---------	5,000,000
10	NM	Middle Rio Grande Coalition of Governments, Albuquerque to Santa Fe Corridor Study	500,000	500,000	---------	---------	1,000,000
3	OR	Lane County, Oregon Bus Rapid Transit Phase II Corridor Study	500,000	500,000	---------	---------	1,000,000
4	OR	Portland Streetcar, Oregon Corridor Study	1,500,000	1,500,000	---------	---------	3,000,000
15	SC	South Carolina Department of Transportation Light Rail Study	300,000	300,000	---------	---------	600,000
17	UT	Sevierville County Transportation Board, Sevier County BRT Study	500,000	500,000	---------	---------	1,000,000
16	UT	Provo Orem BRT Study	500,000	500,000	---------	---------	1,000,000
9	WA	Sound Transit I-90 Long-Range Plan Corridor Studies	750,000	750,000	---------	---------	1,500,000
8	WI	Madison and Dane Counties, Wisconsin Transport 2020 Corridor Study	750,000	750,000	---------	---------	1,500,000
		Total	$18,900,000	$18,900,000	---------	---------	$37,800,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
427	AK	Alaska Native Medical Center intermodal parking facility	$1,150,000	$1,200,000	$1,300,000	$1,350,000	$5,000,000
466	AK	Anchorage-Transit Needs	229,000	238,000	259,000	274,000	1,000,000
422	AK	C Street Expanded bus facility and inter-modal parking garage, Anchorage, AK	1,150,000	1,200,000	1,300,000	1,350,000	5,000,000
425	AK	CITC Non-profit Services Center inter-modal parking facility, Anchorage, AK	690,000	720,000	780,000	810,000	3,000,000
541	AK	Hoonah, AK-Intermodal Ferry Dock	458,000	476,000	517,000	549,000	2,000,000
416	AK	Improve marine inter-modal facilities in Ketchikan	3,220,000	3,360,000	3,640,000	3,780,000	14,000,000
436	AK	Intermodal facility improvements at the Port of Anchorage	5,750,000	6,000,000	6,500,000	6,750,000	25,000,000
236	AK	Juneau, Alaska-transit bus acquisition and transit center	345,000	360,000	390,000	405,000	1,500,000
550	AK	Juneau-Transit Bus Acquisition and Transit Center	344,000	357,000	388,000	411,000	1,500,000
553	AK	Ketchikan, Alaska-Transit Needs	57,000	60,000	65,000	68,000	250,000
574	AK	Matsu, Alaska-Transit Needs	115,000	119,000	129,000	137,000	500,000
423	AK	Morris Thompson Cultural and Visitors Center intermodal parking facility, Fairbanks, AK	575,000	600,000	650,000	675,000	2,500,000
596	AK	North Slope Borough, AK-Transit Purposes	458,000	476,000	517,000	549,000	2,000,000
597	AK	North Star Borough, AK-Transit Purposes	229,000	238,000	259,000	274,000	1,000,000
616	AK	Sitka, Alaska-Transit Needs	57,000	60,000	65,000	68,000	250,000
664	AK	Wrangell, AK-Ferry Infrastructure	229,000	238,000	259,000	274,000	1,000,000
461	AL	Alabama Institute for Deaf and Blind-Bus project	115,000	119,000	129,000	137,000	500,000
462	AL	Alabama State Port Authority-Choctaw Point Terminal	4,582,000	4,760,000	5,173,000	5,485,000	20,000,000
437	AL	American Village/Montevallo, Alabama construction of closed loop Access Road, bus lanes and parking facility	76,912	80,256	86,944	90,288	334,400
98	AL	Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II	384,560	401,280	434,720	451,440	1,672,000
496	AL	City of Birmingham, AL-Birmingham Downtown Intermodal Terminal, Phase II	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
501	AL	City of Huntsville, AL- Cummings Park Intermodal Center	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
503	AL	City of Montgomery, AL-ITS Acquisition and Implementation	916,000	952,000	1,035,000	1,097,000	4,000,000
504	AL	City of Montgomery, AL-Montgomery Airport Intermodal Center	916,000	952,000	1,035,000	1,097,000	4,000,000
507	AL	City of Tuscaloosa, AL-Intermodal Facility	1,374,000	1,428,000	1,552,000	1,646,000	6,000,000
528	AL	Gadsden, AL-Community Buses	115,000	119,000	129,000	137,000	500,000
534	AL	Gulf Shores, AL-Community Bases	229,000	238,000	259,000	274,000	1,000,000
582	AL	Mobile County, AL Commission-Bus project	115,000	119,000	129,000	137,000	500,000
644	AL	University of Alabama in Birmingham Intermodal Facility	1,604,000	1,666,000	1,811,000	1,919,000	7,000,000
645	AL	University of Alabama in Huntsville Intermodal Facility	1,374,000	1,428,000	1,552,000	1,646,000	6,000,000
646	AL	University of Alabama Intermodal Facility South	2,062,000	2,142,000	2,328,000	2,468,000	9,000,000
647	AL	University of Alabama Transit System	344,000	357,000	388,000	411,000	1,500,000
650	AL	US Space and Rocket Center, AL-Tramway Expansion	229,000	238,000	259,000	274,000	1,000,000
487	AR	Central Arkansas Transit Authority Facility Upgrades	450,000	550,000	750,000	1,000,000	2,750,000
231	AR	Harrison, Arkansas-Trolley Barn	7,691	8,026	8,694	9,029	33,440
263	AR	Wilmar, AR Develop the Southeast Arkansas Intermodal Facility	384,560	401,280	434,720	451,440	1,672,000
304	AZ	Coconino County buses and bus facilities for Flagstaff, AZ	240,350	250,800	271,700	282,150	1,045,000
229	AZ	Coconino County, Arizona-Bus and bus facilities for the Sedona Transit System	182,666	190,608	206,492	214,434	794,200
47	AZ	Phoenix, AZ Construct City of Phoenix para-transit facility (Dial-A-Ride)	192,280	200,640	217,360	225,720	836,000
346	AZ	Phoenix, AZ Construct metro bus facility in Phoenix's West Valley	961,400	1,003,200	1,086,800	1,128,600	4,180,000
150	AZ	Phoenix, AZ Construct regional heavy bus maintenance facility	192,280	200,640	217,360	225,720	836,000
26	AZ	Scottsdale, Arizona-Plan, design, and construct intermodal center	480,700	501,600	543,400	564,300	2,090,000
203	AZ	Tempe, Arizona-Construct East Valley Metro Bus Facility	1,249,820	1,304,160	1,412,840	1,467,180	5,434,000
75	CA	Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	96,140	100,320	108,680	112,860	418,000
288	CA	Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	384,560	401,280	434,720	451,440	1,672,000
398	CA	Amador County, California-Regional Transit Center	192,280	200,640	217,360	225,720	836,000
76	CA	Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center	384,560	401,280	434,720	451,440	1,672,000
227	CA	Berkeley, CA Construct Ed Roberts Campus Intermodal Transit Disability Center	576,840	601,920	652,080	677,160	2,508,000
119	CA	Burbank, CA CNG Transit Vehicles Purchase for Local Transit Network Expansion	86,526	90,288	97,812	101,574	376,200
396	CA	Burbank, CA Construction of Empire Area Transit Center near Burbank Airport	48,070	50,160	54,340	56,430	209,000
190	CA	Calexico, CA Purchase new buses for the Calexico Transit System	57,684	60,192	65,208	67,716	250,800
132	CA	Carson, CA Purchase one bus	48,070	50,160	54,340	56,430	209,000
407	CA	Carson, CA Purchase one trolley-bus vehicle	48,070	50,160	54,340	56,430	209,000
108	CA	Carson, CA Purchase two transfer facility	96,140	100,320	108,680	112,860	418,000
54	CA	City of Alameda, CA Plan, design, and construct intermodal facility	384,560	401,280	434,720	451,440	1,672,000
155	CA	City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	432,630	451,440	489,060	507,870	1,881,000
158	CA	Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements	336,490	351,120	380,380	395,010	1,463,000
207	CA	Culver City, CA Purchase compressed natural gas buses and expand natural gas fueling facility	711,436	742,368	804,232	835,164	3,093,200
17	CA	Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service	192,280	200,640	217,360	225,720	836,000
11	CA	Development of Gold Country Stage Transit Transfer Center, Nevada County, CA	178,882	186,659	202,214	209,992	777,747
339	CA	East San Diego County, California-Bus Maintenance Facility Expansion	384,560	401,280	434,720	451,440	1,672,000
101	CA	Emeryville, CA Expand & Improve Inter-modal Transit Center at Amtrak Station	192,280	200,640	217,360	225,720	836,000
222	CA	Escondido, CA-Construct Bus Maintenance Facility	96,140	100,320	108,680	112,860	418,000
387	CA	Fresno, CA-Develop program of low-emission transit vehicles	192,280	200,640	217,360	225,720	836,000
260	CA	Gardena, CA Purchase of alternative fuel buses for service expansion, on-board security system and bus facility training equipment	1,178,676	1,229,923	1,332,417	1,383,664	5,124,680

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
212	CA	Glendale, CA Construction of Downtown Streetcar Project	192,280	200,640	217,360	225,720	836,000
1	CA	Glendale, CA Purchase of CNG Buses for Glendale Beeline Transit System	88,833	92,696	100,420	104,283	386,232
414	CA	Hercules, CA Inter-modal Rail Station Improvements	288,420	300,960	326,040	338,580	1,254,000
276	CA	Long Beach, Ca Museum of Latin American Art, Long Beach, to build intermodal park and ride facility	384,560	401,280	434,720	451,440	1,672,000
332	CA	Long Beach, CA Park and Ride Facility	192,280	200,640	217,360	225,720	836,000
295	CA	Long Beach, CA Purchase one larger (75. passengers) and two smaller (40 passengers) ferryboats and construct related dock work to facilitate the use and accessibility of the ferryboats	576,840	601,920	652,080	677,160	2,508,000
410	CA	Long Beach, CA Purchase ten clean fuel buses	576,840	601,920	652,080	677,160	2,508,000
443	CA	Los Angeles County Metropolitan Transit Authority, CA capital funds for facility improvements to support the Cal State Northridge tram system	62,491	65,208	70,642	73,359	271,700
140	CA	Los Angeles, CA Crenshaw Bus Rapid Transit	1,639,764	1,711,058	1,853,646	1,924,940	7,129,408
223	CA	Los Angeles, CA Design and construct improved transit and pedestrian linkages between Los Angeles Community College and nearby MTA rail stop and bus lines	288,420	300,960	326,040	338,580	1,254,000
307	CA	Los Angeles, CA Improve safety, mobility and access between LATTC, Metro line and nearby bus stops on Grand Ave between Washington and 23rd	96,140	100,320	108,680	112,860	418,000
121	CA	Los Angeles, CA Improve transit shelters, sidewalks lighting and landscaping around Cedar's-Sinai Medical Center	288,420	300,960	326,040	338,580	1,254,000
326	CA	Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley rapid bus transit way	576,840	601,920	652,080	677,160	2,508,000
36	CA	Los Angeles, CA Wilshire-Vermont subway station reconstruction	192,280	200,640	217,360	225,720	836,000
6	CA	Los Angeles, CA, Construction of Intermodal Transit Center at California State University Los Angeles	151,901	158,506	171,714	178,319	660,440
567	CA	Los Angeles, CA, Fly-Away Bus System Expansion	500,000	550,000	600,000	850,000	2,500,000
566	CA	Los Angeles, CA, LAX Intermodal Transportation Center Rail and Bus System Expansion	500,000	550,000	600,000	850,000	2,500,000
311	CA	Mammoth Lakes, California-Regional Transit Maintenance Facility	96,140	100,320	108,680	112,860	418,000
112	CA	Mariposa, CA-Yosemite National Park CNG-Hydrogen transit buses and facilities	480,700	501,600	543,400	564,300	2,090,000
266	CA	Martinez, CA Inter-modal Facility Restoration	288,420	300,960	326,040	338,580	1,254,000
285	CA	Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA	2,884,200	3,009,600	3,260,400	3,385,800	12,540,000
39	CA	Monrovia, California-Transit Village Project	576,840	601,920	652,080	677,160	2,508,000
200	CA	Montebello, CA Bus Lines Bus Fleet Replacement Project	134,596	140,448	152,152	158,004	585,200
186	CA	Monterey Park, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	307,648	321,024	347,776	361,152	1,337,600
321	CA	Monterey Park, CA Catch Basins at Transit Stop Installation	61,530	64,205	69,555	72,230	267,520
191	CA	Monterey Park, CA Safety improvements at a bus stop including creation of bus loading areas and street improvements	307,648	321,024	347,776	361,152	1,337,600
375	CA	Monterey, CA Purchase bus equipment	192,280	200,640	217,360	225,720	836,000
43	CA	Needles, California-El Garces Intermodal Facility	384,560	401,280	434,720	451,440	1,672,000
92	CA	Norwalk, CA Transit System Bus Procurement and Los Angeles World Airport Remote Fly-Away Facility Project	153,824	160,512	173,888	180,576	668,800
392	CA	Oakland, CA Construct Bay Trail between Coliseum BART station and Martin Luther King, Jr. Regional Shoreline	173,052	180,576	195,624	203,148	752,400
352	CA	Oakland, CA Construct streetscape & intermodal improvements at BART Station Transit Villages	192,280	200,640	217,360	225,720	836,000
173	CA	Ontario, CA Construct Omnitrans Transcenter	192,580	200,640	217,360	225,720	836,300
194	CA	Orange County Transit Authority, California-Security surveillance and monitoring equipment	1,017,161	1,061,386	1,149,834	1,194,059	4,422,440
244	CA	Orange County, CA Purchase buses for rapid transit	192,280	200,640	217,360	225,720	836,000
366	CA	Orange County, CA Transportation Projects to Encourage Use of Transit to Reduce Congestion	192,280	200,640	217,360	225,720	836,000
45	CA	Palm Springs, California-Sunline Transit bus purchase	96,140	100,320	108,680	112,860	418,000
70	CA	Palm Springs, California-Sunline Transit: CalStrat-Weststart fuel cell bus program	192,280	200,640	217,360	225,720	836,000
399	CA	Pasadena, CA ITS Improvements	192,280	200,640	217,360	225,720	836,000
116	CA	Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center	288,420	300,960	326,040	338,580	1,254,000
251	CA	Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit Vehicles for Coastal Shuttle Services by Beach Cities Transit	153,824	160,512	173,888	180,576	668,800
286	CA	Richmond, CA BART Parking Structure	961,400	1,003,200	1,086,800	1,128,600	4,180,000
171	CA	Riverside, California-RTA Advanced Traveler Information System	96,140	100,320	108,680	112,860	418,000
189	CA	Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean fuel buses to improve transit service	384,560	401,280	434,720	451,440	1,672,000
84	CA	Sacramento, CA Construct intermodal station and related improvements	1,345,960	1,404,480	1,521,520	1,580,040	5,852,000
253	CA	San Bernardino, CA Implement Santa Fe Depot improvements in San Bernardino	96,140	100,320	108,680	112,860	418,000
282	CA	San Diego, CA Completion of San Diego Joint Transportation Operations Center (JTOC)	384,560	401,280	434,720	451,440	1,672,000
314	CA	San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive)	57,684	60,192	65,208	67,716	250,800
183	CA	San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route	115,368	120,384	130,416	135,432	501,600
127	CA	San Fernando, CA Purchase CNG buses and related equipment and construct facilities	584,531	609,946	660,774	686,189	2,541,440
377	CA	San Francisco, CA Construct San Francisco Muni Islais Creek Maintenance Facility	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
287	CA	San Francisco, CA Implement ITS on Muni Transit System	576,840	601,920	652,080	677,160	2,508,000
403	CA	San Francisco, CA Implement Transbay Terminal-Caltrain Downtown Extension Project	2,691,920	2,808,960	3,043,040	3,160,080	11,704,000
381	CA	San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community	793,155	827,640	896,610	931,095	3,448,500
341	CA	San Gabriel Valley, CA-Foothill Transit Park and Rides	1,826,660	1,906,080	2,064,920	2,144,340	7,942,000
254	CA	San Joaquin, California Regional Rail-Altamont Commuter Express Corridor inter-modal centers	769,120	802,560	869,770	902,880	3,344,330
382	CA	San Luis Ray, California-Transit Center Project	96,140	100,320	108,680	112,860	418,000
145	CA	Santa Ana, CA Improve Santa Ana transit terminal	192,280	200,640	217,360	225,720	836,000
147	CA	Santa Barbara, CA-Expansion of Regional Intermodal Transit Center	57,684	60,192	65,208	67,716	250,800

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
364	CA	Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue	192,280	200,640	217,360	225,720	836,000
172	CA	Santa Monica, CA Purchase and service LNG buses for Santa Monica's Big Blue Bus to meet increased ridership needs and reduce emissions	721,050	752,400	815,100	846,450	3,135,000
313	CA	Solana Beach, CA-Construct Intermodal Facility	288,420	300,960	326,040	338,580	1,254,000
27	CA	Sonoma County, CA Purchase of CNG buses	96,140	100,320	108,680	112,860	418,000
401	CA	South Pasadena, CA Silent Night Grade Crossing Project	173,052	180,576	195,624	203,148	752,400
383	CA	South San Francisco, CA Construction of Ferry Terminal at Oyster Point in South San Francisco to the San Francisco Bay Water Transit Authority	913,330	953,040	1,032,460	1,072,170	3,971,000
388	CA	Sylmar, CA Los Angeles Mission College Transit Center construction	48,070	50,160	54,340	56,430	209,000
315	CA	Temecula, California-Intermodal Transit Facility	96,140	100,320	108,608	112,860	417,928
85	CA	Torrance Transit System, CA Acquisition of EPA and CARB-certified low emission replacement buses	576,840	601,920	652,080	677,160	2,508,000
459	CA	Transbay Terminal/ Caltrain Downtown Extension Project	4,025,000	4,200,000	4,550,000	4,725,000	17,500,000
35	CA	Union City, CA Inter-modal Station, Phase 1: Modify BART station	817,190	852,720	923,780	959,310	3,553,000
195	CA	Woodland Hills, CA Los Angeles Pierce College Bus Rapid Transit Station Extension	192,280	200,640	217,360	225,720	836,000
83	CA	Woodland, CA Yolobus operations, maintenance, administration facility expansion and improvements to increase bus service with alternative fuel buses	384,560	401,280	434,720	451,440	1,672,000
449	CO	City of Aspen, CO Bus and Bus Facilities	134,596	140,448	152,152	158,004	585,200
448	CO	City of Durango, CO Bus and Bus Facilities	48,070	50,160	54,340	56,430	209,000
509	CO	Colorado Association of Transit Agencies/Colorado Transit Coalition-Colorado Statewide Buses and Bus Facilities	5,956,000	6,188,000	6,726,000	7,130,000	26,000,000
518	CO	Denver Regional Transit District-Bus Maintenance Facility	687,000	714,000	776,000	823,000	3,000,000
520	CO	Denver Regional Transit District-Denver Union Station Multimodal Renovations	458,000	476,000	517,000	549,000	2,000,000
521	CO	Denver Regional Transit District-US 36 Corridor BRT	1,604,000	1,666,000	1,811,000	1,919,000	7,000,000
167	CO	Denver, CO Denver Union Station Inter-modal Center	1,057,540	1,103,520	1,195,480	1,241,460	4,598,000
435	CO	Denver, Colorado-Regional Transportation District Bus Replacement	384,560	401,280	434,720	451,440	1,672,000
441	CO	Grand Valley Transit, CO Bus and Bus Facilities	96,140	100,320	108,680	112,860	418,000
188	CO	Mountain Express, Crested Butte, CO Bus and Bus Facilities	96,140	100,320	108,680	112,860	418,000
444	CO	Pueblo Transit, CO Bus and Bus Facilities	48,070	50,160	54,340	56,430	209,000
445	CO	Roaring Fork Transit Authority, CO Bus and Bus Facilities	144,210	150,480	163,020	169,290	627,000
446	CO	Steamboat Springs, CO Bus and Bus Facilities	144,210	150,480	163,020	169,290	627,000
450	CO	Town of Snowmass Village, CO Bus and Bus Facilities	57,684	60,192	65,208	67,716	250,800
447	CO	Town of Telluride, CO Bus and Bus Facilities	62,120	64,821	70,222	72,923	270,086
44	CT	Bridgeport, Connecticut-Greater Bridgeport Transit Authority Bus Facility	96,140	100,320	108,680	112,860	418,000
478	CT	Bridgeport, CT Facility Expansion/Improvement	350,000	400,000	500,000	750,000	2,000,000
90	CT	Buses and bus related facilities throughout the State of Connecticut	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
523	CT	Downtown Middletown, CT, Transportation Infrastructure Improvement Project	2,000,000	2,150,000	2,500,000	2,850,000	9,500,000
218	CT	Enfield, Connecticut-intermodal station	576,840	601,920	652,080	677,160	2,508,000
394	CT	Hartford, CT Buses and bus-related facilities	769,120	802,560	869,440	902,880	3,344,000
267	CT	Middletown, CT Construct intermodal center	288,420	300,960	326,040	338,580	1,254,000
589	CT	New Haven, CT Bus Maintenance Facility	2,000,000	2,150,000	2,500,000	2,850,000	9,500,000
269	CT	New London, Connecticut-Intermodal Transportation Center and Streetscapes	96,140	100,320	108,680	112,860	418,000
369	CT	Norwalk, Connecticut-Pulse Point Joint Development inter-modal facility	96,140	100,320	108,680	112,860	418,000
131	CT	Stonington and Mystic, Connecticut-Intermodal Center parking facility and Streetscape	469,163	489,562	530,358	550,757	2,039,840
32	CT	Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)	384,560	401,280	434,720	451,440	1,672,000
270	CT	Vernon, Connecticut-Intermodal Center, Parking and Streetscapes	1,461,328	1,524,846	1,651,936	1,715,472	6,353,582
657	CT	Waterbury, CT Bus Maintenance Facility	2,000,000	2,300,000	2,800,000	3,400,000	10,500,000
169	DE	Delaware-University of Delaware Fuel Cell Bus Deployment	96,140	100,320	108,680	112,860	418,000
470	FL	Bay County, FL - Transit Facility	458,000	476,000	517,000	549,000	2,000,000
297	FL	Broward County, FL - Purchase Buses and construct bus facilities	384,560	401,280	434,720	451,440	1,672,000
69	FL	Broward County, FL Buses & Bus Facilities	1,249,820	1,304,160	1,412,840	1,467,180	5,434,000
479	FL	Broward County-Bus and Bus Facilities	458,000	476,000	517,000	549,000	2,000,000
117	FL	Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road	96,140	100,320	108,680	112,860	418,000
439	FL	Central Florida Commuter Rail intermodal facilities	961,400	1,003,200	1,086,800	1,128,600	4,180,000
453	FL	Central Florida Commuter Rail Intermodal Facilities	690,000	720,000	780,000	810,000	3,000,000
488	FL	Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
498	FL	City of Gainesville Regional Transit System-Facility Expansion	229,000	238,000	259,000	274,000	1,000,000
508	FL	Collier County Transit-Transit Facility	229,000	238,000	259,000	274,000	1,000,000
23	FL	Construct intermodal transportation & parking facility, City of Winter Park, Florida	96,140	100,320	108,680	112,860	418,000
80	FL	Flagler County, Florida-bus facility	115,368	120,384	130,416	135,432	501,600
527	FL	Florida Department of Transportation-Palm Beach County Replacement Buses	229,000	238,000	259,000	274,000	1,000,000
344	FL	Gainesville, FL Bus Facility Expansion	769,120	802,560	869,440	902,880	3,344,000
213	FL	Gainesville, FL Bus Rapid Transit Study	96,140	100,320	108,680	112,860	418,000
95	FL	Gainesville, FL Bus Replacement	769,120	802,560	869,770	902,880	3,344,330
538	FL	Hillsborough Area Regional Transit-Bus Rapid Transit Improvements	458,000	476,000	517,000	549,000	2,000,000
539	FL	Hillsborough, FL, Hillsborough Area regional Transit Authority	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
548	FL	Jacksonville Transportation Authority-Bus Fleet Replacement and Equipment	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
306	FL	Jacksonville, FL Bus Replacement	1,345,960	1,404,480	1,521,520	1,580,040	5,852,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
107	FL	Jacksonville, FL Paratransit Vehicles	865,260	902,880	978,120	1,015,740	3,762,000
549	FL	Jacksonville, FL Transportation Authority Paratransit Program	350,000	0	0	0	350,000
558	FL	Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs	458,000	476,000	517,000	549,000	2,000,000
238	FL	Levy County, Florida-Purchase 2. wheel chair equipped passenger buses and related equipment	57,684	60,192	65,208	67,716	250,800
103	FL	Longwood, Florida-Construct Intermodal Transportation Facility	96,140	100,320	108,680	112,860	418,000
308	FL	Miami Dade, FL N.W. 7th Avenue Transit Hub	576,840	601,920	652,080	677,160	2,508,000
211	FL	Miami-Dade County, Florida-buses and bus facilities	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
432	FL	Miami-Dade County, Florida-buses and bus facilities	769,120	802,560	869,440	902,880	3,344,000
133	FL	Miami-Dade County, Florida-Transit Security System	574,917	599,914	649,906	674,903	2,499,640
580	FL	Miami-Dade Transit 7th Avenue NW Transit Hub	229,000	238,000	259,000	274,000	1,000,000
454	FL	Miami-Dade Transit Dadeland South Intermodal Center	460,000	480,000	520,000	540,000	2,000,000
136	FL	Ocala and Marion County, Florida-replacement buses	576,840	601,920	652,080	677,160	2,508,000
294	FL	Orlando, FL Bus Replacement	796,120	802,560	869,440	902,880	3,371,000
14	FL	Orlando, Florida-LYNX Bus Fleet Expansion Program	173,052	180,576	195,624	203,148	752,400
125	FL	Palm Beach County, FL Plan and Construct Belle Glade Combined Passenger Transit Facility	672,980	702,240	760,760	790,020	2,926,000
367	FL	Palm Beach, FL 20 New Buses for Palm Tran	288,420	300,960	326,040	338,580	1,254,000
248	FL	Palm Beach, FL Palm Tran AVL-APC system with smart card fare boxes	48,070	50,160	54,340	56,430	209,000
600	FL	Pinellas County Metropolitan Planning Organization-Pinellas Mobility Initiative: BRT and Guide way	229,000	238,000	259,000	274,000	1,000,000
415	FL	Purchase Buses and construct bus facilities in Broward County, FL	432,630	451,440	489,060	507,870	1,881,000
420	FL	Purchase Buses and construct bus facilities in Broward County, FL	384,560	401,280	434,720	451,440	1,672,000
400	FL	South FL Region, FL Regional Universal Automated Fare Collection System (UAFC) (for bus system)	384,560	401,280	434,720	451,440	1,672,000
623	FL	South Florida Regional Transportation Authority-West Palm Beach Intermodal Facility	458,000	476,000	517,000	549,000	2,000,000
622	FL	South Florida Regional Transportation Authority-West Palm Improvements, for any activity eligible under section 5309	3,436,000	3,570,000	3,880,000	4,114,000	15,000,000
31	FL	St. Augustine, Florida-Intermodal Transportation Center and related pedestrian and landscape improvements	192,280	200,640	217,360	225,720	836,000
390	FL	St. Lucie County, FL Purchase Buses	192,280	200,640	217,360	225,720	836,000
402	FL	Tampa, FL Establish Transit Emphasis Corridor Project	144,210	150,480	163,020	169,290	627,000
148	FL	Tampa, FL Purchase buses and construct bus facilities	432,630	451,440	489,060	507,870	1,881,000
355	GA	Albany, GA Bus replacement	57,684	60,192	65,208	67,716	250,800
255	GA	Albany, GA Multimodal Facility	153,824	160,512	173,888	180,576	668,800
357	GA	Athens, GA Buses and Bus Facilities	273,038	284,909	308,651	320,522	1,187,120
247	GA	Atlanta, GA Inter-modal Passenger Facility Improvements	384,560	401,280	434,720	451,440	1,672,000
384	GA	Atlanta, GA MARTA Clean Fuel Bus Acquisition	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
469	GA	Auburn University-Intermodal Parking Garage	916,000	952,000	1,035,000	1,097,000	4,000,000
144	GA	Augusta, GA Buses and Bus Facilities	76,912	80,256	86,944	90,288	334,400
110	GA	Cobb County, GA Cobb County Smart Card Technology/ Bus Facility Improvements	192,280	200,640	217,360	225,720	836,000
91	GA	Columbus, GA Bus replacement	57,684	60,192	65,208	67,716	250,800
510	GA	Columbus, Georgia/Phoenix City, Alabama-National Infantry Museum Multimodal Facility	389,000	405,000	440,000	466,000	1,700,000
49	GA	Columbus, Georgia-Buses & Bus Facilities	186,319	194,420	210,622	218,723	810,084
530	GA	Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities	2,062,000	2,142,000	2,328,000	2,468,000	9,000,000
60	GA	Georgia Statewide Bus Program	38,456	40,128	43,472	45,144	167,200
275	GA	Jesup, Georgia-Train Depot intermodal center	192,280	200,640	217,360	225,720	836,000
374	GA	Metro-Atlanta, GA MARTA Automated Smart-Card Fare Collection System	192,280	200,640	217,360	225,720	836,000
406	GA	Moultrie, GA Inter-modal facility	57,684	60,192	65,208	67,716	250,800
329	GA	Quitman, Clay, Randolph, Stewart Co., GA Bus project	48,070	50,160	54,340	56,430	209,000
256	GA	Savannah, GA Bus and Bus Facilities-Chatham Area Transit	961,400	1,003,200	1,086,800	1,128,600	4,180,000
348	GA	Savannah, Georgia-Water Ferry River walk intermodal facilities	384,560	401,280	434,750	451,440	1,672,030
206	GA	Sylvester, GA Inter-modal Facility	38,456	40,128	43,472	45,144	167,200
298	GA	Thomasville, GA Bus Replacement	38,456	40,128	43,472	45,144	167,200
540	HI	Honolulu, HI, Bus Facilities	1,350,000	1,300,000	1,300,000	1,300,000	5,250,000
440	IA	Ames, Iowa-Expansion of CyRide Bus Maintenance Facility	384,560	401,280	434,720	451,440	1,672,000
475	IA	Black Hawk County, IA UNI Multimodal Project	687,000	714,000	776,000	823,000	3,000,000
242	IA	Des Moines, IA Purchase 40 foot buses	192,280	200,640	217,360	225,750	836,030
545	IA	Iowa Department of Transportation-Iowa Statewide Buses and Bus Replacement	2,749,000	2,856,000	3,104,000	3,291,000	12,000,000
176	ID	Boise, ID-Multimodal facility	865,260	902,880	978,120	1,015,740	3,762,000
543	ID	Idaho Department of Transportation - Idaho Statewide ITS for Public Transportation	344,000	357,000	388,000	411,000	1,500,000
652	ID	Valley Regional Transit, ID-Downtown Boise Multimodal	1,329,000	1,381,000	1,500,000	1,590,000	5,800,000
473	IL	Bi-State Development Agency-St. Louis Bridge Repair/Reconstruction, for any activity eligible under section 5309	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
474	IL	Bi-State Development Agency-St. Louis Metro Bus Fare Collection Program	3,665,000	3,808,000	4,139,000	4,388,000	16,000,000
433	IL	Centralia, Illinois-South Central Mass Transit District Improvements	76,912	80,256	86,944	90,288	334,400
226	IL	Champaign, IL-Construct park and ride lot with attached daycare facility	288,420	300,690	326,040	338,580	1,253,730
221	IL	Chicago, IL Construct intermodal facility at 35th Street at Metra Ride Line (Northside)	961,400	1,003,200	1,086,800	1,128,600	4,180,000
219	IL	Chicago, IL Feasibility Study for intermodal station on the Metra Rock Island near Kennedy-King College	57,684	60,192	65,208	67,716	250,800
491	IL	Chicago, IL, Cermak Road, Bus Rapid Transit	200,000	250,000	300,000	500,000	1,250,000
358	IL	Cicero, Chicago Establish Transit Signal Priority, Cicero Ave., Pace Suburban Bus	192,280	200,640	217,360	225,720	836,000
4	IL	Des Plaines, Wauconda, Cook and Lake Counties, IL Rand Road Transit Signal Priority	153,824	160,512	173,888	180,576	668,800

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
296	IL	Elgin to Rockford, Illinois-Intermodal stations along planned Metra Union Pacific West Line extension alignment, including necessary alternatives analysis	96,140	100,320	108,680	112,860	418,000
114	IL	Geneva, Illinois-Construct commuter parking deck for Metra Service	769,120	802,560	869,440	902,880	3,344,000
291	IL	Joliet, Illinois-Union Station commuter parking facility	552,805	576,840	624,910	648,945	2,403,500
250	IL	Maywood, IL Purchase buses	9,614	10,032	10,868	11,286	41,800
429	IL	Normal, Illinois-Multimodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
163	IL	Normal, Illinois-Multimodal Transportation Center, including facilities for adjacent public and nonprofit uses	961,400	1,003,200	1,086,800	1,128,600	4,180,000
365	IL	Pace Suburban Bus, IL South Suburban BRT Mobility Network	96,140	100,320	108,680	112,860	418,000
404	IL	Rock Island, IL Improve Rock Island Mass Transit District Bus Facility	96,140	100,320	108,680	112,860	418,000
608	IL	Rock Island, Illinois, Metrolink Transit Maintenance Facility	200,000	250,000	300,000	500,000	1,250,000
632	IL	Springfield, IL, Multimodal Transit Terminal	800,000	1,100,000	1,300,000	1,800,000	5,000,000
259	IL	St. Charles, IL-Intermodal Parking Structures	865,260	902,880	978,120	1,015,740	3,762,000
265	IL	Village of Tinley Park, Illinois, 80th Avenue Commuter Rail Station reconstruction and site enhancements	153,824	160,512	173,888	180,576	668,800
135	IL	Wheaton, IL Pace Suburban Bus-Purchase buses	192,280	200,640	217,360	225,720	836,000
109	IN	Bloomington, IN-Bus and transfer facility	924,867	965,078	1,045,502	1,085,713	4,021,160
529	IN	Gary, Indiana, Gary Airport Station Modernization and Shuttle Service Project	350,000	400,000	450,000	500,000	1,700,000
544	IN	Indianapolis Downtown Transit Center	800,000	900,000	1,100,000	1,200,000	4,000,000
235	IN	Indianapolis, IN Construct the Ivy Tech State College Multi-Modal Facility	961,400	1,003,200	1,086,800	1,128,600	4,180,000
5	IN	Indianapolis, IN Downtown Transit Center	2,691,920	2,808,960	3,043,040	3,160,080	11,704,000
220	IN	Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality	384,560	401,280	434,720	451,440	1,672,000
378	IN	Indianapolis, IN Relocate and improve inter-modal transportation for pedestrian to Children's Museum of Indianapolis	2,691,920	2,808,960	3,043,040	3,160,080	11,704,000
417	IN	Indianapolis, Indiana-Children's Museum Intermodal Center	192,280	200,640	217,360	225,720	836,000
546	IN	Ivy Tech State College, Indiana Multimodal Center	150,000	200,000	250,000	400,000	1,000,000
617	IN	South Bend, Indiana, TRANSPO Bus Operations Center	800,000	900,000	1,100,000	1,200,000	4,000,000
141	IN	South Bend, Indiana-Construct South Bend Bus Operations Center	192,280	200,640	217,630	225,720	836,270
637	IN	Terre Haute, Indiana--Cherry Street Joint Development Project	800,000	900,000	1,100,000	1,200,000	4,000,000
53	KS	Johnson Co., KS Bus and bus related facilities [I-35. corridor], Johnson Co. Transit	384,560	401,280	434,720	451,440	1,672,000
551	KS	Kansas City Area Transportation Authority-Bus Project	2,291,000	2,380,000	2,587,000	2,742,000	10,000,000
552	KS	Kansas Department of Transportation-Kansas Statewide Transit Buses, Bus Facilities, and Bus ITS	2,749,000	2,856,000	3,104,000	3,291,000	12,000,000
372	KY	Richmond, KY Purchase buses, bus equipment and facilities	138,442	144,461	156,499	162,518	601,920
639	KY	Transit Authority of Lexington, KY-Rehabilitation of Building for Maintenance and Administration	916,000	952,000	1,035,000	1,097,000	4,000,000
484	LA	Capital Area Transit System-Baton Rouge BRT	687,000	714,000	776,000	823,000	3,000,000
72	LA	Hammond, Louisiana-Passenger Intermodal facility at Southeastern University	38,456	40,128	43,472	45,144	167,200
555	LA	Lafayette City-Parish Consolidated Government, LA-Lafayette Multimodal Transportation Facility	229,000	238,000	259,000	274,000	1,000,000
556	LA	Lafayette, Indiana, City Bus of Greater Lafayette	500,000	550,000	700,000	750,000	2,500,000
239	LA	Lafayette, Louisiana-Lafayette Transit System bus replacement program	173,052	180,576	195,624	203,148	752,400
356	LA	Lafayette, Louisiana-Multimodal center, Final Phase	576,840	601,920	652,080	677,160	2,508,000
568	LA	Louisiana Department of Transportation and Development-Statewide Vehicles and Equipment	229,000	238,000	259,000	274,000	1,000,000
170	LA	Louisiana-Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA	195,280	203,640	220,360	228,720	848,000
55	LA	New Orleans, LA Inter-modal Riverfront Center	96,140	100,320	108,680	112,860	418,000
67	LA	New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities	192,280	200,640	217,360	225,720	836,000
243	LA	New Orleans, LA Regional Planning Commission, bus and bus facilities	96,140	100,320	108,680	112,860	418,000
310	LA	River Parishes, LA South Central Planning and Development Commission, bus and bus facilities	192,280	200,640	217,360	225,720	836,000
606	LA	River Parishes, Louisiana, South Central Planning and Development Commission, bus and bus facilities	160,000	180,000	200,000	220,000	760,000
277	LA	Shreveport, LA-intermodal Transit Facility	644,138	672,144	728,156	756,162	2,800,600
625	LA	Southeastern Louisiana University Intermodal Facility	300,000	450,000	550,000	700,000	2,000,000
283	LA	St. Bernard Parish, LA Intermodal facility improvements	192,280	200,640	217,360	225,720	836,000
118	MA	Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center	384,560	401,280	434,720	451,440	1,672,000
472	MA	Berkshire, MA, Berkshire Regional Transit Authority Bus Maintenance Facility	50,000	30,000	20,000	0	100,000
59	MA	Beverly, MA Design and Construct Beverly Deport Intermodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
273	MA	Boston, MA Harbor Park Pavilion & Inter-modal Station	240,350	250,800	271,700	282,150	1,045,000
174	MA	Brockton, MA Bus replacement for the Brockton Area Transit Authority	288,420	300,960	326,040	338,580	1,254,000
330	MA	Framingham, MA Local Intra-Framingham Transit System enhancements	346,104	361,152	391,248	406,296	1,504,800
124	MA	Haverhill, MA Design and Construct Inter-modal Transit Parking Improvements	1,076,768	1,123,584	1,217,216	1,264,032	4,681,600
21	MA	Hingham, MA Higham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking	1,730,520	1,805,760	1,956,240	2,031,480	7,524,000
563	MA	Lawrence, MA, Gateway Intermodal and Quadant Area Reuse Project	600,000	800,000	900,000	1,150,000	3,450,000
280	MA	Lowell, MA Implementation of LRTA bus replacement plan	192,280	200,640	217,360	225,720	836,000
569	MA	Lowell, MA, Lowell Regional Transit	600,000	800,000	900,000	1,150,000	3,450,000
42	MA	Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility	384,560	401,280	434,720	451,440	1,672,000
257	MA	Newburyport, MA Design and Construct Intermodal Facility	384,560	401,280	434,720	451,440	1,672,000
139	MA	Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service	384,560	401,280	434,720	451,440	1,672,000
161	MA	Revere, MA Inter-modal transit improvements in the Wonderland station (MBTA) area	346,104	361,152	391,248	406,296	1,504,800
88	MA	Rockport, MA Rockport Commuter Rail Station Improvements	528,770	551,760	597,740	620,730	2,299,000
370	MA	Salem, MA Design and Construct Salem Intermodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
205	MA	Woburn, MA Construction of an 89 space park and ride facility to be located on Magazine Hill, in the Heart of Woburn Square	346,104	361,152	391,248	406,296	1,504,800

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
122	MD	Baltimore, MD Construct Intercity Bus Intermodal Terminal	961,400	1,003,200	1,086,800	1,128,600	4,180,000
499	MD	City of Gaithersburg, Maryland-Bus and paratransit vehicle for seniors	112,000	0	0	0	112,000
303	MD	Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility	961,400	1,003,200	1,086,800	1,128,600	4,180,000
542	MD	Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility	250,000	220,000	200,000	200,000	870,000
571	MD	MARC Intermodal Odenton and Edgewood Station Improvements	368,000	380,000	380,000	418,000	1,546,000
573	MD	Maryland Statewide Bus Facilities and Buses	5,500,000	5,750,000	6,500,000	7,250,000	25,000,000
224	MD	Montgomery County, MD Wheaton CBD Intermodal Access Program	96,140	100,320	108,680	112,860	418,000
214	MD	Mount Rainier, MD Intermodal and Pedestrian Project	86,526	90,288	97,812	101,574	376,200
615	MD	Silver Spring, Maryland, Transit Center	7,000,000	6,000,000	5,000,000	0	18,000,000
8	MD	Silver Spring, MD Construct Silver Spring Transit Center in downtown Silver Spring	701,822	732,336	793,364	823,878	3,051,400
629	MD	Southern Maryland Commuter Initiative	2,700,000	2,800,000	3,000,000	3,500,000	12,000,000
19	ME	Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs	57,684	60,192	65,208	67,716	250,800
483	ME	Campobello Park, ME, Bus Acquisition	22,000	34,000	0	0	56,000
570	ME	Maine Department of Transportation-Acadia Intermodal Facility	687,000	714,000	776,000	823,000	3,000,000
301	MI	Barry County, MI-Barry County Transit equipments and dispatching software	28,842	30,096	32,604	33,858	125,400
204	MI	Boysville of Michigan Transportation System	646,061	674,150	730,330	758,419	2,808,960
502	MI	City of Kalamazoo, MI bus Replacement	2,500,000	1,800,000	1,500,000	1,400,000	7,200,000
319	MI	Detroit Bus Maintenance Facility	1,730,520	1,805,760	1,956,240	2,031,480	7,524,000
522	MI	Detroit Department of Transportation Bus Replacement	2,000,000	2,100,000	2,200,000	2,300,000	8,600,000
2	MI	Detroit Fare Collection System	769,120	802,560	869,440	902,880	3,344,000
156	MI	Detroit Replacement Buses	961,400	1,003,200	1,086,800	1,128,600	4,180,000
320	MI	Detroit, MI Bus Replacement	1,442,100	1,504,800	1,630,200	1,692,900	6,270,000
9	MI	Detroit, MI Enclosed heavy-duty maintenance facility with full operational functions for up to 300 buses	865,260	902,880	978,120	1,015,740	3,762,000
208	MI	Eastern Upper Peninsula, MI Ferry Dock and Facility upgrades for Drummond Island Ferry Services	48,070	50,160	54,340	56,430	209,000
526	MI	Flint, MI, Mass Transportation Authority Bus Maintenance Facility	750,000	650,000	450,000	150,000	2,000,000
531	MI	Grand Rapids, Michigan, The Rapid, Bus Replacement	1,100,000	1,100,000	1,250,000	1,750,000	5,200,000
249	MI	Grand Rapids, MI-Purchase replacement and expansion buses	2,816,902	2,939,376	3,184,321	3,306,798	12,247,397
79	MI	Ionia County, MI-Purchase and Implementation of communication equipment improvements	113,445	118,378	128,242	133,175	493,240
560	MI	Lansing, MI, Capital Area Transportation Authority, Bus Replacement and Bus Related ITS	750,000	850,000	950,000	1,050,000	3,600,000
572	MI	Marquette County, Michigan Transit Authority Bus passenger facility	300,000	300,000	300,000	300,000	1,200,000
581	MI	Michigan Department of Transportation (MDOT) Bus Replacement	2,000,000	2,200,000	2,400,000	2,600,000	9,200,000
293	MI	Muskegon, Michigan-Muskegon Area Transit Terminal and related improvements	384,560	401,280	434,720	451,440	1,672,000
601	MI	Port Huron, Michigan, Blue Water Area Transportation Commission, Bus Maintenance Facility	1,000,000	1,250,000	1,500,000	1,750,000	5,500,000
634	MI	Suburban Mobility Authority for Regional Transportation (SMART) Bus Maintenance Facility	1,500,000	1,750,000	2,000,000	2,250,000	7,500,000
40	MN	Duluth, MN Downtown Duluth Area Transit facility improvements	384,560	401,280	434,720	451,440	1,672,000
177	MN	Fond du Lac Reservation, MN Purchase buses	28,842	30,096	32,604	33,858	125,400
577	MN	Metro Transit/Metropolitan Council, MN-Bus/Bus Capital	2,176,000	2,261,000	2,457,000	2,606,000	9,500,000
185	MN	St. Paul to Hinckley, MN Construct bus amenities along Rush Line Corridor	288,420	300,960	326,040	338,580	1,254,000
342	MN	St. Paul, MN Union Depot Multi Modal Transit Facility	384,560	401,280	434,720	451,440	1,672,000
345	MO	Kansas City, MO Bus Transit Infrastructure	192,280	200,640	217,360	225,720	836,000
598	MO	OATS, Incorporated, MO-ITS Information and Billing System and Bus Facilities	3,894,000	4,046,000	4,397,000	4,663,000	17,000,000
624	MO	Southeast Missouri Transportation Service-Bus Project	458,000	476,000	517,000	549,000	2,000,000
130	MS	Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./DARTS transit service	28,842	30,096	32,604	33,858	125,400
547	MS	Jackson State University, MS-Busing Project	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
129	MT	Bozeman, Montana-Vehicular Parking Facility	769,150	802,560	869,440	902,880	3,344,030
476	MT	Bozeman, MT, Intermodal and parking facility	168,000	171,000	175,000	176,000	690,000
584	MT	Montana Department of Transportation-Statewide Bus Facilities and Buses	687,000	714,000	776,000	823,000	3,000,000
490	NC	Charlotte Area Transit System/City of Charlotte-Charlotte Multimodal Station	2,291,000	2,380,000	2,587,000	2,742,000	10,000,000
217	NC	Charlotte, NC Construct Charlotte Multimodal Station	1,499,784	1,564,992	1,695,408	1,760,616	6,520,800
351	NC	Charlotte, North Carolina-Eastland Community Transit Center	384,560	401,280	434,720	451,440	1,672,000
228	NC	Charlotte, North Carolina-Multimodal Station	769,120	802,560	869,440	902,880	3,344,000
154	NC	City of Greenville, NC Expansion Buses and Greenville Intermodal Center	685,286	715,081	774,671	804,466	2,979,504
324	NC	Elon, North Carolina-Piedmont Authority for Regional Transportation buses and bus facilities	230,736	240,768	260,832	270,864	1,003,200
302	NC	Greensboro, North Carolina-Piedmont Authority for Regional Transportation Multimodal Transportation Center	2,407,346	2,512,013	2,721,347	2,826,014	10,466,720
52	NC	Greensboro, North Carolina-Replacement buses	1,111,378	1,156,699	1,256,341	1,304,662	4,829,080
537	NC	High Point, NC-Intermodal Facility	275,000	286,000	310,000	329,000	1,200,000
335	NC	High Point, North Carolina-Bus Terminal	1,153,860	1,203,840	1,304,160	1,354,320	5,016,180
594	NC	North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities	5,727,000	5,950,000	6,467,000	6,856,000	25,000,000
143	NC	Raleigh, NC Purchase eighteen replacement buses to replace buses that have reached their useful life according to Federal Transit Administration regulations	384,560	401,280	434,720	451,440	1,672,000
134	NC	Town of Chapel Hill, NC Park and Ride Lot	288,420	300,960	326,040	338,580	1,254,000
57	NC	Wilmington, NC Build Intermodal Center	192,280	200,640	217,360	225,720	836,000
595	ND	North Dakota Department of Transportation/Statewide Bus	1,000,000	1,100,000	1,300,000	1,600,000	5,000,000
505	NE	City of Omaha-Creighton University Intermodal Facility	687,000	714,000	776,000	823,000	3,000,000
160	NE	Kearney, Nebraska-RYDE Transit Bus Maintenance and Storage Facility	384,560	401,280	434,720	451,440	1,672,000
586	NE	Nebraska Department of Roads-Bus Maintenance and Storage Facility for RYDE in Kearney, NE	458,000	476,000	517,000	549,000	2,000,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
587	NE	Nebraska Department of Roads-Statewide Vehicles, Facilities, and Related Equipment Purchases	916,000	952,000	1,035,000	1,097,000	4,000,000
240	NE	Nebraska-statewide transit vehicles, facilities, and related equipment	769,120	802,560	869,440	902,880	3,344,000
599	NE	Omaha, NE, Buses and Fare boxes	610,000	650,000	700,000	740,000	2,700,000
418	NH	Windham, New Hampshire--Construction of Park and Ride Bus facility at Exit 3	711,436	742,368	804,232	835,164	3,093,200
468	NJ	Atlantic City, NJ Jitney	750,000	750,000	750,000	750,000	3,000,000
86	NJ	Burlington County, NJ-BurLink and Burlington County Transportation System vehicles and equipment	769,120	802,560	869,440	902,880	3,344,000
28	NJ	Camden, NJ Construction of the Camden County Intermodal Facility in Cramer Hill	192,280	200,640	217,360	225,720	836,000
12	NJ	Hoboken, NJ Rehabilitation of Hoboken Inter-modal Terminal	730,664	762,432	825,968	857,736	3,176,800
102	NJ	Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station	384,560	401,280	434,720	451,440	1,672,000
389	NJ	Lakewood, NJ-Ocean County Bus service and parking facilities	576,840	601,920	652,080	677,160	2,508,000
138	NJ	Long Branch, NJ Design and construct facilities for ferry service from Long Branch, NJ to New York City and other destinations	769,120	802,560	869,440	902,880	3,344,000
38	NJ	Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop	384,560	401,280	434,720	451,440	1,672,000
209	NJ	Morristown, New Jersey-Intermodal Historic Station	192,280	200,640	217,360	225,720	836,000
46	NJ	National Park Service Design and construct 2.1-mile segment to complete Sandy Hook multiuse pathway in Sandy Hook, NJ	192,280	200,640	217,360	225,720	836,000
340	NJ	New Jersey Inter-modal Facilities and Bus Rolling Stock	576,840	601,920	652,080	677,160	2,508,000
328	NJ	New Jersey Transit Community Shuttle Buses	96,140	100,320	108,680	112,860	418,000
13	NJ	Newark, NJ Penn Station Intermodal Improvements including the rehabilitation of boarding areas	192,280	200,640	217,360	225,720	836,000
29	NJ	Sandy Hook, NJ National Park Service Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area	192,280	200,640	217,360	225,720	836,000
393	NJ	South Amboy, NJ Construction of improvements to facilities at South Amboy Station under S Amboy, NJ Regional Intermodal Initiative	1,538,240	1,605,120	1,738,880	1,805,760	6,688,000
618	NJ	South Brunswick, NJ Transit System	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
643	NJ	Trenton Intermodal Station	5,500,000	4,250,000	4,000,000	4,000,000	17,750,000
61	NJ	Trenton, New Jersey-Trenton Train Station Rehabilitation	288,420	300,960	326,040	338,580	1,254,000
181	NJ	Trenton, NJ Development of Trenton Trolley System	192,280	200,640	217,360	225,720	836,000
62	NJ	Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station	1,345,960	1,404,480	1,521,520	1,580,040	5,852,000
464	NM	Albuquerque, NM, Ride Bus and Bus Facilities	1,500,000	1,500,000	1,800,000	2,100,000	6,900,000
562	NM	Las Cruces, NM, Road Runner Bus and Bus Facilities	200,000	250,000	300,000	350,000	1,100,000
405	NV	Las Vegas, NV Construct Boulder Highway BRT system and purchase vehicles and related equipment	384,560	401,280	434,720	451,440	1,672,000
199	NV	Las Vegas, NV Construct Central City Inter-modal Transportation Terminal	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
371	NV	Las Vegas, NV Construct Las Vegas West Care Intermodal Facility	48,070	50,160	54,340	56,430	209,000
603	NV	Regional Transportation Commission of Southern Nevada-Central City Intermodal Transportation Terminal	916,000	952,000	1,035,000	1,097,000	4,000,000
18	NV	Reno-Sparks, Nevada-Intermodal Transportation Terminals and Related Development	769,120	802,560	869,440	902,880	3,344,000
630	NV	Southern Nevada Transit Coalition, Public Transit Building Acquisition	300,000	300,000	300,000	100,000	1,000,000
656	NV	Washoe County, NV Bus and Bus Facilities	1,000,000	1,500,000	2,000,000	2,250,000	6,750,000
74	NY	Albany-Schenectady, NY Bus Rapid Transit Improvements in NY Route 5. Corridor.	192,280	200,640	217,360	225,720	836,000
463	NY	Albany-Schenectady, NY, Bus Rapid Transit Improvements in NY Route 5	500,000	800,000	1,200,000	1,500,000	4,000,000
271	NY	Bronx, NY Botanical Garden metro North Rail station Intermodal Facility	192,280	200,640	217,360	225,720	836,000
20	NY	Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo	192,280	200,640	217,360	225,720	836,000
279	NY	Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo	192,280	200,640	217,360	225,720	836,000
166	NY	Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support	36,053	37,620	40,755	42,323	156,751
338	NY	Bronx, NY Intermodal Facility near Exit 6. of the Bronx River Parkway	48,070	50,160	54,340	56,430	209,000
234	NY	Bronx, NY Jacobi Intermodal Center to North Central Bronx Hospital bus system	60,088	62,700	67,925	70,538	261,251
10	NY	Bronx, NY Wildlife Conservation Society intermodal transportation facility at the Bronx Zoo	84,123	87,780	95,095	98,753	365,751
197	NY	Brooklyn, NY Construct a multi-modal transportation facility	269,192	280,896	304,304	316,008	1,170,400
408	NY	Brooklyn, NY Construct a multi-modal transportation facility in the vicinity of Downstate Medical Center	192,280	200,640	217,360	225,720	836,000
41	NY	Brooklyn, NY New Urban Center-Broadway Junction Intermodal Center	184,589	192,614	208,666	216,691	802,560
56	NY	Brooklyn, NY-Rehabilitation of Bay Ridge 86th Street Subway Station	769,120	802,560	869,440	902,880	3,344,000
419	NY	Brooklyn, NY--Rehabilitation of Bay Ridge 86th Street Subway Station	769,120	802,560	869,440	902,880	3,344,000
192	NY	Buffalo, NY Inter-modal Center Parking Facility	192,280	200,640	217,360	225,720	836,000
245	NY	Bus to provide York-town, New York internal circulator to provide transportation throughout the Town	35,572	37,118	40,212	41,758	154,660
230	NY	Construction of Third Bus Depot on Staten Island	2,307,360	2,407,680	2,608,320	2,708,640	10,032,000
146	NY	Cooperstown, New York-Intermodal Transit Center	961,400	1,003,200	1,086,800	1,128,600	4,180,000
363	NY	Corning, New York-Transportation Center	961,400	1,003,200	1,086,800	1,128,600	4,180,000
512	NY	Corning, NY, Phase II Corning Preserve Transportation Enhancement Project	350,000	450,000	550,000	650,000	2,000,000
284	NY	Cornwall, NY-Purchase Bus	16,728	17,456	18,910	19,638	72,732
300	NY	Geneva, New York-Multimodal facility-Construct passenger rail center	96,140	100,320	108,680	112,860	418,000
317	NY	Jamestown, NY Rehabilitation of Intermodal Facility and associated property	384,560	401,280	434,720	451,440	1,672,000
343	NY	Kings County, NY Construct a multi-modal transportation facility	192,280	200,640	217,360	225,720	836,000
368	NY	Nassau County, NY Conduct planning and engineering for transportation system (HUB)	1,345,960	1,404,480	1,521,520	1,580,040	5,852,000
585	NY	Nassau County, NY, Conduct planning, engineering, and construction for transportation system (HUB)	1,000,000	1,200,000	1,300,000	1,500,000	5,000,000
25	NY	New York City, NY First Phase Implementation of Bus Rapid Transit System	192,280	200,640	217,360	225,720	836,000
376	NY	New York City, NY Purchase Handicapped-Accessible Livery Vehicles	192,280	220,640	217,360	225,720	856,000
590	NY	New York City, NY, Bronx Zoo Intermodal Facility	350,000	450,000	550,000	650,000	2,000,000
591	NY	New York City, NY, Enhance Transportation Facilities Near W. 65th Street and Broadway	350,000	450,000	550,000	650,000	2,000,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
592	NY	New York City, NY, Highline Project, for Studies, Design, and Construction	1,000,000	1,200,000	1,300,000	1,500,000	5,000,000
593	NY	New York, Improvements to Moynihan Station	1,000,000	1,200,000	1,300,000	1,500,000	5,000,000
77	NY	Niagara Falls, NY Relocation, Development, and Enhancement of Niagara Falls International Railway Station/Intermodal Transportation Center	1,076,768	1,123,584	1,217,216	1,264,032	4,681,600
373	NY	Niagara Frontier Transportation Authority, NY Replacement Buses	192,280	200,640	217,360	225,720	836,000
322	NY	Oneonta, New York-bus replacement	28,842	30,096	32,604	33,858	125,400
379	NY	Ramapo, NY Transportation Safety Field Bus	48,070	50,160	54,340	56,430	209,000
252	NY	Rochester, New York-Renaissance Square transit center	865,260	902,880	978,120	1,015,740	3,762,000
430	NY	Rochester, New York-Renaissance Square Transit Center	432,630	451,440	489,060	507,870	1,881,000
607	NY	Rochester, NY, Renaissance Square Intermodal Facility, Design and Construction	1,000,000	1,400,000	1,600,000	2,000,000	6,000,000
609	NY	Rockland County, NY Express Bus	600,000	700,000	800,000	900,000	3,000,000
386	NY	Suffolk County, NY Design and construction of intermodal transit facility in Wyandanch	884,488	922,944	999,856	1,038,312	3,845,600
353	NY	Suffolk County, NY Purchase four handicapped accessible vans to transport veterans to and from the VA facility in Northport	53,838	56,179	60,831	63,202	234,050
635	NY	Syracuse, New York, Syracuse University Connective Corridor Transit Project	800,000	950,000	1,100,000	1,150,000	4,000,000
261	NY	Thendra-Webb and Utica, New York-Install handicap lifts in intermodal centers	19,228	20,064	21,736	22,572	83,600
289	NY	Town of Warwick, NY Bus Facility Warwick Transit System	105,754	110,352	119,548	124,146	459,800
451	NY	Utica, New York Transit Multimodal Facilities	1,150,000	1,200,000	1,300,000	1,350,000	5,000,000
78	NY	Utica, New York-Union Station Boehlert Center siding track improvements	19,228	20,064	21,736	22,572	83,600
182	NY	Utica, New York-Union Station rehabilitation and related infrastructure improvements	96,140	100,320	108,680	112,860	418,000
264	NY	Westchester County, NY Bus replacement program	721,050	752,400	815,100	846,450	3,135,000
149	NY	Yonkers, NY Trolley Bus Acquisition	72,105	75,240	81,510	84,645	313,500
362	OH	Akron, OH Construct City of Akron Commuter Bus Transit Facility	288,420	300,960	326,040	338,580	1,254,000
318	OH	Akron, Ohio Construct Downtown Multi-modal Transportation Center	769,120	802,560	869,440	902,880	3,344,000
105	OH	Akron, Ohio-West Market Street transit center and related pedestrian improvements	124,982	130,416	141,284	146,718	543,400
489	OH	Central Ohio Transit Authority-Paratransit and Small Bus Service Facility	458,000	476,000	517,000	549,000	2,000,000
241	OH	Cincinnati, Ohio-Construct Uptown Crossings Joint Development Transit Project	576,840	601,920	652,080	677,160	2,508,000
89	OH	Cincinnati, Ohio-Metro Regional Transit Hub Network Eastern Neighborhoods	177,859	185,592	201,058	208,791	773,300
327	OH	Cleveland, OH Construct East Side Transit Center	576,840	601,920	652,080	677,160	2,508,000
202	OH	Cleveland, OH Construct Fare Collection System Project, Cuyahoga County	96,140	100,320	108,680	112,860	418,000
179	OH	Cleveland, OH Construct passenger inter-modal center near Dock 32	165,361	172,550	186,930	194,119	718,960
411	OH	Cleveland, OH Construction of an inter-modal facility and related improvements at University Hospitals facility on Euclid Avenue	192,280	200,640	217,360	225,720	836,000
51	OH	Cleveland, Ohio acquisition of buses Greater Cleveland Regional Transit Authority	192,280	200,640	217,360	225,720	836,000
258	OH	Cleveland, Ohio-Euclid Avenue and East 93rd Street intermodal facility	1,634,380	1,705,440	1,847,560	1,918,620	7,106,000
198	OH	Cleveland, Ohio-Euclid Avenue University Hospital intermodal facility	865,260	902,880	978,120	1,015,740	3,762,000
50	OH	Cleveland, Ohio-University Circle Intermodal facility	1,634,380	1,705,440	1,847,560	1,918,620	7,106,000
380	OH	Columbiana County, OH Construct Inter-modal Facility	961,400	1,003,200	1,086,800	1,128,600	4,180,000
7	OH	Columbus, OH-Central Ohio Transit Authority Paratransit Facility	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
292	OH	Cuyahoga County, Ohio-Ohio Department of Transportation transit improvements	28,842	30,096	32,604	33,858	125,400
120	OH	Dayton Airport Inter-modal Rail Feasibility Study	144,210	150,480	163,020	169,290	627,000
516	OH	Dayton-Wright Stop Plaza	458,000	476,000	517,000	549,000	2,000,000
347	OH	Eastlake, Ohio-Eastlake Stadium transit intermodal facility	817,190	852,720	923,780	959,310	3,553,000
309	OH	Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub	393,789	410,911	445,153	462,275	1,712,128
349	OH	Kent, OH Construct Kent State University Intermodal Facility serving students and the general public	192,280	200,640	217,360	225,720	836,000
104	OH	Marietta, Ohio Construction of transportation hub to accommodate regional bus traffic	96,140	100,320	108,680	112,860	418,000
576	OH	Metro Regional Transit Authority/City of Akron-Downtown Transit Center/Akron	1,604,000	1,666,000	1,811,000	1,919,000	7,000,000
87	OH	Niles, OH Acquisition of bus operational and service equipment of Niles Trumbull Transit	38,456	40,128	43,472	45,144	167,200
385	OH	Springfield, OH-City of Springfield Bus Transfer Station and Associated Parking	48,070	50,160	54,340	56,430	209,000
34	OH	Toledo, OH TARTA/TARPS Passenger Inter-modal Facility construction	1,442,100	1,504,800	1,630,200	1,692,900	6,270,000
64	OH	Zanesville, OH-bus system signage and shelters	15,623	16,302	17,661	18,340	67,926
442	OR	Albany, OR North Albany Park and Ride	183,124	191,086	207,010	214,971	796,191
165	OR	Albany, OR Rehabilitate Building At Multimodal Transit Station	292,998	305,737	331,215	343,954	1,273,904
272	OR	Bend, Oregon-replacement vans	192,280	200,640	217,360	225,720	836,000
66	OR	Canby, OR bus and bus facilities	28,842	30,096	32,604	33,858	125,400
187	OR	Columbia County, OR To purchase buses	26,919	28,090	30,430	31,601	117,040
299	OR	Corvallis, OR Bus Replacement	283,842	296,183	320,865	333,206	1,234,096
159	OR	Eugene, OR Lane Transit District, Vehicle Replacement	686,714	716,571	776,286	806,143	2,985,714
325	OR	Grants Pass, OR Purchase Vehicles For Use By Josephine Community Transit	39,143	40,845	44,248	45,950	170,186
99	OR	Gresham, Oregon Construct a new light rail station and transit plaza on Portland MAX system and serve Gresham Civic neighborhood	269,192	280,896	304,304	316,008	1,170,400
168	OR	Lane Transit District, Bus Rapid Transit Progressive Corridor Enhancements	569,845	594,621	644,172	668,948	2,477,586
323	OR	Lincoln, County, OR bus purchase	48,070	50,160	54,340	56,430	209,000
175	OR	Molalla, OR South Clackamas Transportation District, bus purchase	19,228	20,064	21,736	22,572	83,600
16	OR	Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades	19,228	20,064	21,736	22,572	83,600
93	OR	Salem, OR bus and bus facilities	384,560	401,280	434,720	451,440	1,672,000
106	OR	Sandy, Oregon Transit Bus Facility	134,596	140,448	152,152	158,004	585,200
180	OR	Tillamook, OR construction of a transit facility	19,228	20,064	21,736	22,572	83,600

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
216	OR	Wilsonville, OR South Metro Area Rapid Transit, bus and bus facilities	48,070	50,160	54,340	56,430	209,000
82	OR	Yamhill County, OR For the construction of bus shelters, park and ride facilities, and a signage strategy to increase ridership	21,151	22,070	23,910	24,829	91,960
225	PA	Allentown, Pennsylvania-Design and Construct Intermodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
456	PA	Altoona Multimodal Transportation Facility Parking Garage	230,000	240,000	260,000	270,000	1,000,000
465	PA	AMTRAN Altoona, PA-Buses and Transit System Improvements	687,000	714,000	776,000	823,000	3,000,000
467	PA	Area Transportation Authority of North Central Pennsylvania-Vehicle Replacements	229,000	238,000	259,000	274,000	1,000,000
471	PA	Beaver County, PA Transit Authority Bus Replacement/ Related Equipment Replacement	229,000	238,000	259,000	274,000	1,000,000
481	PA	Butler Township, PA-Cranbury Area Transit Service	802,000	833,000	905,000	960,000	3,500,000
428	PA	Butler, PA-Multimodal Transit Center Construction	192,280	200,640	217,360	225,720	836,000
482	PA	Cambria County, PA Transit Authority-Bus Replacements	687,000	714,000	776,000	823,000	3,000,000
123	PA	Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Avenue	192,280	200,640	217,360	225,720	836,000
500	PA	City of Hazleton, PA-Hazleton Intermodal Center	321,000	333,000	362,000	384,000	1,400,000
513	PA	County of Lackawanna Transit System-Scranton Intermodal Transportation Center	229,000	238,000	259,000	274,000	1,000,000
514	PA	Cumberland-Dauphin-Harrisburg Transit Authority-Purchase of Buses and Spare Units	229,000	238,000	259,000	274,000	1,000,000
81	PA	Easton, Pennsylvania-Design and construct Intermodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
524	PA	Erie, PA Metropolitan Transit Authority-Bus Acquisitions	229,000	238,000	259,000	274,000	1,000,000
431	PA	Erie, PA-EMTA Vehicle Acquisition	384,560	401,280	434,720	451,440	1,672,000
331	PA	Gettysburg, Pennsylvania-transit transfer center	172,860	180,375	195,407	202,922	751,564
458	PA	Hershey, Pennsylvania Intermodal Center and Parking Garage	57,500	60,000	65,000	67,500	250,000
233	PA	Intermodal Facilities in Bucks County (Croydon and Levittown Stations)	576,840	601,920	652,080	677,160	2,508,000
457	PA	Lancaster County, Pennsylvania Intermodal Center and Parking Facility	57,500	60,000	65,000	67,500	250,000
37	PA	Lancaster, PA-bus replacement	182,666	190,608	206,492	214,434	794,200
559	PA	Lancaster, PA-Intermodal Project	160,000	167,000	181,000	192,000	700,000
564	PA	Lehigh and Northampton Transportation Authority, PA-Allentown Intermodal Transportation Center	458,000	476,000	517,000	549,000	2,000,000
583	PA	Monroe Township, PA-Clarion County Buses	151,000	157,000	171,000	181,000	660,000
588	PA	New Castle, PA Area Transit Authority-Bus Purchases/Park and Ride Facility	170,000	176,000	191,000	203,000	740,000
201	PA	Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard	672,980	702,240	760,760	790,020	2,926,000
137	PA	Philadelphia, PA Improvements to the existing Penn's Landing Ferry Terminal	769,120	802,560	869,440	902,880	3,344,000
413	PA	Philadelphia, PA Penn's Landing water shuttle parking lot expansion and water shuttle ramp infrastructure construction	211,508	220,704	239,096	248,292	919,600
22	PA	Philadelphia, PA Philadelphia Zoo Intermodal Transportation project w/parking consolidation, pedestrian walkways, public transportation complements & landscape improvements to surface parking lots	961,400	1,003,200	1,086,800	1,128,600	4,180,000
274	PA	Philadelphia, PA SEPTA's Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assistance to entities along rail corridor	269,192	280,896	304,304	316,008	1,170,400
316	PA	Philadelphia, Pennsylvania-SEPTA Market Street Elevated Line parking facility	769,120	802,560	869,440	902,880	3,344,000
126	PA	Pittsburgh, PA Clean Fuel Bus Procurement	96,140	100,320	108,680	112,860	418,000
397	PA	Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility	384,560	401,280	434,720	451,440	1,672,000
48	PA	Project provides for the engineering and construction of a transportation center in Paoli, Chester County	192,280	200,640	217,360	225,720	836,000
96	PA	SEPTA Montgomery County Intermodal Improvements at Glenside and Jenkintown Station Parking Garages	961,400	1,003,200	1,086,800	1,128,600	4,180,000
424	PA	Sharon, PA-Bus Facility Construction	96,140	100,320	108,680	11,860	317,000
626	PA	Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown)	687,000	714,000	776,000	823,000	3,000,000
627	PA	Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center	687,000	714,000	776,000	823,000	3,000,000
628	PA	Southeastern Pennsylvania Transportation Authority-Villanova-SEPTA Intermodal	687,000	714,000	776,000	823,000	3,000,000
642	PA	Transit Authority of Warren County, PA-Impact Warren	229,000	238,000	259,000	274,000	1,000,000
33	PA	Warren, PA-Construct Intermodal Transportation Center and related pedestrian and landscape improvements	288,420	300,960	326,040	338,580	1,254,000
660	PA	Westmoreland County Transit Authority, PA-Bus Replacement	229,000	238,000	259,000	274,000	1,000,000
661	PA	Wilkes-Barre Intermodal Facility	1,374,000	1,428,000	1,552,000	1,646,000	6,000,000
662	PA	Williamsport, PA Bureau of Transportation-Williamsport Trade and Transit Centre Expansion	687,000	714,000	776,000	823,000	3,000,000
65	PA	York, Pennsylvania-Rabbit Transit facilities and communications equipment	532,712	555,873	602,196	625,357	2,316,138
128	PR	Bayamon, Puerto Rico-bus terminal	115,368	120,384	130,416	135,432	501,600
421	PR	Bayamon, Puerto Rico-Purchase of Trolley Cars	163,438	170,544	184,756	191,862	710,600
3	PR	Lares, PR-Trolley buses-for the purchase of two trolley buses that will offer transportation through the urban zone in the Municipality of Lares	50,762	52,969	57,383	59,590	220,704
164	PR	Puerto Rico-Caribbean National Forest buses and nonprofit uses	576,840	601,920	652,080	677,160	2,508,000
152	PR	San Juan, Puerto Rico-bus security equipment	576,840	601,920	652,080	677,160	2,508,000
71	PR	San Juan, Puerto Rico-Buses	192,280	200,640	217,360	225,720	836,000
58	PR	Yabucoca, Puerto Rico-Trolley Buses	33,649	35,112	38,038	39,501	146,300
246	RI	Providence, RI Expansion of Elmwood Paratransit Maintenance Facility	961,400	1,003,200	1,086,800	1,128,600	4,180,000
604	RI	Rhode Island, RIPTA Elmwood Facility Expansion	1,600,000	1,700,000	1,750,000	1,850,000	6,900,000
115	RI	Rhode Island Statewide Bus Fleet	1,153,680	1,203,840	1,304,160	1,354,320	5,016,000
533	SC	Greensville, SC Transit Authority-City of Greenville Multimodal Transportation Center Improvements	229,000	238,000	259,000	274,000	1,000,000
619	SC	South Carolina Department of Transportation-Transit Facilities Construction Program	458,000	476,000	517,000	549,000	2,000,000
620	SC	South Carolina Department of Transportation-Vehicle Acquisition Program	1,833,000	1,904,000	2,069,000	2,194,000	8,000,000
621	SD	South Dakota Department of Transportation-Statewide Buses and Bus Facilities	3,166,000	3,452,000	3,785,000	4,097,000	14,500,000
237	TN	Knoxville, Tennessee-Central Station Transit Center	1,961,256	2,046,528	2,217,072	2,302,344	8,527,200
554	TN	Knoxville, TN-Central Station	573,000	595,000	647,000	685,000	2,500,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
565	TN	Lipscomb University, TN-Intermodal Parking Garage	344,000	357,000	388,000	411,000	1,500,000
579	TN	Metropolitan Transit Authority-Nashville Downtown Transit Transfer Facility	2,749,000	2,856,000	3,104,000	3,291,000	12,000,000
268	TN	Nashville, TN Construct a parking garage on the campus of Lipscomb University, Nashville	384,560	401,280	434,720	451,440	1,672,000
412	TN	Nashville, TN Construct Downtown Nashville Transit Transfer Facility	288,420	300,960	326,040	338,580	1,254,000
30	TN	Sevier County, Tennessee-U.S. 441 bus rapid transit	48,070	50,160	54,340	56,430	209,000
636	TN	Tennessee Department of Transportation-Statewide Tennessee Transit ITS and Bus Replacement Project	2,749,000	2,856,000	3,104,000	3,291,000	12,000,000
649	TN	University of Memphis-Pedestrian Bridge	687,000	714,000	776,000	823,000	3,000,000
426	TX	Abilene, TX Vehicle replacement and facility improvements for transit system	76,912	80,256	86,944	90,288	334,400
480	TX	Brownsville Urban System, TX--City-Wide Transit Improvement Project	916,000	952,000	1,035,000	1,097,000	4,000,000
162	TX	Brownsville, TX Brownsville Urban System City-Wide Transit Improvement Project	480,700	501,600	543,400	564,300	2,090,000
153	TX	Bryan, TX The District-Bryan Intermodal Transit Terminal and Parking Facility	576,840	601,920	652,080	677,160	2,508,000
485	TX	Capital Metropolitan Transportation Authority, TX-Bus Replacements	2,291,000	2,380,000	2,587,000	2,742,000	10,000,000
455	TX	Carrollton, Texas Downtown Regional Multimodal Transit Hub	230,000	240,000	260,000	270,000	1,000,000
506	TX	City of Round Rock, TX-Downtown Intermodal Transportation Terminal	229,000	238,000	259,000	274,000	1,000,000
111	TX	Construct West Houston and Fort Bend County, Texas-bus transit corridor	384,560	401,280	434,720	451,440	1,672,000
438	TX	Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements	480,700	501,600	543,400	564,300	2,090,000
515	TX	Dallas Area Rapid Transit-Bus passenger Facilities	229,000	238,000	259,000	274,000	1,000,000
336	TX	Dallas, TX Bus Passenger Facilities	2,461,184	2,568,192	2,782,208	2,889,216	10,700,800
196	TX	Design Downtown Carrollton, Texas Regional Multi-Modal Transit Hub Station	384,560	401,280	434,720	451,440	1,672,000
290	TX	Galveston, Texas-Intermodal center and parking facility, The Strand	865,260	902,880	978,120	1,015,740	3,762,000
536	TX	Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown Westpark Terminal	229,000	238,000	259,000	274,000	1,000,000
561	TX	Laredo-North Laredo Transit Hub-Bus Maintenance Facility	687,000	714,000	776,000	823,000	3,000,000
24	TX	Roma, TX Bus Facility	100,947	105,336	114,114	118,503	438,900
610	TX	San Angelo, TX Street Railroad Company-Transit Fleet Replacement	229,000	238,000	259,000	274,000	1,000,000
210	TX	San Antonio, TX Improve VIA bus facility and purchase new buses	1,345,960	1,404,480	1,521,520	1,580,040	5,852,000
653	TX	VIA Metropolitan Transit Authority, TX-Bus & Bus Facility Improvements	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
63	TX	Zapata, Texas Purchase Bus vehicles	60,088	62,700	67,925	70,538	261,251
178	UT	Sandy City, UT Construct transit hub station and TRAX station at 9400 South	384,560	401,280	434,720	451,440	1,672,000
651	UT	Utah Statewide Bus and Bus Facilities	6,882,000	7,148,000	7,757,000	8,234,000	30,021,000
409	VA	Alexandria, VA Eisenhower Avenue Inter-modal Station improvements, including purchase of buses and construction of bus shelters	480,700	501,600	543,400	564,300	2,090,000
232	VA	Alexandria, VA Royal Street Bus Garage Replacement	96,140	100,320	108,680	112,860	418,000
278	VA	Arlington County, VA Columbia Pike Bus Improvements	672,980	702,240	760,760	790,020	2,926,000
142	VA	Arlington County, VA Crystal City-Potomac Yard Busway, including construction of bus shelters	576,840	601,920	625,080	677,160	2,481,000
359	VA	Arlington County, VA Pentagon City Multimodal Improvements	384,560	401,280	434,720	451,440	1,672,000
157	VA	Bealeton, Virginia-Intermodal Station Depot Refurbishment	52,877	55,176	59,774	62,073	229,900
492	VA	City of Alexandria, VA-City-Wide Transit Improvements	229,000	238,000	259,000	274,000	1,000,000
493	VA	City of Alexandria, VA-Potomac Yard Transit Improvements	229,000	238,000	259,000	274,000	1,000,000
494	VA	City of Alexandria, VA-Replace Royal Street Bus Garage	687,000	714,000	776,000	823,000	3,000,000
495	VA	City of Alexandria, VA-Valley Pedestrian & Transit	229,000	238,000	259,000	274,000	1,000,000
511	VA	Commonwealth of Virginia-Statewide Bus Capital Program	3,436,000	3,570,000	3,880,000	4,114,000	15,000,000
15	VA	Fairfax County, VA Richmond Highway (U.S. Route1) Public Transportation Improvements	384,560	401,280	434,720	451,440	1,672,000
525	VA	Fairfax County, Virginia-Richmond Highway Initiative	458,000	476,000	517,000	549,000	2,000,000
281	VA	Falls Church, VA Falls Church Intermodal Transportation Center	384,560	401,280	434,720	451,440	1,672,000
97	VA	Fredericksburg, Virginia-Improve and repair Fredericksburg Station	480,700	501,600	543,400	564,300	2,090,000
532	VA	Greater Richmond Transit, VA-Bus Operations/Maintenance Facility	1,145,000	1,190,000	1,293,000	1,372,000	5,000,000
535	VA	Hampton Roads Transit, VA-Southside Bus Facility	229,000	238,000	259,000	274,000	1,000,000
391	VA	Hampton Roads, VA Final design and construction for a Hampton Roads Transit Southside Bus Facility	384,560	401,280	434,720	451,440	1,672,000
354	VA	Norfolk, Virginia-Final Design and Construction Southside Bus Facility	336,490	351,120	380,380	395,010	1,463,000
68	VA	Northern Neck and Middle Peninsula, Virginia-Bay Transit Multimodal Facilities	624,910	652,080	706,420	733,590	2,717,000
602	VA	Potomac & Rappahannock Transportation Commission, VA-Buses for Service Expansion	229,000	238,000	259,000	274,000	1,000,000
360	VA	Richmond, VA Design and construction for a bus operations and maintenance facility for Greater Richmond Transit Company	288,420	300,960	326,040	338,580	1,254,000
184	VA	Richmond, VA Renovation and construction for Main Street Station	211,508	220,704	239,096	248,292	919,600
434	VA	Roanoke, VA-Bus restoration in the City of Roanoke	48,070	50,160	54,340	56,430	209,000
312	VA	Roanoke, Virginia-Improve Virginian Railway Station	48,070	50,160	54,340	56,430	209,000
305	VA	Roanoke, Virginia-Intermodal Facility	38,456	40,128	43,472	45,144	167,200
361	VA	Roanoke, Virginia-Roanoke Railway and Link Passenger facility	96,140	100,320	108,680	112,860	418,000
477	VT	Brattleborough, VT, Intermodal Center	600,000	200,000	200,000	0	1,000,000
486	VT	CCTA, VT, Bus, Facilities and Equipment	300,000	400,000	500,000	800,000	2,000,000
633	VT	State of Vermont Buses, Facilities and Equipment	250,000	350,000	480,000	520,000	1,600,000
94	WA	Ilwaco, WA Procure shuttles for Lewis and Clark National Historical Park	19,228	20,064	21,736	22,572	83,600
395	WA	Ilwaco, WA Construct park and ride	19,228	20,064	21,736	22,572	83,600
337	WA	Island Transit, WA Operations Base Facilities Project	461,472	481,536	521,664	541,728	2,006,400
193	WA	Mukilteo, WA Multi-Modal Terminal	1,115,224	1,163,712	1,260,688	1,309,176	4,848,800
334	WA	North Bend, Washington-Park and Ride	153,824	160,512	173,888	180,576	668,800
333	WA	Oak Harbor, WA Multimodal Facility	192,280	200,640	217,360	225,720	836,000
613	WA	Seattle, WA Multimodal Terminal Redevelopment & Expansion	800,000	900,000	1,000,000	1,100,000	3,800,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

SAFETEA-LU Authorized Section 5309 Bus and Bus-Related Facilities Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
113	WA	Snohomish County, WA Community Transit bus purchases and facility enhancement	576,840	601,920	652,080	677,160	2,508,000
151	WA	Thurston County, WA Replace Thurston County Buses	173,052	180,576	195,624	203,148	752,400
654	WA	Washington Southworth Terminal Redevelopment	1,000,000	1,150,000	1,350,000	1,500,000	5,000,000
655	WA	Washington, King Street Transportation Center-Intercity Bus Terminal Component	50,000	60,000	70,000	70,000	250,000
350	WI	Milwaukee, WI Rehabilitate Intermodal transportation facility at downtown Milwaukee's Amtrak Station, increase parking for bus passengers	865,260	902,880	978,120	1,015,740	3,762,000
100	WI	State of Wisconsin buses and bus facilities	3,143,778	3,280,464	3,553,836	3,690,522	13,668,600
452	WI	State of Wisconsin Transit Intermodal Facilities	1,150,000	1,200,000	1,300,000	1,350,000	5,000,000
663	WI	Wisconsin, Statewide Buses and Bus Facilities	600,000	610,000	650,000	700,000	2,560,000
73	WV	West Virginia Construct Beckley Intermodal Gateway pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of P.L.. 105-178.	4,614,720	4,815,360	5,216,640	5,417,280	20,064,000
658	WV	West Virginia, Statewide Bus and Bus Facilities	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
665	WY	Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities	687,000	714,000	776,000	823,000	3,000,000
		subtotal	417,952,705	435,167,089	471,920,593	494,621,954	1,819,662,341
	Ferry Boat Systems Projects						
	CA	San Francisco Water Transit Authority	2,500,000	2,500,000	2,500,000	2,500,000	10,000,000
	MA	Massachusetts Bay Transportation Authority Ferry System	2,500,000	2,500,000	2,500,000	2,500,000	10,000,000
	ME	Maine State Ferry Service, Rockland	650,000	650,000	650,000	650,000	2,600,000
	ME	Swans Island, Maine Ferry Service	350,000	350,000	350,000	350,000	1,400,000
	NJ	Camden, New Jersey Ferry System	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
	NY	Governor's Island, New York Ferry System	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
	NY	Staten Island Ferry	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
	PA	Philadelphia Penn's Landing Ferry Terminal	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
		subtotal	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
	Other Projects						
	----	Fuel Cell Bus Program	11,250,000	11,500,000	12,750,000	13,500,000	49,000,000
	PA	Bus Testing	3,000,000	3,000,000	3,000,000	3,000,000	12,000,000
		subtotal	14,250,000	14,500,000	15,750,000	16,500,000	61,000,000
		Grand Total	$442,202,705	$459,667,089	$497,670,593	$521,121,954	$1,920,662,341

FEDERAL TRANSIT ADMINISTRATION

TABLE 5

SAFETEA-LU Section 5308 Clean Fuels Projects

(Subject to change by Congress in annual appropriations)

SAFETEA-LU Project No.	State	Project Description	FY 2006	FY 2007	FY 2008	FY 2009	Total
611	CA	San Joaquin Region Transit District, California, Hybrid Diesel-Electric Replacement Buses	$250,000	$250,000	$250,000	$300,000	$1,050,000
519	CO	Denver Regional Transit District-Bus Replacements	916,000	952,000	1,035,000	1,097,000	4,000,000
517	DE	Delaware Statewide Bus and Bus Replacement (with Clean Fuel (hybrid) vehicles))	1,750,000	2,000,000	2,000,000	2,250,000	8,000,000
648	DE	University of Delaware Fuel Cell Bus Program	160,000	165,000	175,000	185,000	685,000
578	GA	Metropolitan Atlanta Rapid Transit Authority-Clean Fuel Buses	2,291,000	2,380,000	2,587,000	2,742,000	10,000,000
640	KY	Transit Authority of Northern Kentucky-TANK Bus Replacement Project	458,000	476,000	517,000	549,000	2,000,000
641	KY	Transit Authority of River City-New Hybrid Electric Bus	687,000	714,000	776,000	823,000	3,000,000
497	NM	City of El Paso-Sun Metro-Bus Replacements	687,000	714,000	776,000	823,000	3,000,000
612	NM	Santa Fe, NM, Trails Bus and Bus Facilities	450,000	500,000	500,000	700,000	2,150,000
557	NV	Lake Tahoe, NV MPO Bus replacement	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
659	NY	Westchester, NY, Bee Line Bus Replacement	450,000	500,000	550,000	650,000	2,150,000
631	OH	Southwest Ohio Regional Transit Authority-Bus Replacements	687,000	714,000	776,000	823,000	3,000,000
605	RI	Rhode Island, Statewide Bus and Van Replacement	5,250,000	5,500,000	6,200,000	6,400,000	23,350,000
614	TN	Sevierville County, TN Transportation Board-Alternative Fuel Buses	229,000	238,000	259,000	274,000	1,000,000
575	TX	METRO of Harris County-Discretionary Bus Program	2,291,000	2,380,000	2,587,000	2,742,000	10,000,000
638	TX	The District, The Woodlands, TX-Bus Replacement Program	229,000	238,000	259,000	274,000	1,000,000
		Total	**$17,785,000**	**$18,721,000**	**$20,247,000**	**$21,632,000**	**$78,385,000**

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
FY 2004 Unobligated Allocations			
AK	E2004-BUSP-002	Arctic Winter Games buses and bus facilities, Alaska	1,456,311
AK	E2004-BUSP-003	Coffman-Cove Inner Island Ferry/Bus Terminal, Alaska	590,225
AK	E2004-BUSP-004	Girdwood Transportation Center, Alaska	970,874
AK	E2004-BUSP-006	Port of Anchorage intermodal facility, Alaska	2,912,620
AK	E2004-BUSP-007	Sawmill Creek Intermodal Facility, Alaska	1,941,747
AL	E2004-BUSP-008	Alabama A&M University Transit Loop, Alabama	1,456,311
AL	E2004-BUSP-011	Birmingham Downtown Intermodal Facility phase II, Alabama	3,398,058
AL	E2004-BUSP-012	Cummings Research Park Commercial Center Intermodal Facility, Alabama	1,941,747
AL	E2004-BUSP-016	Northwest Shoals Community College Transportation Modernization, Alabama	436,894
CA	E2004-BUSP-032	Access Enhancements to Sierra Madre Villa Gold Line Station, California	582,524
CA	E2004-BUSP-034	Anaheim Resort Transit (ART), California	485,437
CA	E2004-BUSP-035	Antelope Valley Transit Authority Operations and Maintenance Facility, California	1,213,592
CA	E2004-BUSP-036	Baldwin Park Downtown/Metrolink Parking Improvements, California	242,718
CA	E2004-BUSP-037	Burbank Empire Area Transit Center, California	728,156
CA	E2004-BUSP-038	Calexico Transit System, California	291,262
CA	E2004-BUSP-039	Cerone Operating Complex Improvements, California	121,360
CA	E2004-BUSP-040	Cerritos Circulator Buses, California	291,262
CA	E2004-BUSP-041	Claremont Intermodal Transit Village Expansion Project, California	1,213,592
CA	E2004-BUSP-042	Collegian Busway Improvements, California	194,174
CA	E2004-BUSP-044	Davis Intermodal Facility, California	194,174
CA	E2004-BUSP-045	Eastern Contra Costa County Park and Ride Lots, California	582,524
CA	E2004-BUSP-049	Eureka Intermodal Depot, California	242,718
CA	E2004-BUSP-701	Fairfiled/Vacaville Intermodal Transit Station, California/Alameda Point Areil Transit Project, California	485,437
CA	E2004-BUSP-050	Foothill Transit Transit Oriented Neighborhood Program, California	2,427,184
CA	E2004-BUSP-051	Fresno FAX Buses, Equipment, and Facilities, California	1,165,048
CA	E2004-BUSP-052	Golden Empire Transit Traffic Signal Priority, California	242,718
CA	E2004-BUSP-055	Long Beach Transit buses and bus facilities, California	970,874
CA	E2004-BUSP-057	Mammoth Lakes Bus Purchase, California	776,699
CA	E2004-BUSP-059	Monterey-Salinas Transit Buses, California	1,456,311
CA	E2004-BUSP-061	Orange County Transit Center Improvements, California	315,534
CA	E2004-BUSP-062	Orange County Bus Rapid Transit, California	2,184,466
CA	E2004-BUSP-063	Orange County Fare Collection System, California	970,874
CA	E2004-BUSP-064	Orange County Inter-County Express Bus Service, California	1,067,961
CA	E2004-BUSP-065	Palmdale Intermodal Facility Parking Lot Expansion, California	291,262
CA	E2004-BUSP-066	Palo Alto Intermodal Transit Center, California	182,039
CA	E2004-BUSP-067	Redondo Beach Catalina Transit Terminal, California	776,699
CA	E2004-BUSP-068	Reseda Boulevard Bus Rapid Transit Project Capital Improvement, California	242,718
CA	E2004-BUSP-072	Roseville Multitransit Center, California	485,437
CA	E2004-BUSP-073	Sacramento Regional Bus Expansion, Enhancement, and Coordination Program, City of Auburn, California	97,088
CA	E2004-BUSP-074	Sacramento Regional Bus Expansion, Enhancement, and Coordination Program, City of Lincoln, California	485,437
CA	E2004-BUSP-076	San Fernando Local Transit System, California	291,262
CA	E2004-BUSP-078	San Joaquin RTD buses and bus facilities, California	58,545
CA	E2004-BUSP-079	San Mateo County Transit District Zero-Emission buses, California	230,582
CA	E2004-BUSP-081	Santa Clara Valley Transportation Authority Zero-Emission Buses, California	60,680
CA	E2004-BUSP-083	South San Fernando Valley Park and Ride facility expansion, California	291,262
CA	E2004-BUSP-084	South Whittier Circulator Buses, California	388,350

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
CA	E2004-BUSP-086	SunLine Transit Agency Clean Fuels Mall Facility and Hydrogen Infrastructure Expansion, California	436,894
CA	E2004-BUSP-087	Temecula Transit Center, California	776,699
CA	E2004-BUSP-091	Visalia Bus Operations and Maintenance Facility, California	970,874
CT	E2004-BUSP-094	Connecticut State-wide Buses and bus fac	2,912,620
CT	E2004-BUSP-095	East Hadden Mobility Improvement Proj	2,912,620
DE	E2004-BUSP-100	Delaware Statewide bus and bus facilities	501,890
FL	E2004-BUSP-102	Citrus County Enhancement Project for the Transportation Disadvantaged, Florida	121,359
FL	E2004-BUSP-103	Flagler Senior Services Transit Coaches, Florida	121,359
FL	E2004-BUSP-108	Key West bus and bus facilities, Florida	1,067,961
FL	E2004-BUSP-110	Lee County LeeTran Bus Replacement, Florida	194,174
FL	E2004-BUSP-112	Miami Dade County System Enhancements, Florida	970,874
FL	E2004-BUSP-113	Miami-Dade County buses, Florida	970,874
FL	E2004-BUSP-114	North Florida and West Coast Bus Procurement, Florida	1,249,330
FL	E2004-BUSP-115	NW 7th Avenue Transit HUB Improvements, Florida	970,874
FL	E2004-BUSP-117	Palm Beach Gardens Mass Transit Bus Shelters, Florida	19,418
FL	E2004-BUSP-119	St. Augustine Intermodal Transportation and Parking Facility, Florida	533,980
FL	E2004-BUSP-123	TalTran buses and bus facilities, Florida	679,612
FL	E2004-BUSP-127	Winter HavenTransit Terminal, Florida	339,806
GA	E2004-BUSP-128	Athens Clarke County Park Ride Project, Georgia	2,669,902
GA	E2004-BUSP-130	City of Macon Alternative Fuel Vehicle Purchase, Georgia	291,262
GA	E2004-BUSP-131	Dekalb County BRT Improvements, Georgia	1,456,311
GA	E2004-BUSP-132	Georgia Statewide buses and bus facilities, Albany & Rome	970,874
GA	E2004-BUSP-133	GRTA buses and bus facilities, Georgia	4,854,368
GA	E2004-BUSP-134	Hamilton Clean Fuels Bus Facility, Georgia	970,874
GA	E2004-BUSP-135	Leesburg Train Depot Renovation and Restoration, Georgia	291,262
GA	E2004-BUSP-136	Macon and Athens Multimodal Station, Georgia	1,553,398
GA	E2004-BUSP-137	Macon Multi-Modal Terminal Station, Georgia	1,456,311
GA	E2004-BUSP-140	Regional Transit Project for Quitman, Clay, Randolph and Stewart Counties, Georgia	485,437
GA	E2004-BUSP-141	Terminal Station Multi-Modal Roof Rehabilitation, Georgia	328,156
IA	E2004-BUSP-148	UNI Multimodal Project, Iowa	3,298,058
ID	E2004-BUSP-149	Idaho Transit Coalition buses and bus facilities	2,482,795
IL	E2004-BUSP-150	Illinois Statewide buses and bus facilities	3,646,460
IL	E2004-BUSP-153	Peoria Bus Purchase, Illinois	291,262
IL	E2004-BUSP-154	Rock Island County Mass Transit District (Metrolink) transit facility, Illinois	485,437
IL	E2004-BUSP-155	Springfield Bus Purchase, Illinois	291,262
IN	E2004-BUSP-157	Cherry Street Multi-Modal Facility, Terre Haute, Indiana	1,844,660
IN	E2004-BUSP-158	Fort Wayne Citilink Bus Purchase, Indiana	159,620
IN	E2004-BUSP-159	Indiana University Bloomington, Indiana	5,000
IN	E2004-BUSP-160	Indianapolis Downtown Transit Center, Indiana	3,398,058
IN	E2004-BUSP-162	South Bend TRANSPO Bus Facilities, Indiana	970,874
KS	E2004-BUSP-163	City of Wichita Transit Authority System Upgrades, Kansas	242,718
KS	E2004-BUSP-167	Kansas Statewide buses and bus facilities	2,912,620
KS	E2004-BUSP-168	Topeka Transit buses and bus facilities, Kansas	179,205
KY	E2004-BUSP-171	Danville Hub-Gilcher Transit Facility / Parking Structure, Kentucky	1,699,029
KY	E2004-BUSP-172	Daviess County Parking Garage and Intra-County Transit Facility, Kentucky	1,941,747
KY	E2004-BUSP-174	Henderson Area Rapid Transit Authority, Kentucky	14,564
KY	E2004-BUSP-185	Western Kentucky University Bus Shuttle System, Kentucky	1,119,584

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
LA	E2004-BUSP-188	Louisiana Statewide buses and bus facilities	704,667
LA	E2004-BUSP-189	Shreveport Intermodal Bus Facility, Louisiana	679,612
LA	E2004-BUSP-191	St. Tammany Park and Ride, Louisiana	388,350
MA	E2004-BUSP-197	Montachusett Regional Transit Authority bus facilities	333,679
MA	E2004-BUSP-201	Springfield Union Station Intermodal Facility Redevelopment	4,368,931
MD	E2004-BUSP-203	Maryland Statewide bus and bus facility	3,737,641
ME	E2004-BUSP-206	Cranberry Isles Intermodal Transportation Facility	242,718
ME	E2004-BUSP-207	Curtis Ferry, ME	728,156
ME	E2004-BUSP-208	Maine Statewide Bus & Bus Facility	413,592
ME	E2004-BUSP-209	Portland Bayside Parking Garage, Intermodal Facility	242,718
MI	E2004-BUSP-211	Ann Arbor Fuel Cell Bus Project, Michigan	1,941,747
MI	E2004-BUSP-219	Cadillac/Wexford Transit Authority Intermodal Facility, Michigan	582,524
MI	E2004-BUSP-230	Holland Macatawa Area Express (MAX), Michigan	582,524
MI	E2004-BUSP-231	Intelligent Transportation System for ITP The Rapid, Michigan	582,524
MN	E2004-BUSP-249	Metro Transit buses and bus facilities, Minnesota	4,271,844
MN	E2004-BUSP-250	Minnesota District 8 Transit Vehicles and Transit Bus Facilities	280,891
MN	E2004-BUSP-251	Minnesota Transit buses and bus facilities, Minnesota	132,990
MN	E2004-BUSP-252	Northwest Corridor Busway, Minnesota	2,912,620
MN	E2004-BUSP-253	Southern Minnesota Transit Facilities	29,126
MN	E2004-BUSP-256	Union Depot Multi-modal Transportation Hub, Minnesota	728,156
MO	E2004-BUSP-266	Southeast Missouri Bus Service Capital Improvements	97,068
MS	E2004-BUSP-271	Harrison County multi-modal facilities and shuttle service, Mississippi	430,874
MS	E2004-BUSP-272	Hattiesburg Intermodal Facility, Mississippi	1,180,448
MS	E2004-BUSP-273	Intermodal Facility, JIA, Mississippi	1,941,747
MS	E2004-BUSP-274	JATRAN vehicles for disabled and elderly, Mississippi	12,083
MT	E2004-BUSP-277	Helena Transit Facility, Montana	485,437
MT	E2004-BUSP-278	Liberty County COA Bus Facility, Montana	48,544
NC	E2004-BUSP-283	Durham Multimodal Transportation Facility, North Carolina	1,456,311
NC	E2004-BUSP-286	North Carolina Statewide buses and bus facilities	5,007,960
NC	E2004-BUSP-287	Piedmont Authority for Regional Transportation (PART) multimodal transportation center, North Carolina	1,067,961
NC	E2004-BUSP-288	Winston-Salem Union Station, North Carolina	996,136
ND	E2004-BUSP-289	North Dakota Statewide buses and bus facilities	712,620
NE	E2004-BUSP-291	Kearney RYDE Transit, Nebraska	970,874
NE	E2004-BUSP-292	Metro Area Transit (MAT) buses and bus facilities, Omaha, Nebraska	1,941,747
NE	E2004-BUSP-293	Nebraska Statewide Rural Automatic Vehicle Locating & Comms. System	728,156
NH	E2004-BUSP-294	New Hampshire Statewide buses and bus facilities	4,368,931
NJ	E2004-BUSP-295	Harrison Intermodal Project, New Jersey	728,156
NJ	E2004-BUSP-297	Hunterdon County Intermodal Stations and Park and Rides, New Jersey	388,350
NJ	E2004-BUSP-300	Newark Penn Station Intermodal Improvements, New Jersey	2,912,620
NJ	E2004-BUSP-301	Old Bridge Intermodal Stations and Park and Rides, New Jersey	485,437
NJ	E2004-BUSP-302	South Amboy Regional Intermodal Transportation Initiative, New Jersey	970,874
NM	E2004-BUSP-304	Farmington buses and bus facilities, New Mexico	17,088
NM	E2004-BUSP-305	Las Cruces buses and bus facilities, New Mexico	364,077
NV	E2004-BUSP-309	Nevada Rural Transit Vehicles and Facilities	485,437
NY	E2004-BUSP-312	Broome County Hybrid Buses, New York	582,524
NY	E2004-BUSP-315	Fort Edward Intermodal Station Interior Restoration/Rehabilitation Project, New York	291,262
NY	E2004-BUSP-316	Jacobi Transportation Facility, New York	776,699

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
NY	E2004-BUSP-317	Jamaica Intermodal Facilities, Queens,New York	388,350
NY	E2004-BUSP-321	MTA/Long Island Bus clean fuel cell bus purchase, New York	970,874
NY	E2004-BUSP-322	Myrtle Avenue Business Improvement District'sMyrtle/Wyckoff/Palmetto Transit Hub Enhancement, New York	485,437
NY	E2004-BUSP-323	Nassau County, Hub Enhancements,New York	1,165,048
NY	E2004-BUSP-709	North County Bus and Bus-Related Equipment	4,500,000
NY	E2004-BUSP-327	Over the Road Bus Accessibility, Intercity Bus Accessibility Consortium, New York	2,912,620
NY	E2004-BUSP-328	Rochester Central Bus Terminal, New York	5,339,805
NY	E2004-BUSP-329	Rome Intermodal Station Restoration, New York	1,213,592
NY	E2004-BUSP-330	Smithtown Senior Citizen Center Bus Replacement, New York	194,174
NY	E2004-BUSP-332	Suffolk County Transit Buses, New York	1,844,660
NY	E2004-BUSP-333	Tompkins County Bus Facilities, New York	388,350
NY	E2004-BUSP-336	Village of Pleasantville, Handicapped Ramp, New York	46,601
NY	E2004-BUSP-337	Village of Pleasantville, Memorial Plaza, New York	194,174
NY	E2004-BUSP-341	Wyandanch Intermodal Transit Facility, New York	388,351
OH	E2004-BUSP-342	Central Ohio Transit Authority Facility	436,894
OH	E2004-BUSP-707	Montgomery County Commission in Ohio/Greater Dayton Regional Transit Authority, Ohio	728,156
OH	E2004-BUSP-345	Kent State University Intermodal Facility, Ohio	364,077
OH	E2004-BUSP-347	Ohio Statewide buses and bus facilities	1,404,581
OH	E2004-BUSP-348	The Banks Intermodal Facility, Cincinnati, Ohio	3,398,058
OH	E2004-BUSP-349	Wright Stop Plaza, Dayton, Ohio	1,456,311
OH	E2004-BUSP-350	Zanesville Bus System Improvements, Ohio	19,418
OK	E2004-BUSP-351	Central Oklahoma Transportation and Parking Authority	1,766,990
OK	E2004-BUSP-353	Multi-Modal Transportation Facility and Transit System at Oklahoma State University, Oklahoma	2,184,466
OK	E2004-BUSP-354	Norman buses and bus facilities, Oklahoma	2,912,620
OK	E2004-BUSP-355	Northern Oklahoma Regional Multimodal Transportation System	2,427,184
OK	E2004-BUSP-356	Oklahoma City Buses, Oklahoma	2,184,466
OK	E2004-BUSP-357	Oklahoma Department of Transportation Transit Programs Division	1,208,466
OK	E2004-BUSP-358	Tulsa Transit Bus Replacement Program, Oklahoma	1,783,966
OR	E2004-BUSP-363	Lincoln County Transportation, Bus Garage Facility, Oregon	194,174
OR	E2004-BUSP-367	Tillamook County Transit, Maintenance Facility, Oregon	194,174
PA	E2004-BUSP-371	Adams County Transit Authority (ACTA) buses and bus facilities, Pennsylvania	19,418
PA	E2004-BUSP-382	Church Street Transportation Center, Williamsport, Lycoming County, Pennsylvania	242,718
PA	E2004-BUSP-383	City Bus, Williamsport Bureau of Transportation, Lycoming County, Pennsylvania	970,874
PA	E2004-BUSP-385	Erie Metropolitan Transit Authority Bus Acquisition, Pennsylvania	97,088
PA	E2004-BUSP-388	Harrisburg Intermodal Airport Multi-Modal Transportation Facility, Pennsylvania	970,874
PA	E2004-BUSP-389	Hazleton Intermodal Public Transit Center, Pennsylvania	1,699,029
PA	E2004-BUSP-391	Lebanon County Transit Authority, buses and bus related facilities, Pennsylvania	436,894
PA	E2004-BUSP-395	Paoli Transportation Center, Pennsylvania	485,437
PA	E2004-BUSP-396	Pittsburgh Water Taxi, Pennsylvania	970,874
PA	E2004-BUSP-401	SEPTA Bucks County Intermodal Facility Improvements, Pennsylvania	3,398,058
PA	E2004-BUSP-406	Union County Union/Snyder Transportation Alliance (USTA), Pennsylvania	485,437
PR	E2004-BUSP-409	Puerto Rico Metropolitan Bus Authority Replacement	116,688
SC	E2004-BUSP-412	City of Greenville Multimodal Transportation Center Improvements, South Carolina	194,174
SC	E2004-BUSP-414	Medical University of South Carolina Intermodal Facility, South Carolina	3,883,494
SC	E2004-BUSP-415	Myrtle Beach Regional Multimodal Transit Center, South Carolina	194,174
SC	E2004-BUSP-417	South Carolina Statewide Transit Facilities Construction Project	970,874
SC	E2004-BUSP-418	South Carolina Statewide Transit Vehicles	3,883,494

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
SD	E2004-BUSP-419	Cheyenne River Sioux Tribe public buses and bus facilities, South Dakota	2,184,466
SD	E2004-BUSP-420	South Dakota Statewide - Bus and Bus Facilities	250,407
TN	E2004-BUSP-423	Memphis International Airport Intermodal Facility, Tennessee	641,782
TN	E2004-BUSP-425	Tennessee Statewide buses and bus facilities	1,221,935
TX	E2004-BUSP-428	Brazos County Bus Replacement Program, Texas	194,174
TX	E2004-BUSP-429	Capital Metro Hybrid Electric Buses, Texas	485,437
TX	E2004-BUSP-433	Ft. Worth Transportation Authority Fleet Modernization and Bus Transfer Centers, Texas	1,456,311
TX	E2004-BUSP-434	Galveston Maintenance Facility Renovations, Texas	776,699
TX	E2004-BUSP-436	Hunt County Committee on Aging Transportation Facility, Texas	388,350
TX	E2004-BUSP-439	Nacogdoches Vehicle Replacement, Texas	776,699
TX	E2004-BUSP-441	Public Transportation Management, Tyler/Longview, Texas	339,806
TX	E2004-BUSP-443	South East Texas Transit Facility Improvements and Bus Replacements	242,718
TX	E2004-BUSP-444	The District-Bryan Intermodal Transit Terminal/Parking Facility & Pedestrian Improvements, Texas	388,350
TX	E2004-BUSP-445	The Woodlands Capital Costs, Texas	339,806
TX	E2004-BUSP-446	The Woodlands Park and Ride Expansion, Texas	266,990
UT	E2004-BUSP-448	Utah Statewide buses and bus facilities	565,889
VA	E2004-BUSP-450	Alexandria After School Bus program, Virginia	72,815
VA	E2004-BUSP-453	Fairfax County, Richmond Highway Transit Improvements, Virginia	679,612
VA	E2004-BUSP-454	Hampton Roads Transit Southside Bus Facility, Virginia	1,941,747
VA	E2004-BUSP-457	Richmond Highway Public Transportation Initiative, Virginia	2,912,620
VT	E2004-BUSP-459	Brattleboro Multimodal, Vermont	1,941,747
VT	E2004-BUSP-460	Burlington Transit Facilities, Vermont	2,427,184
VT	E2004-BUSP-461	Vermont Alternative Fuel Station and Buses	485,437
WA	E2004-BUSP-464	Clallam Transit Buses, Washington	242,718
WA	E2004-BUSP-470	Grant Transit Authority, Bus Facility, Washington	485,437
WA	E2004-BUSP-472	Grays Harbor Transportation Authority Capital Improvement, Washington	72,815
WA	E2004-BUSP-476	Jefferson Transit bus purchase, Washington	194,174
WA	E2004-BUSP-482	Mason County Transportation Authority Capital Improvements, Washington	46,674
WA	E2004-BUSP-483	Metro Transit Turn Around at Taylor Landing Park, Washington	38,834
WA	E2004-BUSP-484	Mukilteo Lane Park and Ride, Washington	970,874
WA	E2004-BUSP-485	North Bend Park and Ride, Washington	582,524
WA	E2004-BUSP-486	Pierce Transit Maintenance and Operations facility, Washington	970,874
WA	E2004-BUSP-489	Sound Transit Regional Express Transit Hubs, Washington	941,747
WA	E2004-BUSP-474	Island Transit (Washington State Small Bus System Program)	426,813
WY	E2004-BUSP-495	Wyoming Statewide buses and bus facilities	1,941,747
	Subtotal FY 2004 Unobligated Allocations		*236,441,352*
FY 2005 Unobligated Allocations			
AK	E2005-BUSP-000	Alaska Mental Health Trust bus program, Alaska	971,779
AK	E2005-BUSP-001	Alaska Native Medical Center intermodal bus/parking facility, Alaska	675,686
AK	E2005-BUSP-002	Anchorage Museum/Transit intermodal depot, Alaska	1,457,667
AK	E2005-BUSP-003	Anchorage paratransit and disability improvements, Alaska	1,457,667
AK	E2005-BUSP-004	Anchorage Ship Creek intermodal facility, Alaska	2,429,445
AK	E2005-BUSP-005	Copper River Transit program, Alaska	1,457,667
AK	E2005-BUSP-007	Kenai Central Area Rural Transit System bus replacement, Alaska	1,360,489
AK	E2005-BUSP-008	Knik Arm intermodal facility terminal, Alaska	506,764
AK	E2005-BUSP-009	Port of Anchorage intermodal facility, Alaska	2,429,445
AK	E2005-BUSP-010	Skagway bus terminal development, Alaska	1,943,557

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
AK	E2005-BUSP-011	Whittier intermodal facility, Alaska	1,457,667
AL	E2005-BUSP-012	Alabama State Docks intermodal facility, Alabama	3,378,430
AL	E2005-BUSP-013	Birmingham Intermodel Facility- Phase II, Alabama	3,401,224
AL	E2005-BUSP-014	City of Orange Beach senior activity bus, Alabama	33,784
AL	E2005-BUSP-015	Cleveland Avenue YMCA bus, Alabama	194,357
AL	E2005-BUSP-016	Jacksonville State University buses, Alabama	1,943,557
AL	E2005-BUSP-017	Montgomery buses, Alabama	236,490
AL	E2005-BUSP-018	Oakwood College shuttle bus project, Alabama	90,572
AL	E2005-BUSP-020	University of Alabama at Huntsville Intermodal Facility, Alabama	3,887,113
AL	E2005-BUSP-021	Vans, CASA of Marshall County, Alabama	97,177
AL	E2005-BUSP-022	Vehicles for Senior Citizen Transportation in Alabama	971,779
AR	E2005-BUSP-023	Arkansas Statewide buses and bus facilities	7,774,226
AR	E2005-BUSP-024	CATA bus replacement, Arkansas	388,711
AZ	E2005-BUSP-025	Alternative fuel replacement buses, Tucson, Arizona	971,779
AZ	E2005-BUSP-026	Coconino County - Flagstaff bus system, Arizona	1,360,489
AZ	E2005-BUSP-027	Coconino County - Sedona bus system, Arizona	2,526,623
AZ	E2005-BUSP-028	Dial-a-Ride facility, Phoenix, Arizona	340,123
AZ	E2005-BUSP-029	Downtown Tempe Transit Center, Arizona	777,422
AZ	E2005-BUSP-030	East Valley bus maintenance facility, Arizona	6,753,859
AZ	E2005-BUSP-031	Phoenix, Glendale, and Avondale bus replacement, Arizona	1,457,667
AZ	E2005-BUSP-032	Phoenix/Glendale West Valley operating facility, Arizona	3,401,224
AZ	E2005-BUSP-033	Sun Tran CNG replacement buses, Tucson, Arizona	2,672,390
CA	E2005-BUSP-034	Anaheim Resort Transit, California	291,534
CA	E2005-BUSP-035	Bellflower Dial-a-Ride, California	116,614
CA	E2005-BUSP-036	Calabasas Transit, California	485,888
CA	E2005-BUSP-037	Catalina Transit Terminal, Redondo Beach, California	971,779
CA	E2005-BUSP-038	Cerritos Clean Air Buses, California	826,011
CA	E2005-BUSP-039	Claremont Intermodal Transit Village Project, California	194,357
CA	E2005-BUSP-040	Collegian Avenue Busway, California	388,711
CA	E2005-BUSP-041	Downtown transit center ITS, California	97,177
CA	E2005-BUSP-043	El Garces Intermodal Station, Needles, California	971,779
CA	E2005-BUSP-044	Elk Grove Park and Ride Facilities, California	971,779
CA	E2005-BUSP-045	Fairfield/Vacaville Intermodal Transit Station, California	485,888
CA	E2005-BUSP-046	Fresno Area Express bus program, California	971,779
CA	E2005-BUSP-047	Golden Empire Transit traffic signal priority, California	291,534
CA	E2005-BUSP-048	Hemet Transit Center bus facility, California	340,123
CA	E2005-BUSP-049	I-15 Managed Lanes/Bus Rapid Transit, San Diego, California	1,652,023
CA	E2005-BUSP-050	LAVTA buses and bus facilities, California	168,921
CA	E2005-BUSP-051	LAVTA satellite maintenance, operations and administrative facility, California	101,353
CA	E2005-BUSP-052	Long Beach Transit bus purchase, California	485,888
CA	E2005-BUSP-054	Los Angeles Trade Tech intermodal links with bus and Metro, California	485,888
CA	E2005-BUSP-055	Los Ângeles Valley College bus station extension, California	485,888
CA	E2005-BUSP-056	Mammoth Lakes Regional Transit operations facility, California	971,779
CA	E2005-BUSP-057	Metro Red Line Wilshire Vermont Station upgrade, California	728,834
CA	E2005-BUSP-058	Modesto bus facility, California	337,843
CA	E2005-BUSP-059	Montrey Salinas Transit buses, California	971,779
CA	E2005-BUSP-060	Municipal Transit Operators Coalition, California	971,779
CA	E2005-BUSP-061	Napa Transit Center construction, California	485,888

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
CA	E2005-BUSP-062	Pacific Station Multimodal-Multiuse facility, California	506,764
CA	E2005-BUSP-063	Palm Springs bus station relocation, California	29,154
CA	E2005-BUSP-064	Palo Alto Intermodal Transit Center, California	728,834
CA	E2005-BUSP-065	Riverbank vehicle garage renovation, California	121,472
CA	E2005-BUSP-066	Riverside Transit Authority, California	121,472
CA	E2005-BUSP-067	Roseville Multitransit Center, California	631,655
CA	E2005-BUSP-069	SamTrans Zero Emission bus project, California	728,834
CA	E2005-BUSP-071	San Luis Rey Transit Center, California	388,711
CA	E2005-BUSP-072	Santa Clara VTA bus signal priority project, California	728,834
CA	E2005-BUSP-073	SCAT CNG Fueling Station, California	485,888
CA	E2005-BUSP-074	Sierra Madre Villa Gold Line Light Rail Station, California	971,779
CA	E2005-BUSP-075	Solana Beach Intermodal Facility, Solana Beach, California	477,655
CA	E2005-BUSP-076	Sonoma County CNG buses, California	101,353
CA	E2005-BUSP-077	South Gate Clean Air buses, California	242,945
CA	E2005-BUSP-078	Spring Valley Multi-Modal Center, California	270,274
CA	E2005-BUSP-079	Sunline Transit Agency CNG buses, California	485,888
CA	E2005-BUSP-080	Temecula Park and Ride Facility, California	48,589
CA	E2005-BUSP-081	Temecula Transit Center, California	388,711
CA	E2005-BUSP-082	Transit First Implementation, California	253,382
CA	E2005-BUSP-083	Transit Oriented Neighborhood Program, California	194,357
CA	E2005-BUSP-084	Union City Intermodal Station, Phase 1, California	485,888
CA	E2005-BUSP-085	Vallejo Baylink Ferry Intermodal Center, California	1,214,724
CA	E2005-BUSP-086	Visalia bus operations facility, California	242,945
CA	E2005-BUSP-087	Visalia bus replacement, California	242,945
CA	E2005-BUSP-088	Yosemite Area Regional Transportation System, California	135,137
CO	E2005-BUSP-089	Colorado Statewide buses and bus facilities	5,177,994
CT	E2005-BUSP-090	Bridgeport Intermodal Transportation Center, Connecticut	5,946,901
CT	E2005-BUSP-091	Hartford bus facility rehabilitation, Connecticut	485,888
CT	E2005-BUSP-092	Hartford/New Britain Busway, Connecticut	3,887,113
CT	E2005-BUSP-093	Pulse Point Joint Development safety improvements, Connecticut	168,921
CT	E2005-BUSP-094	Stamford Urban Transitway Phase II, Connecticut	5,830,669
CT	E2005-BUSP-095	Waterbury bus maintenance facility, Connecticut	485,888
CT	E2005-BUSP-096	West Haven/Orange Intermodal Facility, Connecticut	971,779
DC	E2005-BUSP-098	Union Station Intermodal Transportation Center, Washington, DC	728,834
DE	E2005-BUSP-099	Delaware Statewide buses and bus facilities	1,943,557
FL	E2005-BUSP-100	Broward/Palm Beach County buses, Florida	409,392
FL	E2005-BUSP-101	DeBary Intermodal Transportation Facility, Florida	242,945
FL	E2005-BUSP-102	Flagler County buses and bus facilities, Florida	145,767
FL	E2005-BUSP-103	Gainesville Regional Airport multi-modal facility, Florida	291,534
FL	E2005-BUSP-104	Gainesville RTS buses and bus facilities, Florida	147,662
FL	E2005-BUSP-105	Hillsborough Area Regional Transit (HART), Florida	485,888
FL	E2005-BUSP-106	Homestead East-West bus connector, Florida	242,945
FL	E2005-BUSP-108	Key West bus and bus facilities, Florida	1,943,557
FL	E2005-BUSP-109	Lakeland Area Citrus Connection transit system, Florida	253,382
FL	E2005-BUSP-110	Miami Beach Intermodal Greenway Transit Facility, Florida	680,245
FL	E2005-BUSP-111	Miami Beach Intermodal Transit Facility, Florida	680,245
FL	E2005-BUSP-112	Miami Intermodal Center, Florida	5,830,669
FL	E2005-BUSP-113	Miami-Dade County bus procurement, Florida	485,888

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
FL	E2005-BUSP-114	Miramar Parkway transit shelter enhancements, Florida	97,177
FL	E2005-BUSP-115	National Center for Transportation Needs, Florida	583,067
FL	E2005-BUSP-116	North Florida and West Coast Transit Coalition Bus Acquisition	1,691,653
FL	E2005-BUSP-117	NW 7th Avenue Transit Hub, Florida	971,779
FL	E2005-BUSP-119	Putnam County RideSolutions buses and bus facilities, Florida	1,457,667
FL	E2005-BUSP-120	Sistrunk transit & pedestrian access improvement, Florida	971,779
FL	E2005-BUSP-121	Southwest Broward bus facility, Florida	1,166,133
FL	E2005-BUSP-122	St Johns County Council on Aging buses and bus facilities,Florida	728,834
FL	E2005-BUSP-123	St. Lucie County bus purchase, Florida	135,137
FL	E2005-BUSP-124	St. Petersburg intermodal facility, Florida	485,888
FL	E2005-BUSP-125	TalTran Bus replacement project, Florida	777,422
FL	E2005-BUSP-126	Trolley System, Boynton Beach, Florida	242,945
FL	E2005-BUSP-127	Winter Haven Transit Terminal, Florida	485,888
GA	E2005-BUSP-130	Atlantic Station, Georgia	1,068,956
GA	E2005-BUSP-700	Georgia Regional Transportation Authority (GRTA)	4,373,003
GA	E2005-BUSP-131	Hamilton clean fuels bus facility, Georgia	1,457,667
GA	E2005-BUSP-132	Macon Terminal.Station, Georgia	728,834
GA	E2005-BUSP-135	Moultrie Intermodal Facility, Georgia	485,888
HI	E2005-BUSP-136	Honolulu bus and paratransit replacement program, Hawaii	1,952,921
HI	E2005-BUSP-137	Honolulu Middle Street Intermodal Center, Hawaii	1,351,172
HI	E2005-BUSP-138	Pahoa/Hilo Bus routes, Hawaii	168,921
HI	E2005-BUSP-139	Rural Bus Program, Hawaii	1,689,215
HI	E2005-BUSP-140	Wahiawa Transit Center and Parking Facility, Hawaii	2,429,445
IA	E2005-BUSP-141	Ames transit/bus facility, Iowa	337,843
IA	E2005-BUSP-142	Des Moines MTA bus replacement, Iowa	675,686
IA	E2005-BUSP-143	Iowa Statewide buses and bus facilities	1,689,215
IA	E2005-BUSP-144	UNI multimodal project, Iowa	2,797,380
ID	E2005-BUSP-145	Idaho Transit Coalition Statewide buses and bus facilities	2,600,525
IL	E2005-BUSP-146	Bus facilities for Bloomington, Macomb, Peoria, and Rock Island (from Illinois Statewide buses and bus facilities)	1,457,668
IL	E2005-BUSP-147	Champaign Day Care Center/Park-n-Ride (from Illinois Statewide buses and bus facilities)	728,834
IL	E2005-BUSP-148	City of Chicago's Free Trolley System (from Illinois Statewide buses and bus facilities)	728,833
IL	E2005-BUSP-149	Downstate Illinois replacement buses (from Illinois Statewide buses and bus facilities)	2,915,335
IL	E2005-BUSP-151	Northern Winnebago County, Illinois	242,945
IL	E2005-BUSP-152	Richton Park Metra Intermodal Transit Park and Ride Facility (from Illinois Statewide buses and bus facilities)	485,889
IN	E2005-BUSP-153	Bloomington Public Transit Corporation, Indiana	253,382
IN	E2005-BUSP-154	Cherry Street Multi-Modal Facility, Indiana	971,779
IN	E2005-BUSP-155	Citilink, Indiana	583,067
IN	E2005-BUSP-156	IndyGo buses and bus facilities, Indiana	1,013,529
IN	E2005-BUSP-157	Ivy Tech State College multmodal facility, Indiana	485,888
IN	E2005-BUSP-159	Muncie Indiana transit system, Indiana	971,779
IN	E2005-BUSP-160	TRANSPO Bus Operations Center South Bend, Indiana	1,943,557
KS	E2005-BUSP-161	I-35 Fixed Guideway Project, Johnson County, Kansas	291,534
KS	E2005-BUSP-162	Johnson County Transit System Buses, Kansas	168,921
KS	E2005-BUSP-163	Kansas City/Unified Govt. of Wyandotte Co. buses, Kansas	337,843
KS	E2005-BUSP-164	Kansas statewide bus and bus facilities	2,915,334
KS	E2005-BUSP-165	Lawrence Transit System maintenance facility, Kansas	388,711
KS	E2005-BUSP-166	Regional maintenance/paratransit scheduling facility, Kansas	777,422

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
KS	E2005-BUSP-167	Wichita Transit Authority buses and bus facilities, Kansas	242,945
KY	E2005-BUSP-170	Henderson Area Rapid Transit Authority, Kentucky	77,742
KY	E2005-BUSP-171	Manchester, Clay County Intermodal Facility, Kentucky	1,943,557
KY	E2005-BUSP-172	Murray/Calloway County Transit Authority, Kentucky	1,749,201
KY	E2005-BUSP-173	Oakwood Intermodal Facility, Somerset, Kentucky	1,943,557
KY	E2005-BUSP-175	Southern and Eastern Kentucky buses and bus facilities	1,500,000
KY	E2005-BUSP-176	Transit Authority of Northern Kentucky (TANK) bus and bus facilities, Kentucky	485,888
KY	E2005-BUSP-177	Transit Authority of River City, Louisville, Kentucky	203,212
KY	E2005-BUSP-178	University of Louisville bus shuttle program, Kentucky	2,429,445
LA	E2005-BUSP-179	Greater Ouachita Port and Intermodal Facility, Louisiana	2,915,334
LA	E2005-BUSP-180	Louisiana Statewide buses and bus facilities	4,019,416
MA	E2005-BUSP-183	Attleboro Intermodal Transportation Center, Massachusetts	1,943,557
MA	E2005-BUSP-190	Lechmere Station intermodal, Massachusetts	971,779
MA	E2005-BUSP-192	MART maintenance facility, Massachusetts	2,332,268
MA	E2005-BUSP-194	Salem Intermodal Center improvement project, Massachusetts	971,779
MA	E2005-BUSP-195	Springfield Union Station, Springfield, Massachusetts	6,505,083
MA	E2005-BUSP-196	UMass Transit RTIC and training facility, Massachusetts	3,887,113
MA	E2005-BUSP-197	Wonderland Station improvements, Revere, Massachusetts	1,943,557
MD	E2005-BUSP-198	Glenmont Metrorail parking garage expansion, Maryland	485,888
MD	E2005-BUSP-199	Howard County Transit repair facility, Maryland	485,888
MD	E2005-BUSP-200	Maryland Statewide buses and bus facilities	3,887,113
MD	E2005-BUSP-201	Rockville Town Center transit project, Maryland	971,779
MD	E2005-BUSP-202	Southern Maryland commuter bus initiative, Maryland	4,807,653
ME	E2005-BUSP-205	Maine statewide bus program	1,601,176
ME	E2005-BUSP-206	Millinocket Airport transfer bus project, Maine	34,012
MI	E2005-BUSP-207	Allegan County Transportation, Michigan	1,457,667
MI	E2005-BUSP-208	Alma Transit facility and replacement buses, Michigan	485,888
MI	E2005-BUSP-209	Ann Arbor Transit Authority (AATA) transit center, Michigan	337,843
MI	E2005-BUSP-210	Barry County buses and bus facilities, Michigan	38,872
MI	E2005-BUSP-211	Bay Area Transportation Authority, Traverse City, Michigan	3,887,113
MI	E2005-BUSP-212	Belding buses and bus facilities, Michigan	48,589
MI	E2005-BUSP-213	Berrien County transit, Michigan	97,177
MI	E2005-BUSP-214	Blue Water Area Transportation Commission Maintenance and Storage Facility, Michigan	1,013,529
MI	E2005-BUSP-215	Cadillac/Wexford Transit, Michigan	97,177
MI	E2005-BUSP-217	Cass County transit, Michigan	38,872
MI	E2005-BUSP-218	Clare County Transit Corporation, Michigan	97,177
MI	E2005-BUSP-219	Clinton Area transit system, Michigan	1,214,724
MI	E2005-BUSP-220	Detroit DOT bus replacement and facilities, Michigan	1,013,529
MI	E2005-BUSP-221	Flint MTA Intelligent Transportation System, Michigan	337,843
MI	E2005-BUSP-222	Greenville Transit System, Michigan	48,589
MI	E2005-BUSP-223	Harbor Transit, Michigan	194,357
MI	E2005-BUSP-224	Intelligent Transportation System for The Rapid, Michigan	583,067
MI	E2005-BUSP-225	Ionia County Dial-A-Ride, Michigan	121,472
MI	E2005-BUSP-226	Isabella County Transportation Commission, Michigan	291,534
MI	E2005-BUSP-228	Kalamazoo County Care A Van, Michigan	27,027
MI	E2005-BUSP-229	Kalamazoo Metro Transit, Michigan	1,013,529
MI	E2005-BUSP-230	Kalkaska Public Transit Authority, Michigan	48,589
MI	E2005-BUSP-232	Livingston Essential Transportation, Michigan	97,177

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
MI	E2005-BUSP-233	Macatawa Area Express Facility, Michigan	971,779
MI	E2005-BUSP-234	Mass Transportation Authority, Flint, Michigan	1,013,529
MI	E2005-BUSP-235	Michigan Statewide buses and bus facilities	2,915,334
MI	E2005-BUSP-236	Midland Dial-A-Ride, Michigan	121,472
MI	E2005-BUSP-237	Muskegon Area Transit System, Michigan	485,888
MI	E2005-BUSP-239	Northern Michigan bus and bus facilities	485,888
MI	E2005-BUSP-240	Roscommon County Transit System, Michigan	48,589
MI	E2005-BUSP-241	Shiawassee Area Transportation Authority, Michigan	43,730
MI	E2005-BUSP-243	Twin Cities Area Transportation Authority, Benton Harbor, Michigan	29,154
MI	E2005-BUSP-244	Van Buren Public Transit, Michigan	29,154
MI	E2005-BUSP-245	Yates Township Dial-A-Ride Transportation System, Michigan	194,357
MN	E2005-BUSP-246	Como Rider program, Minnesota	1,457,667
MN	E2005-BUSP-247	Duluth Transfer Facility, Minnesota	971,779
MN	E2005-BUSP-248	Greater Minnesota Transit	1,304,000
MN	E2005-BUSP-249	Isanti Transit garage and operational facility, Minnesota	485,888
MN	E2005-BUSP-250	Metro Transit buses and bus facilities, Minnesota	3,887,113
MN	E2005-BUSP-251	Northwest Busway and facilities, Hennepin County, Minnesota	2,915,334
MN	E2005-BUSP-252	Union Depot Transportation Hub, Minnesota	971,779
MN	E2005-BUSP-703	White Earth Tribal Nation bus purchase/White Earth Tribal Nation Transit Center, Minnesota	971,779
MO	E2005-BUSP-256	KCATA bus rapid transit, Missouri	1,520,294
MO	E2005-BUSP-257	Metro St. Louis, Missouri	1,214,724
MO	E2005-BUSP-258	Missouri statewide bus and bus facilities	2,260,782
MO	E2005-BUSP-259	Southern Missouri buses and bus facilities	1,028,417
MS	E2005-BUSP-260	Harrison County HOV/Bus rapid transit Canal Road intermodal connector, Mississippi	1,943,557
MS	E2005-BUSP-261	Jackson State University busing project, Mississippi	291,534
MS	E2005-BUSP-704	City of Jackson/JATRAN fixed route vehicles, Mississippi	2,915,334
MS	E2005-BUSP-263	Mississippi Valley State University mass transit program expansion, Mississippi	194,357
MS	E2005-BUSP-264	Vicksburg public transportation, Mississippi	485,888
MT	E2005-BUSP-265	Billings downtown bus facility, Montana	675,686
MT	E2005-BUSP-266	Billings public bus and medical transfer facility, Montana	2,429,445
NC	E2005-BUSP-268	Chapel Hill replacement buses, North Carolina	675,686
NC	E2005-BUSP-269	Charlotte Multi-modal Transportation Center, North Carolina	17,839
NC	E2005-BUSP-271	North Carolina Statewide buses and bus facilities	4,858,891
NC	E2005-BUSP-272	Triangle Transit Authority replacement buses, North Carolina	971,779
ND	E2005-BUSP-273	North Dakota Statewide buses and bus facilities	2,915,334
NE	E2005-BUSP-274	Kearney RYDE Transit, Nebraska	1,020,367
NE	E2005-BUSP-275	Nebraska Statewide bus and bus facilities	1,943,557
NE	E2005-BUSP-276	Omaha Metro Area Transit Center Developments, Nebraska	3,887,113
NH	E2005-BUSP-277	Commuter maintenance facility, New Hampshire	680,245
NH	E2005-BUSP-278	Park & Ride/Bus Facility Exit 2, Salem, New Hampshire	583,067
NH	E2005-BUSP-279	Park and Ride Bus Facility Exit 5, New Hampshire	194,357
NJ	E2005-BUSP-280	Bergen Intermodal Stations and Park N'Rides, New Jersey	1,943,557
NJ	E2005-BUSP-281	Englewood bus purchase, New Jersey	364,417
NJ	E2005-BUSP-284	Newark Penn Station Intermodal Improvements, New Jersey	4,858,891
NJ	E2005-BUSP-285	Park and Ride for the Edison Train Station, New Jersey	971,779
NJ	E2005-BUSP-286	South Amboy Intermodal Station, New Jersey	1,214,724
NM	E2005-BUSP-289	New Mexico Statewide bus and bus facilities	971,779

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TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
NM	E2005-BUSP-290	Rio Rancho Senior Transit Program, New Mexico	242,945
NM	E2005-BUSP-291	West Side transit facility, New Mexico	371,779
NV	E2005-BUSP-292	Bus Rapid Transit, Virginia Street Phase 1, Nevada	291,779
NV	E2005-BUSP-294	Las Vegas buses, Nevada	971,779
NY	E2005-BUSP-705	Niagara Frontier Transportation Authority Replacement buses, New York (Formerly: BNMC replacement buses, New York)	736,608
NY	E2005-BUSP-296	Boro Park JCC bus purchase, New York	194,357
NY	E2005-BUSP-297	Brookhaven Town Senior Citizen Jitney Bus, New York	121,472
NY	E2005-BUSP-298	Broome County hybrid buses, New York	1,554,845
NY	E2005-BUSP-300	Bus Facility, 65th Street Intermodal Station, New York	7,288,337
NY	E2005-BUSP-299	Buffalo Niagra Medical Campus, New York	1,943,557
NY	E2005-BUSP-301	Central New York Regional Transportation Authority, New York	3,158,279
NY	E2005-BUSP-302	Fort Edward Intermodal Station, New York	291,534
NY	E2005-BUSP-303	Irvington Intermodal Upgrades, New York	242,945
NY	E2005-BUSP-304	Jacobi Transportation Facility, New York	971,779
NY	E2005-BUSP-305	Jamaica Intermodal Facilities, New York	1,943,557
NY	E2005-BUSP-306	JCC of Coney Island Bus Purchase, New York	97,177
NY	E2005-BUSP-307	Nassau County Long Island Bus, New York	971,779
NY	E2005-BUSP-308	Pelham Intermodal Improvements, New York	485,888
NY	E2005-BUSP-309	Renaissance Square, New York	6,316,558
NY	E2005-BUSP-310	Rochester Central Bus Terminal, New York	5,441,959
NY	E2005-BUSP-311	Senior Bus Service Bus Replacement, North Hempstead, New York	291,534
NY	E2005-BUSP-313	Suffolk County Transit buses and bus facilities, New York	971,779
NY	E2005-BUSP-314	Sullivan County buses and bus facilities, New York	485,888
NY	E2005-BUSP-315	Tompkins County Hybrid Buses, New York	242,945
NY	E2005-BUSP-316	Tuckahoe Intermodal Improvements, New York	38,872
NY	E2005-BUSP-317	Ulster County Hybrid Buses, New York	242,945
NY	E2005-BUSP-318	Westchester County Bee Line Bus Replacement, New York	3,887,113
NY	E2005-BUSP-319	White Plains Downtown Circulator, New York	242,945
OH	E2005-BUSP-321	Central Ohio Transit Authority Paratransit Facility	534,478
OH	E2005-BUSP-322	Central Ohio Transity Authority ITS Phase III	194,357
OH	E2005-BUSP-323	Cincinnati Local Community bus enhancements, Ohio	777,422
OH	E2005-BUSP-324	Cleveland Clinic Pedestrian Access Tunnel, Ohio	971,779
OH	E2005-BUSP-325	Cuyahoga County Plan for Senior Transportation, Ohio	971,779
OH	E2005-BUSP-326	East Side Transit Center, Ohio	485,888
OH	E2005-BUSP-327	New York Central Train Station, Elyria, Ohio	338,143
OH	E2005-BUSP-328	Ohio statewide buses and bus facilities	4,890,977
OH	E2005-BUSP-329	Paratransit District/Senior Call Center Brooklyn, Ohio	1,943,557
OH	E2005-BUSP-330	TARTA/TARPS Intermodal Facility, Ohio	1,457,667
OK	E2005-BUSP-331	Lawton buses and bus facilities, Oklahoma	201,158
OK	E2005-BUSP-332	Norman buses and bus facilities, Oklahoma	2,915,334
OK	E2005-BUSP-333	Northern Oklahoma regional multimodal facilities and transit system, Oklahoma	4,858,891
OK	E2005-BUSP-334	Oklahoma DOT Transit Program, Oklahoma	5,344,779
OK	E2005-BUSP-335	Oklahoma Transportation Center, Oklahoma	1,943,557
OK	E2005-BUSP-706	Tulsa transit buses and equipment/Tulsa Transit Multi-use facility in Tulsa, Oklahoma	1,943,557
OR	E2005-BUSP-337	Lane County bus rapid transit vehicles, Oregon	1,351,372
OR	E2005-BUSP-338	Lewis and Clark explorer shuttle parking, Oregon	485,888
OR	E2005-BUSP-339	Maintenance facility modernization project, Oregon	2,429,445

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TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
OR	E2005-BUSP-341	South Metro Area Rapid Transit park-and-ride facility and transit center, Oregon	485,888
OR	E2005-BUSP-343	Yamhill County Transit bus and bus facilities, Oregon	81,028
PA	E2005-BUSP-345	Amtran Bus Replacement, Altoona, Pennsylvania	291,534
PA	E2005-BUSP-346	Ardmore transit center, Pennsylvania	5,830,669
PA	E2005-BUSP-347	Area Transit Authority, Pennsylvania	1,384,784
PA	E2005-BUSP-348	Area Transportation Authority of North Central Pennsylvania passenger terminal, Pennsylvania	766,724
PA	E2005-BUSP-350	Bucks County Intermodal Facility Improvements, Pennsylvania	2,057,254
PA	E2005-BUSP-353	Capital Area Transit (CAT), Pennsylvania	971,779
PA	E2005-BUSP-356	County of Lebanon Transit Authority (COLT), Pennsylvania	349,841
PA	E2005-BUSP-357	Cruise Terminal Intermodal Facility, Pennsylvania	485,888
PA	E2005-BUSP-359	Fayette Area Coordinated Transportation (FACT) buses and bus facilities, Pennsylvania	874,601
PA	E2005-BUSP-360	Harrisburg Transportation Center, Pennsylvania	971,779
PA	E2005-BUSP-361	Hazleton intermodal facility, Pennsylvania	2,915,334
PA	E2005-BUSP-362	Incline Plane Cable Replacement, Johnstown, Pennsylvania	116,614
PA	E2005-BUSP-363	Mid Mon Valley Transit Authority, Charleroi, Pennsylvania	585,013
PA	E2005-BUSP-364	Mid-County Transit Authority Kittanning, Pennsylvania	213,792
PA	E2005-BUSP-366	Northumberland County Transportation, Pennsylvania	97,177
PA	E2005-BUSP-368	Union Station Intermodal Trade and Transit Center, Schuylkill County, Pennsylvania	1,943,557
PA	E2005-BUSP-369	Union/Snyder Transportation Alliance, Union County, Pennsylvania	1,457,667
PA	E2005-BUSP-370	Westmoreland County Transit Authority, Pennsylvania	485,888
PR	E2005-BUSP-372	Carolina Mini-Buses, Puerto Rico	1,846,378
RI	E2005-BUSP-373	Elmwood Facility Expansion, Rhode Island	1,943,557
SC	E2005-BUSP-375	Medical University of South Carolina	3,887,113
SC	E2005-BUSP-376	South Carolina Statewide buses and bus facilities	3,887,113
SD	E2005-BUSP-377	Sitting Bull College facilities, South Dakota	1,214,724
SD	E2005-BUSP-378	South Dakota Statewide buses and bus facilities	971,779
TN	E2005-BUSP-379	Downtown Centralized Intermodal Transfer Center, Nashville, Tennessee	804,593
TN	E2005-BUSP-380	Knoxville Electric Transit Intermodal Center, Tennessee	1,943,557
TN	E2005-BUSP-381	Memphis Airport Intermodal Facility, Tennessee	2,915,334
TN	E2005-BUSP-382	Southeast Tennessee Human Resource Agency	728,834
TN	E2005-BUSP-383	Tennessee Statewide buses and bus facilities	8,391,732
TX	E2005-BUSP-384	Abilene bus and bus facilities, Texas	728,834
TX	E2005-BUSP-386	Brazos Transit District passenger shelter program, Texas	485,888
TX	E2005-BUSP-387	Bryan Intermodel Transit Terminal with Parking, Texas	388,711
TX	E2005-BUSP-388	Bryan/College Station Bus Replacement Program, Texas	1,259,424
TX	E2005-BUSP-389	Capital Metro North Operating Facility, Texas	405,411
TX	E2005-BUSP-390	Capitol Metro buses and bus facilities, Texas	675,686
TX	E2005-BUSP-391	Citibus vans and alternative fuel buses, Texas	608,118
TX	E2005-BUSP-392	CNG bus replacement, Texas	388,711
TX	E2005-BUSP-393	Corpus Christi buses and bus facilities, Texas	691,008
TX	E2005-BUSP-394	Dallas bus shelters, Texas	728,834
TX	E2005-BUSP-395	Denton Downtown multimodal transit facility, Texas	3,109,690
TX	E2005-BUSP-397	Ft. Worth Transportation Authority Fleet Modernization, Texas	2,332,268
TX	E2005-BUSP-398	Ft. Worth Transportation Authority Passenger Shelter Replacement, Texas	236,490
TX	E2005-BUSP-402	Jefferson County Transit Facility Improvements, Texas	680,245
TX	E2005-BUSP-399	Houston METRO, Park and Rides, Texas	4,581,945
TX	E2005-BUSP-400	Hunt County Committee on Aging Transit Terminal, Texas	1,166,133

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

Prior Year Unobligated Section 5309 Bus and Bus-Related Facilities Allocations

State	Earmark ID	Project	Unobligated Allocation
TX	E2005-BUSP-401	Hunt County Committee on Aging Transit Vehicles, Texas	971,779
TX	E2005-BUSP-403	Laredo Bus Hub and Maintenance Facility, Texas	1,943,557
TX	E2005-BUSP-405	The Woodlands Capital Cost of Contracting Program, Texas	437,301
TX	E2005-BUSP-406	Waco Transit Alternative Fueled Bus Purchase, Texas	3,887,113
VA	E2005-BUSP-411	Burke Centre VRE Station Parking Expansion	971,779
VA	E2005-BUSP-412	Danville buses and bus facilities, Virginia	437,301
VA	E2005-BUSP-414	GRTC Bus Facility, Richmond, Virginia	5,830,669
VA	E2005-BUSP-415	Hampton Roads Transit New Maintenance Facilities , Virginia	2,186,501
VA	E2005-BUSP-416	I-66/Vienna Metrorail Accessibility Improvements, Virginia	583,067
VA	E2005-BUSP-417	James City County natural gas buses, Virginia	2,915,334
VA	E2005-BUSP-418	Petersburg Multi-Modal Transportation Center, Virginia	485,888
VA	E2005-BUSP-419	Potomac Yard Transit Way, Virginia	777,422
VA	E2005-BUSP-420	PRTC Bus Acquisitions, Virginia	777,422
VA	E2005-BUSP-421	Richmond Highway Transit Improvements, Virginia	971,779
VA	E2005-BUSP-422	Southside bus facility PE, Virginia	3,887,113
VT	E2005-BUSP-424	Bellows Falls Transit Improvements, Vermont	1,943,557
VT	E2005-BUSP-425	Vermont Statewide buses and bus facilities	1,443,557
WA	E2005-BUSP-426	Ben Franklin Transit Facility Improvements, Washington	1,020,367
WA	E2005-BUSP-429	Community Transit Bus and Van Replacement, Washington	971,779
WA	E2005-BUSP-430	Edmonds Crossing Mulitmodal Transportation Project, Washington	337,843
WA	E2005-BUSP-433	Grant Transit Authority vehicle replacement, Washington	777,422
WA	E2005-BUSP-438	Jefferson Transit operations/maintenance facility, Washington	202,706
WA	E2005-BUSP-439	King County Metro Clean Air Buses, Washington	4,858,891
WA	E2005-BUSP-440	King County Metro Park and Ride on First Hill, Seattle, Washington	1,943,557
WA	E2005-BUSP-441	King County Metro, King County Airfield Transfer Area, Washington	1,943,557
WA	E2005-BUSP-443	Link Transit Low Floor Coach Purchases, Washington	270,274
WA	E2005-BUSP-446	Pierce Transit Base expansion, Washington	971,779
WA	E2005-BUSP-447	Port Angeles International Gateway Center, Washington	971,779
WA	E2005-BUSP-437	Jefferson Transit (Washington Small Bus System Program of Projects, Washington)	728,834
WA	E2005-BUSP-450	Whatcom Transportation Authority, Lincoln Creek Transportation Center, Washington	675,686
WV	E2005-BUSP-452	West Virginia Statewide	1,689,215
		Subtotal FY 2005 Unobligated Allocations	*$487,554,395*
	Total Unobligated Allocations		**$723,995,747**

FEDERAL TRANSIT ADMINISTRATION

TABLE 7

Prior Year Unobligated Section 5309 New Starts Allocations

State	Earmark ID	Project Location and Description	Unobligated Allocation
FY 2004 Unobligated Allocations			
AK/HI	E2004-NWST-000	Alaska/Hawaii Ferry Project	$5,066,553
AL	E2004-NWST-001	Birmingham- Transit Corridor Project	3,444,626
CA	E2004-NWST-005	Phase II, LA to Pasadena Metro Gold Line Light Rail Project	3,936,715
CA	E2004-NWST-012	San Jose, California, Silicon Valley Rapid Transit Corridor	1,968,358
CT	E2004-NWST-011	Stamford, Connecticut, Urban Transitway & Intermodal Transportation Center Improvements	3,936,715
DE	E2004-NWST-019	Wilmington Train Station Improvements	1,476,268
ME	E2004-NWST-025	Maine Marine Highway	1,525,477
ME	E2004-NWST-026	Yarmouth to Auburn Line, Maine	984,179
MN	E2004-NWST-028	Minneapolis, Minnesota, Northstar Corridor Commuter Rail Project	5,659,028
NC	E2004-NWST-031	Western North Carolina Rail Passenger Service	984,179
NV	E2004-NWST-034	Las Vegas Resort Corridor Fixed Guideway Project	19,683,577
OK	E2004-NWST-038	Northern Oklahoma Regional Multimodal Transportation System	2,952,537
PA	E2004-NWST-041	SEPTA Schuylkill Valley Metro Project	13,778,504
PA	E2004-NWST-044	Scranton to New York City, New York Passenger Rail Service	2,460,447
RI	E2004-NWST-046	Integrated Intermodal Project, Rhode Island	2,952,537
TN	E2004-NWST-047	Memphis, Tennessee, Medical Center Rail Extension	9,101,281
TX	E2004-NWST-048	Dallas, Texas, North Central Light Rail Extension	9,259,540
VA	E2004-NWST-012	Dulles Corridor Project	19,683,577
WI	E2004-NWST-054	Kenosha-Racine-Milwaukee Commuter Rail Project	3,198,581
	Subtotal FY 2004 Unobligated Allocations		*$112,052,679*
FY 2005 Unobligated Allocations			
AK/HI	E2005-NWST-000	Alaska/Hawaii Ferry Project	$8,302,312
AL	E2005-NWST-001	Birmingham- Transit Corridor Project	992,000
AR	E2005-NWST-002	Little Rock River Rail Streetcar Project	1,191,121
CA	E2005-NWST-004	Los Angeles Gold Line Foothill Extension	496,000
CA	E2005-NWST-007	San Diego, California, Mid-Coast Light Rail Extension	340,320
CA	E2005-NWST-009	San Diego, California, Oceanside - Escondido Rail Project	54,560,000
CA	E2005-NWST-012	San Jose, California, Silicon Valley Rapid Transit Corridor	2,480,000
CT	E2005-NWST-014	Stamford, Connecticut, Urban Transitway, Phase 2	2,976,000
FL	E2005-NWST-015	Fort Lauderdale, Florida, South Florida Commuter Rail Upgrades	3,775,350
IL	E2005-NWST-018	Chicago, Illinois, Douglas Branch Reconstruction	28,927,213
IL	E2005-NWST-020	Chicago, Illinois, Ravenswood Line Extension	13,612,806
IN	E2005-NWST-021	South Shore Commuter Rail Service, Indiana	980,000
LA	E2005-NWST-022	New Orleans Canal Street Car Line Project	16,455,206
MD	E2005-NWST-024	Baltimore, Maryland, Central Light Rail Double Track Project	9,872,688
MD	E2005-NWST-025	Washington, DC/Metropolitan Area, Largo Extension	25,403,024
MN	E2005-NWST-027	Minneapolis, Minnesota, Northstar Corridor Commuter Rail Project	4,960,000
MO	E2005-NWST-028	St. Louis, Missouri, Metro Link St. Clair Extension	13,998
NC	E2005-NWST-029	Charlotte South Corridor Transitway Project	10,209,605
NV	E2005-NWST-035	CATRAIL RTC Rail Project, Nevada	992,000
NV	E2005-NWST-036	Las Vegas Resort Corridor Fixed Guideway Project	29,760,000
NY	E2005-NWST-037	New York, New York, Long Island Rail Road Eastside Access	34,032,021
OH	E2005-NWST-038	Cleveland-Euclid Corridor Improvement Project	24,800,000
OR	E2005-NWST-039	I-5/I-205/SR250, Transit Loop, Washington and Oregon	1,488,000
OR	E2005-NWST-040	Portland, Oregon, Interstate MAX Light Rail Extension	7,990,717

FEDERAL TRANSIT ADMINISTRATION

TABLE 7

Prior Year Unobligated Section 5309 New Starts Allocations

State	Earmark ID	Project Location and Description	Unobligated Allocation
OR	E2005-NWST-041	Washington County, Oregon, Wilsonville to Beaverton Commuter Rail Project	3,062,881
PA	E2005-NWST-042	Harrisburg, Pennsylvania, Corridor One	1,284,000
PA	E2005-NWST-044	Pittsburgh, Pennsylvania, North Shore Light Rail Connector	54,560,000
PA	E2005-NWST-043	SEPTA Schuylkill Valley Metro Project	9,920,000
PR	E2005-NWST-046	San Juan, Puerto Rico, Tren Urbano Rapid Transit System	44,263,040
RI	E2005-NWST-047	Integrated Intermodal Project, Rhode Island	5,952,000
TX	E2005-NWST-049	Capital Metro-Bus Rapid Transit Texas	992,000
TX	E2005-NWST-051	Houston-Advanced Transit Program	2,892,721
UT	E2005-NWST-054	Salt Lake City, Utah, Medical Center LRT Extension	8,682,141
VA	E2005-NWST-055	Dulles Corridor Project	24,800,000
VA	E2005-NWST-056	Norfolk, Virginia, Light Rail Transit Project	1,984,000
WA	E2005-NWST-058	Sound Transit Sounder Commuter Rail, Lakewood to Nisqually, Washington	1,998,967
-----	E2005-NWST-059	Unallocated	672,344
	Subtotal FY 2005 Unobligated Allocations		***$445,674,475***
	Total Unobligated Allocations		**$557,727,154**

FEDERAL TRANSIT ADMINISTRATION

TABLE 8

SAFETEA-LU Authorized Section 5314 National Research Program Projects

(Subject to change by Congress in annual appropriations)

Program / Project	FY 2006	FY 2007	FY 2008	FY 2009	Total
Project Action	$3,000,000	$3,000,000	$3,000,000	$3,000,000	$12,000,000
Medical Transportation Demonstration Grants	-	-	-	-	-
National Technical Assistance Center for Senior Transportation (Section 5314(b))	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
National Research and Technology Program Earmarks (Section 3046 of SAFETEA-LU) 1/	19,585,000	18,855,000	18,225,000	18,615,000	75,280,000
- Public Transportation National Security Study - National Academy of Sciences	250,000	250,000	-	-	500,000
- Center for Transit Oriented Development	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
- Transportation Equity Research Program	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
- Cognitive Impairment Study -- Oregon	1,000,000	-	-	-	1,000,000
- Transit Career Ladder Training Program	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
- Pilot Program for Remote Infrared Audible Signs	500,000	500,000	500,000	500,000	2,000,000
- Hydrogen Fuel Cell Shuttle Deployment Demonstration Project -- Allentown, PA	800,000	800,000	-	-	1,600,000
- Wisconsin Supplemental Transportation Rural Assistance Program -- WI DOT	2,000,000	2,000,000	2,000,000	2,000,000	8,000,000
- Human Services Transportation Coordination	1,600,000	1,600,000	1,600,000	1,600,000	6,400,000
- Portland, Oregon Streetcar Prototype Purchase and Deployment - TriMet	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
- Public Transportation Participation Pilot Program	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
- Transportation Hybrid Electric Vehicle and Fuel Cell Research -- University of Alabama	500,000	500,000	500,000	500,000	2,000,000
- Trauma Care System Research and Development - University of Alabama - Birmingham	500,000	500,000	500,000	500,000	2,000,000
- Transportation Infrastructure and Logistics Research - University of Alabama - Huntsville	500,000	500,000	500,000	500,000	2,000,000
- National Bus Rapid Transit Institute -- University of South Florida	1,750,000	1,750,000	1,750,000	1,750,000	7,000,000
- Application of Information Technology to Transportation Logistics and Security -- Northern Kentucky University	400,000	400,000	400,000	400,000	1,600,000
- Intelligent Transportation System Pilot Project -- Ohio State University	465,000	465,000	465,000	465,000	1,860,000
- Regional Public Safety Training Center -- Lehigh-Carbon Community College	500,000	500,000	500,000	500,000	2,000,000
- Transit Security Training Facility -- Chester County Community College	750,000	750,000	750,000	750,000	3,000,000
- Small Urban and Rural Transit Center -- North Dakota State University	800,000	800,000	1,200,000	1,200,000	4,000,000
- Advanced Technology Bus Rapid Transit Project -- Southeastern CT Advanced Technology BRT Project	500,000	540,000	550,000	625,000	2,215,000
- Greater New Haven Transit District Fuel Cell-Powered Bus Research	500,000	540,000	550,000	625,000	2,215,000
- Center for Advanced Transportation Initiatives - Rutgers Center for Advanced Transportation Initiatives	500,000	540,000	540,000	625,000	2,205,000
- Institute of Technology's Transportation, Economic, and Land Use System -- NJ TELUS	500,000	540,000	540,000	625,000	2,205,000
- Regional Transit Training Consortium Pilot Program - Southern CA Regional Transit Training Consortium	270,000	380,000	380,000	450,000	1,480,000
Total.....	**$23,585,000**	**$22,855,000**	**$22,225,000**	**$22,615,000**	**$91,280,000**

1/ The specific projects authorized by SAFETEA-LU under the National Research and Technology Program (Section 3046 of SAFETEA-LU) are listed below.

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

Prior Year Unobligated Job Access and Reverse Commute Allocations

State	Earmark ID	Project and Description	Unobligated Allocation
FY 2002 Unobligated Congressional Allocations			
AR	E2002-JARC-005	Central Arkansas Transit Authority	$500,000
CA	E2002-JARC-008	Del Norte County, California	73,400
IL	E2002-JARC-027	Bloomington to Normal, Illinois, Wheels to Work	304,250
IL	E2002-JARC-028	DuPage County, Illinois	130,048
NY	E2002-JARC-054	Columbia County, New York	100,000
VA	E2002-JARC-082	Winchester, Virginia	1,000,000
	Subtotal FY 2002 Unobligated Allocations		*$2,107,698*
FY 2003 Unobligated Congressional Allocations			
CA	E2003-JARC-011	LA County UTRANS	$495,335
CO	E2003-JARC-020	City of Colorado Springs, CO	100,284
IN	E2003-JARC-040	IndyGo Service	36,460
KS	E2003-JARC-041	KW Paratransit Vehicle	29,720
NY	E2003-JARC-065	Chemung County Transit	74,300
NY	E2003-JARC-066	Columbia County	99,067
NY	E2003-JARC-069	Ithaca Service	74,300
NY	E2003-JARC-072	Orange County	99,067
NY	E2003-JARC-074	Tompkins Consolidated Area Transit, Tompkins County	297,201
OH	E2003-JARC-078	STEP-UP Job Access Project Dayton	123,834
WA	E2003-JARC-701	WA WorkFirst Initiative	516,615
	Subtotal FY 2003 Unobligated Allocations		*$1,946,183*
FY 2004 Unobligated Congressional Allocations			
AK	E2004-JARC-000	Craig Transit Service JARC Program	$49,563
AK	E2004-JARC-002	Mobility Coalition	495,630
AK	E2004-JARC-005	Sitka Community RIDE	148,689
AL	E2004-JARC-006	Alabama Disabilities Advocacy Program [ADA] Rural Transportation Services	495,630
AL	E2004-JARC-008	Jefferson County Job Access Reverse Commute Projects	2,973,779
CA	E2004-JARC-013	City of Irwindale Senior Transportation Services	64,432
CA	E2004-JARC-014	Guaranteed Ride Home, Santa Clarita	396,504
CA	E2004-JARC-015	Mendocino Transit Authority Job Access Reverse Commute	99,126
DC	E2004-JARC-111	Community Transportation Association of America's National Joblinks program	1,182,847
DC	E2004-JARC-020	Georgetown, Washington DC - Metro Connection	286,998
FL	E2004-JARC-023	Jacksonville, FL Transportation Authority, Community Transportation Coordinator Program	2,973,779
FL	E2004-JARC-024	Key West, Florida Job Access Reverse Commute	495,630
IA	E2004-JARC-026	Iowa Statewide JARC	159,980
IL	E2004-JARC-028	Operation Ride DuPage	495,630
IN	E2004-JARC-030	IndyGo IndyFlex Job Access Reverse Commute Program	743,445
KS	E2004-JARC-031	ADA Mobility Planning	361,810
KS	E2004-JARC-032	JARC Program, MidAmerica Regional Council Kansas City	495,630
KY	E2004-JARC-035	Bowling Green KY Housing Authority Reverse Access Commute	297,378
MA	E2004-JARC-036	Holyoke Community Access to Employment and Adult Education	74,344
MA	E2004-JARC-038	Worcester Regional Transit Authority JARC Projects	148,689

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

Prior Year Unobligated Job Access and Reverse Commute Allocations

State	Earmark ID	Project and Description	Unobligated Allocation
MD	E2004-JARC-040	VoxLinx Voice-Enabled Transit Trip Planner	1,288,638
MO	E2004-JARC-047	Kansas City Job Access Partnership	495,630
NJ	E2004-JARC-050	New Jersey Community Development Corporation Transportation Opportunity Center	297,378
NJ	E2004-JARC-051	New Jersey Statewide JARC	4,708,484
NV	E2004-JARC-053	Lake Tahoe Public Transit Services JARC Project	99,126
NY	E2004-JARC-055	Broome County Transit JARC	99,126
NY	E2004-JARC-057	Central New York Regional Transportation Authority JARC	396,504
NY	E2004-JARC-060	City of Poughkeepsie Underserved Population Bus Service	99,126
NY	E2004-JARC-061	Essex County Job Access Reverse Commute Project	99,126
NY	E2004-JARC-063	MTA Long Island Bus Job Access Reverse Commute Project	247,815
NY	E2004-JARC-065	North Country County Consortium	456,299
NY	E2004-JARC-067	Orange County JARC Project	99,126
NY	E2004-JARC-069	Tompkins Consolidated Area Transit	74,344
NY	E2004-JARC-070	Ulster County Area Transit Rural Feeder Service	49,563
OH	E2004-JARC-074	Nile/Trumbull Transit	198,252
OR	E2004-JARC-079	Salem Area Transit Reverse Commute Project	396,504
PA	E2004-JARC-081	SEPTA JARC Program	1,879,047
SD	E2004-JARC-083	Cheyenne River Sioux Tribe Public Bus System	247,815
TN	E2004-JARC-084	Access to Healthcare for Children-Children's Health Fund	371,722
TN	E2004-JARC-087	Monroe County TN Job Access Reverse Commute Program	99,126
TN	E2004-JARC-088	Tennessee Statewide JARC	1,018,374
TX	E2004-JARC-090	Corpus Christi Welfare to Work Project	372,714
TX	E2004-JARC-091	El Paso Sun Metro Job Access Program	768,226
TX	E2004-JARC-094	San Antonio VIA Metropolitan Transit JARC Program	136,298
TX	E2004-JARC-095	South East Texas Transit Facility Improvements and Bus Replacements	297,378
TX	E2004-JARC-096	Texas Colonias JARC Initiative	2,379,023
VA	E2004-JARC-099	Bedford Ride	4,046
VA	E2004-JARC-112	Technical Assistance Support & Performance Reviews of the JARC Grants Program	2,608
VA	E2004-JARC-101	Virginia Beach Paratransit Services	198,252
WA	E2004-JARC-104	I-405 Congestion Relief Project	1,982,519
WA	E2004-JARC-106	Vanpooling Enhancement and Expansion Project	743,445
WI	E2004-JARC-109	Wisconsin Statewide JARC	2,577,275
WV	E2004-JARC-110	West Virginia Statewide JARC	233,471
	Subtotal FY 2004 Unobligated Allocations		*$34,855,893*
FY 2005 Unobligated Congressional Allocations			
AK	E2005-JARC-000	Craig transit JARC, Alaska	$49,559
AK	E2005-JARC-001	Kenai Peninsula JARC, Alaska	594,709
AK	E2005-JARC-003	Mobility Coalition, Alaska	495,590
AK	E2005-JARC-004	North Star Borough Transit JARC, Alaska	74,338
AK	E2005-JARC-005	Seward Transit JARC, Alaska	198,236
AK	E2005-JARC-006	Veterans Wheelchair Olympic Games, Alaska	99,118
AL	E2005-JARC-007	ARC of Madison County, Alabama	79,734
AL	E2005-JARC-008	Easter Seals Central Alabama JARC	495,590

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

Prior Year Unobligated Job Access and Reverse Commute Allocations

State	Earmark ID	Project and Description	Unobligated Allocation
AL	E2005-JARC-009	Gees Bend Ferry, Alabama	1,982,362
AL	E2005-JARC-010	Jefferson County JARC, Alabama	2,973,544
AL	E2005-JARC-011	Mobile Association for Retarded Citizens, Alabama	247,796
CA	E2005-JARC-013	Guaranteed Ride Program, California	136,687
CA	E2005-JARC-014	Job Access Transit, Hayward, California	211
CA	E2005-JARC-015	Platform Additions and Extensions on San Bernardino Line, California	1,982,362
CA	E2005-JARC-016	Sacramento Region JARC, California	847,381
CO	E2005-JARC-017	Colorado Transit Coalition JARC	1,906,723
CT	E2005-JARC-018	Connecticut Statewide JARC	2,477,954
DC	E2005-JARC-097	Community Transportation JOBLINKS Demonstration	3,270,899
DC	E2005-JARC-019	Georgetown, Washington, D.C. Metro Connection	1,238,976
DC	E2005-JARC-020	Technical Assistance Support & Performance Reviews of the JARC Grants Program	290,907
DC	E2005-JARC-021	Washington Metro Job Access Initiative	569,530
DE	E2005-JARC-022	Delaware Statewide Welfare to Work	729,834
FL	E2005-JARC-024	Hillsborough Area Regional Transit JARC, Florida	99,118
GA	E2005-JARC-025	Chatham JARC, Georgia	1,982,362
GA	E2005-JARC-026	Dooly-Crisp Unified Transportation System, Georgia	198,236
IA	E2005-JARC-027	Iowa Statewide JARC	1,837,362
IL	E2005-JARC-028	Illinois Statewide JARC	145,842
IL	E2005-JARC-029	Operation Ride DuPage, DuPage County, Illinois	495,590
IN	E2005-JARC-031	IndyFlex, Indiana	1,238,976
IN	E2005-JARC-032	Muncie Indiana Transit System JobConnection, Indiana	138,765
KS	E2005-JARC-033	MARC, Kansas	495,590
KS	E2005-JARC-034	Wichita Transit Authority JARC, Kansas	396,473
KS	E2005-JARC-035	Wyandotte Co/KCK JARC, Kansas	113,906
LA	E2005-JARC-037	Louisiana Statewide JARC	2,477,954
MD	E2005-JARC-040	Maryland Statewide JARC	2,676,190
ME	E2005-JARC-041	Maine Statewide JARC Program	1,486,772
MI	E2005-JARC-042	DCC Community Health & Safety Transport Project, Michigan	297,354
MI	E2005-JARC-043	Detroit JARC, Michigan	1,734,568
MI	E2005-JARC-044	Flint MTA JARC, Michigan	455,624
MN	E2005-JARC-046	hOurCar Car-Sharing Program, Minnesota	45,562
MN	E2005-JARC-047	Metropolitan Council Job Access, Minneapolis, Minnesota	991,182
MO	E2005-JARC-049	Metro St. Louis Downtown Shuttle Trolley, Missouri	941,622
MO	E2005-JARC-050	Missouri Statewide JARC	3,598,812
NJ	E2005-JARC-053	New Jersey Statewide JARC	5,203,702
NM	E2005-JARC-054	City of Santa Fe, New Mexico	91,125
NM	E2005-JARC-055	New Mexico Statewide JARC	2,131,040
NV	E2005-JARC-056	Statewide Small Urban and Rural Public/Specialized Transportation Services (JARC), Nevada	455,624
NY	E2005-JARC-057	Broome County Transit, Binghamton, New York	247,796
NY	E2005-JARC-058	Central New York Job Access Reverse Commute, New York	495,590
NY	E2005-JARC-059	Poughkeepsie JARC, New York	49,559
NY	E2005-JARC-060	Rochester-Genesee Regional Transportation Authority, New York	199,810
NY	E2005-JARC-061	Suffolk County United Veterans, New York	99,118

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

Prior Year Unobligated Job Access and Reverse Commute Allocations

State	Earmark ID	Project and Description	Unobligated Allocation
NY	E2005-JARC-062	Tompkins Consolidated Area Transit JARC, New York	99,118
OH	E2005-JARC-063	Akron METRO Job Access and Reverse Commute, Ohio	297,354
OH	E2005-JARC-064	Cleveland JARC, Ohio	170,859
OH	E2005-JARC-065	Toledo JARC, Ohio	79,734
OH	E2005-JARC-066	Western Reserve Transit Job Access Program, Ohio	170,859
OK	E2005-JARC-067	Oklahoma Statewide JARC	4,096,758
OR	E2005-JARC-070	Salem Keizer Transit JARC, Oregon	198,236
PA	E2005-JARC-071	Philadelphia Unemployment Project (PUP), Pennsylvania	1,486,772
PA	E2005-JARC-075	SEPTA JARC, Pennsylvania	3,469,134
TN	E2005-JARC-077	Children's Health Fund JARC, Tennessee	495,590
TN	E2005-JARC-078	Knox County CAC Transportation Program, Tennessee	495,590
TN	E2005-JARC-079	Knoxville Area Transit Job Access Service, Tennessee	743,386
TN	E2005-JARC-080	Tennessee Statewide JARC	5,947,088
TX	E2005-JARC-081	Abilene JARC, Texas	148,677
TX	E2005-JARC-082	El Paso JARC, Texas	495,590
TX	E2005-JARC-084	Lubbock, Citibus JARC, Texas	79,734
VA	E2005-JARC-086	Bedford Ride, Virginia	59,470
WA	E2005-JARC-089	North Central Puget Sound Vehicle Trip Reduction Incentives, Washington	991,182
WA	E2005-JARC-090	Okanogan County Senior Citizens JARC, Washington	65,142
WA	E2005-JARC-091	Washington State Transit Car Sharing Job Access, Washington	1,982,362
WA	E2005-JARC-092	WorkFirst Transportation Initiative, Washington	775,447
WI	E2005-JARC-093	Jumpstart, Wisconsin	287,443
WI	E2005-JARC-094	Ways to Work, Wisconsin	991,182
WI	E2005-JARC-095	Wisconsin Statewide JARC	2,577,071
WV	E2005-JARC-096	West Virginia Statewide JARC	991,182
	Subtotal FY 2005 Unobligated Allocations		*$78,758,224*
	Total Unobligated Allocations		**$117,667,998**

[FR Doc. 05–23322 Filed 11–29–05; 8:45 am]
BILLING CODE 4910–57–C

Federal Register

Wednesday,
November 30, 2005

Part IV

Department of Housing and Urban Development

24 CFR Part 3280
Manufactured Home Construction and Safety Standards; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3280

[Docket No. FR–4886–F–02]

RIN 2502–AI12

Manufactured Home Construction and Safety Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) by adopting certain recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC). As required by the National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), HUD published, in the **Federal Register** on December 1, 2004, the first group of recommendations submitted by MHCC to improve various aspects of the Construction and Safety Standards. HUD, in publishing MHCC's recommendations in the proposed rule, indicated its agreement with all but a few of MHCC's proposals, and most of the recommendations are included in the final rule. HUD has also identified in this final rule those MHCC proposals that were not accepted by HUD, returned to MHCC for further consideration, or modified by HUD in light of public comments received.

DATES: *Effective Date:* May 30, 2006. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of May 30, 2006.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Associate Deputy Assistant Secretary, Office of Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9162, Washington DC 20410; telephone (202) 708–6401 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8389.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2004, at 69 FR 70016, HUD published a proposed rule to amend various sections of the Federal Manufactured Home Construction and Safety Standards (24 CFR part 3280) by adopting a majority of the recommendations made to HUD by MHCC. The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5426 (the Act), requires HUD to publish any proposed revised Construction and Safety Standards submitted by MHCC in the **Federal Register**. The proposed rule contained the recommended revisions (including the recommendations made by MHCC that HUD modified, accepted, or did not accept) and provided an opportunity for public comment.

HUD will continue to work with MHCC on its recommendation to remove the current requirement to post a Health Notice on formaldehyde emissions in each manufactured home. In addition, HUD is making the following significant changes to the proposed rule, based on the public comments, in this final rule:

(1) The proposed revisions to improve the truss testing requirements in § 3280.402 have been removed and are being returned to MHCC for further consideration on the recommendation of the commenters and at the request of MHCC.

(2) Limited exceptions to the 5.0 perm requirements for interior wall surfaces of up to 50 square feet are permitted by the final rule for homes designed to be sited in hot-humid climates.

(3) Updates to a number of the standards incorporated by reference that are more current than were suggested in the proposed rule are included in the final rule.

II. Analysis of Public Comments

The Commenters

HUD received 26 public comments on the proposed rule. Comments were received from MHCC; manufactured home builders; a state's Department of Community and Economic Development; an independent inspection agency with experience in manufactured home design; a propane gas trade association; an energy efficiency alliance; a state and a national manufactured housing association; and associations representing particleboard, hardboard, and fiberboard manufacturers.

Summary of Public Comments

The summary of public comments that follows presents the major issues and questions raised by the public commenters on the December 1, 2004, proposed rule. The headings present the issue or question addressed, followed by a brief description of the commenters' reasoning. A response may be applicable to one or more issues or questions. The summary of the public comments is organized as follows:

General comments.
Whole-house ventilation comments.
Fireblocking comments.
Body and frame requirement comments.
Formaldehyde health notice comments.
Roof truss testing requirement comments.
Thermal protection comments.
Plumbing system comments.
Heating, cooling, and fuel burning requirement comments.
Electrical systems comments.
Comments regarding revisions to standards incorporated by reference.
Other public comments.
Comments of the Manufactured Housing Consensus Committee.

General Comments

Several commenters explained that they were encouraged that HUD and MHCC were working together to update the Construction and Safety Standards. Most commenters were very specific in commenting on particular amendments in the proposed rule.

Commenters most often discussed the Department's decision not to delete the requirement for posting of a Health Notice on formaldehyde emissions in each manufactured home, the proposed amendments to the testing requirements for roof trusses, and the provisions for condensation control in hot-humid climates.

Additional comments referred to whole-house ventilation systems, fireblocking requirements, vapor retarder installation requirements, flow faucet and showerhead restrictions, water heater drain pan requirements, revisions to the standards incorporated by reference, and metric equivalent requirements. Commenters also submitted comments on whether the approval of alternative test methods should be solely the responsibility of Design Approval Primary Inspection Agencies (DAPIAs), or whether DAPIAs should provisionally approve alternative test methods subject to HUD's approval.

Whole-House Ventilation Comments

The December 1, 2004, proposed rule would have amended § 3280.103(b) by simplifying the requirements for sizing whole-house ventilation systems of manufactured homes.

Comment: The current requirement for balanced mechanical ventilation systems should not be deleted. Two commenters wrote that permitting any pressure imbalance provides the opportunity for unwanted humid air infiltration and would be detrimental to homes sited in Thermal Zone I.

HUD Response: The final rule does not eliminate the requirement for balanced mechanical systems. Retention of the requirement in the final rule better ensures that unwanted air infiltration is not introduced into the home. A HUD study entitled, ''Alternatives for Minimizing Moisture Problems in Hot, Humid Climates (2003)'' found that the most significant factors contributing to moisture problems were pressure imbalances in a house, including imbalances caused by uneven distribution of conditioned air; duct air leakage; and leakage through building walls.

Comment: There is no requirement for additional fresh air to be introduced into the home for the whole-house ventilation system.

HUD Response: There is sufficient leakage around the envelope of even a ''tight'' home to alleviate any pressure difference between the exterior and the interior of the home, and there is no need for an additional air inlet to be provided to moderate any imbalance in pressure resulting from operating a small exhaust fan device. Information provided to the Department by the Manufactured Home Research Alliance that was collected for the Energy Star Program also indicates there is sufficient leakage, even in tight homes, to handle any imbalance in pressure caused by the whole-house ventilation system.

Comment: Locating the whole-house ventilation system in the bathroom is not a good idea. Two commenters wrote that consumers, attempting to lower their electric bills, will not operate bathroom fans as often as necessary and the effectiveness of the fans will thus be limited. One commenter wrote that the proposed change requires consumer education on the topic of the whole-house ventilation system.

HUD Response: The alternative permitting the whole-house ventilation system to be installed in the bathroom is not included in the final rule. The Department agrees with the commenters that consumers may not utilize the bathroom fans often enough and has deleted this alternative for whole-house ventilation from the final rule.

Comment: Whole-house ventilation is a good idea. One commenter wrote that the proposed rule would improve indoor air-quality, reduce energy consumption associated with mechanical ventilation systems, and provide crucial consumer education. Proper consumer use of quiet, reliable whole-house exhaust fans will reduce mold problems associated with internally generated moisture, and indoor air pollutant concentrations. The proposed whole-house ventilation strategy has been successfully employed in over 100,000 HUD-code homes built in the Pacific Northwest.

HUD Response: The Department agrees that the concept of effective whole-house ventilation is an effective strategy to improve indoor air quality overall and that the revisions to the current requirements will further assist consumers in dealing with unwanted moisture and indoor air pollutants in their homes.

Fireblocking Comments

The December 1, 2004, proposed rule would have amended § 3280.206 by clarifying existing language, locations, and acceptable materials that may be used where fireblocking is required. However, HUD had proposed modification of a portion of MHCC's proposal that would have permitted mineral wool or loose fill insulation to be considered acceptable fireblocking material.

Comment: HUD should adopt MHCC's recommendations allowing the alternative fireblocking materials. One commenter wrote that HUD stated the removal of the recommended language allowing mineral wool and loose fill as acceptable fireblocking material was because these types of insulation have not been adequately evaluated for transportation effects that could cause settling or shifting when installed around pipes or vents in furnace and water heater compartments. The commenter wrote that the original MHCC recommendation addressed these concerns with alternative wording. The commenter recommended allowing the use of the fireblocking alternatives when the manufacturer can demonstrate the materials will remain in place. Another commenter wrote that HUD modified MHCC's recommendation by totally rejecting the inclusion of loose fill insulation as fireblocking material not only in roofs, but in walls and floors as well. The same commenter felt that MHCC's recommendations would address HUD's concerns about the material staying in place during transportation, etc., as long as the materials would have to pass tests that address HUD's concerns before they could be used. A third commenter wrote that HUD should reconsider its rejection of the use of mineral wool or loose fill insulation as an acceptable fireblocking material, because technical data shows that such material, when properly installed to a specified R value, is effective when used as fireblocking.

Two commenters wrote that they supported fireblocking because it brings the Construction and Safety Standards into closer consistency with other building codes.

HUD Response: The final rule includes all of the provisions for permitting fireblocking that were identified in the proposed rule and does not include requirements for loose fill insulation to be used as an alternative fireblocking material. However, in view of the comments received, the Department would reconsider its position to permit loose fill insulation to be used as fireblocking, if an acceptable testing procedure could be developed by MHCC or a voluntary consensus organization.

Body and Frame Requirement Comments

A. Body and Frame Requirements—Alternative Test Procedures

The December 1, 2004, proposal would have amended § 3280.303(g) by eliminating the requirement that a manufacturer submit alternative testing procedures to HUD, except for testing methods involving one-piece metal roofing as would be required in § 3280.305(c)(1)(iii). HUD sought comments specifically on whether the final approval of alternative test methods should be solely the responsibility of DAPIAs or whether DAPIAs should only be allowed to provisionally approve the test method subject to HUD's approval.

Comment: DAPIAs should be allowed to approve alternate test methods. One commenter wrote that MHCC unanimously approved delegating approval to DAPIAs in its recommendation to HUD and still stands by that position. The commenter explained that HUD currently relies on DAPIAs to review and accept or reject all drawings, calculations, etc., supplied by the manufacturer for the home design. Another commenter stated that current regulations at §§ 3282.203(b)(11) and 3282.361(b)(2) require the homebuilder to submit reports for all tests and submit all design drawings and that § 3282.203(c) provides the necessary regulations to carry out the quality assurance manual approvals, such as review and approval of the designs, testing, etc., used by manufacturers to build according to the Construction and Safety Standards. Commenters noted that they believe this authorization to be in line with current DAPIA authority and that HUD has sufficient remedies under the regulations to deal with a DAPIA's poor performance in any area of responsibility. Two commenters also wrote that it sometimes takes an extremely long period of time for HUD

to finally approve a suggested new method, thereby holding up the implementation of the material, component, or system being proposed by a manufacturer, and that DAPIAs are the most likely group to make informed decisions since they are familiar with the particular manufacturer and its design process. Another commenter wrote that ''[i]n a word, the system was working fine before HUD added this pre-approval criteria to 303(g) about 10 years ago and it will work fine once this item is eliminated.'' Another commenter explained that HUD should consider the changes in the law contained in the amendments made to the Act. Specifically, section 604(b)(3) of the Act calls for MHCC review of ''interpretative bulletins.'' Requiring HUD staff to pre-approve these test procedures could be considered equivalent to the issuance of interpretative bulletins. Another commenter wrote that HUD has interpreted § 3280.303(g) to mean that only manufacturers, not suppliers, can request such testing work be done. That has necessitated suppliers having to ''recruit'' cooperative manufacturers to ''sponsor'' the test requests for the benefit of the industry. This has caused unnecessary delay that could be eliminated by DAPIAs simply working with the technical staff of a supplier to develop a ''universally acceptable'' test protocol.

One commenter wrote that HUD should review all alternative testing procedures prior to their implementation.

HUD Response: The Department generally agrees with the commenters regarding the use of DAPIAs to approve other alternative test methods and procedures developed by manufacturers. As HUD has no regulatory authority over suppliers, the final rule continues to require manufacturers to develop the alternative testing procedures. Accordingly, the final rule allows DAPIAs to approve alternative testing procedures developed by manufacturers and for the procedures to thereby become part of the manufacturer's approved designs, except for testing procedures for one-piece metal roofing system designs. (See the discussion below under ''B. Body and Frame Requirements—Structural Design Requirements'' regarding testing procedures for one-piece metal roofing systems.)

B. Body and Frame Requirements—Structural Design Requirements

1. The December 1, 2004, proposed rule would have amended § 3280.305(c)(1)(ii) by adding a footnote to permit the use of certain one-piece metal roofing without structural sheathing in the high Wind Zones II and III. HUD proposed to modify MHCC's recommendation for one-piece metal roofing installed in high wind areas to be consistent with Interpretative Bulletin (IB) I–2–98 by requiring prior Departmental approval of any testing procedures used to demonstrate the acceptability of such systems.

Comment: HUD should not have modified MHCC's recommendation for adding footnote 9 to the Table in § 3280.305(c)(1)(ii) for one-piece metal roofing and should not have required the testing procedures for these systems to be subject to HUD approval. Two commenters wrote that HUD has modified MHCC's proposal and in so doing would destroy the original intent of MHCC's recommendation. The commenters explained that HUD states it is modifying MHCC's proposal to make it more consistent with IB I–2–98, but the intent of MHCC's proposal was to eliminate the IB by rendering it null and void, not to conform to it. The commenters wrote that HUD had received 12 comments on the IB, all of which were negative; however, HUD ignored all comments and issued the IB as proposed. The commenters wrote that the addition of the language in the footnote is confusing, because all test methods are already required to comply with § 3280.303(c) and (g) and § 3280.401; thus, the addition of this language serves no purpose. HUD is trying to re-impose the same pre-approval of test methods that would be eliminated by § 3280.303(g) in the proposed rule. There is no valid reason for such pre-approval by HUD. The Department's proposal lacks justification as to why it believes pre-approval by its staff for this product/design is necessary when it is agreeing to eliminate pre-approval for all other current/future products and designs by changing § 3280.303(g). The one-piece metal roof catenary design is much stronger than the prescriptive roof sheathing option currently permitted by footnote 7 to the Table for Resisting Uplift Loads.

HUD Response: The final rule continues to require HUD approval of testing procedures for one-piece metal roofing due to the large number of failures of these systems that occurred in the 2004 hurricanes in Florida. However, the requirements will be contained in § 3280.305(c)(1)(iii) of the Construction and Safety Standards rather than in a footnote to the Table of Design Wind Pressures as indicated in the preamble of the proposed rule. Presently, there is no recognized or available testing procedure that will comprehensively and adequately evaluate the dynamic and fluctuating loading effects of the wind on the metal roof membrane and its fasteners to resist and their resistance to the applied stresses and forces on these elements in high wind areas. In addition, in the Department's report on damage assessment to manufactured homes caused by Hurricane Charley, it was noted that the roof and walls performed significantly better for the post–1994 homes, in which metal roofing systems were not used, as compared to homes constructed prior to the effective date of the standards for high wind protection. The State of Florida also concluded from its field investigations following last year's devastating hurricanes, that one-piece membrane roofs did not perform well, that inadequate fastening of metal roofs allowed a large percentage of them to be blown off manufactured homes that were built prior to the implementation of the wind standards in 1994. This, the State said, may have led to the total loss of these homes. HUD engineers inspecting the damage caused by the hurricanes in Florida also observed numerous failures of metal roofing systems used in pre-1994 constructed homes. In view of the above concerns, the final rule requires HUD approval of test methods for one-piece metal roofing systems. However, the Department would be willing to reconsider this decision, if a voluntary consensus test standard were to be developed that would adequately assess the wind effects on one-piece metal roofing membranes and their fastenings.

2. The December 1, 2004, proposed rule would have amended § 3280.305(c)(3) by incorporating a new paragraph (iv) to add a roof load requirement for skylights of the zone for which it is designed.

Comment: The skylight load requirements described in § 3280.305(c)(3) are a good idea. Two commenters wrote that the skylight load requirements establish necessary performance requirements for skylights.

HUD Response: The Department agrees and is including the proposed roof load performance requirements for skylights in this final rule.

3. The December 1, 2004, proposed rule would have amended § 3280.305(e) by clarifying the required performance of fasteners and the connecting mechanisms for joining the major structural elements of manufactured homes, and would specify a continuous load path for imposed forces to the home's foundation/anchorage system.

Comment: The load path for foundation and anchorage systems described in § 3280.305(e)(1) is a good

idea. One commenter wrote that the proposal for foundation and anchorage systems provides consistency within the industry.

HUD Response: The Department agrees and is including the proposed revision to the current requirements for fastening of structural systems in the final rule.

4. The December 1, 2004, proposed rule would have amended § 3280.305(e)(2) by reducing the minimum thickness requirements for steel strapping or brackets required in Wind Zones II and III from 26 gauge (0.0179″) to 0.016″.

Comment: The proposed reduction in steel strapping requirements described in § 3280.305(e)(2) should be accepted and additional testing is not needed. One commenter wrote that additional requirements for testing in high wind regions are not required and should not be imposed. The commenter wrote that past instances of staples inadvertently driving through metal strapping of lesser thickness may reoccur should this proposal go into effect. One commenter asked if the DAPIA accepts these design changes to reduce the minimum thickness of steel strapping for Wind Zones II or III, then why would additional testing to verify changes of this nature be required? As long as the DAPIA is satisfied, there should be no reason to require further testing. Two other commenters recommended that the final rule does not need to require ''suitable load testing.'' HUD has always allowed calculations and analyses to be used instead of testing. Testing, while more specific than calculations, is generally less conservative. It is generally understood that HUD will not allow testing of simple assemblies that can be easily calculated. Some of the connections used in high wind regions would fall into this situation and need to be calculated anyway. This change is also consistent with the preference to use ''performance requirements'' set forth in § 3280.1. Another commenter wrote that a manufacturer should be allowed to choose to utilize larger brackets, more fasteners, and stronger strapping to allow for greater spacing of the anchors and should not be penalized through prescriptive requirements. Another commenter wrote that it is not clear why critical connections cannot be justified by calculations or tests acceptable to the DAPIA and that it may be confusing as to which connections are ''critical,'' since it would seem that most connections are critical for all wind zones. The Manufactured Home Construction and Safety Standards already require a Professional Engineer or Architect to seal all Wind Zone II/III calculations, tests, and details.

HUD Response: The final rule permits the use of thinner .016 inch steel strapping or engineered connectors provided they are installed at 24 inches on center in Wind Zone II and 16 inches on center in Wind Zone III. The final rule also permits a combination of strapping or engineered connectors and structural rated sheathing or structural rated wall sheathing alone when it overlaps the roof and/or floor and is substantiated by either engineering calculations or suitable load to tests.

5. The December 1, 2004, proposed rule would have amended § 3280.305(g)(3) by requiring wood panel products used as floor or subfloor materials on the exterior of the home to be rated for exterior exposure and be protected from moisture by sealing or applying nonabsorbent overlay with water resistant adhesive.

Comment: The floor rating and moisture requirements described in § 3280.305(g)(3) are not a good idea. One commenter wrote that the proposed body and frame requirements will not provide the protection desired. The exterior rated floor materials provide protection only during the construction process. Therefore, the sought-after extended life of the material is not achieved.

HUD Response: The final rule requires wood panel products used as flooring or sub-flooring on the exterior of the home to be rated for exterior exposure and be protected from moisture by sealing or by applying a nonabsorbent overlay with a water resistant adhesive. HUD does not agree with the commenter regarding the extent or period of protection from the requirement that panels be exterior rated, as these panels will require the use of moisture-resistant adhesives in their construction that will enhance their durability. These added provisions will also provide protection against deterioration of exterior floor decking materials that are exposed to moisture. In particular, when materials such as particleboard become saturated with moisture, significant structural damage can occur. In addition, the requirement that panel products be rated for exterior exposure will assist in identifying those materials that are suitable for use in exterior applications.

6. The December 1, 2004, proposed rule would have amended § 3280.306(b) by requiring that each column support pier location required along the marriage line(s) of multi-section manufactured homes be identified at each location by paint, label, or other acceptable methods.

Comment: Identifying the marriage column support locations as described in § 3280.306(b) is not a good idea. One commenter stated that the drawings and specifications provided with each home already show the required locations for the centerline pier supports and are available to the retailer, installer, and consumer prior to the delivery of the home. The foundations or support systems for today's multiple section manufactured homes are largely prepared before the arrival of the home on the home site. Thus, the markings and their associated costs will be fundamentally wasted. The proposal would further require that the marking be visible after the home is installed even though properly placed foundation supports will mask the markers from view. This change would place too much reliance on the correct placement of the proposed markers.

Two commenters wrote that identifying the marriage column support locations described in § 3280.306(b) is a good idea and that the recommendation will improve home installation compliance and subsequently improve the longevity of manufactured homes at a minimal cost to the homeowner. Marriage wall column support location errors are one of the major problems found during installation inspection. One of the commenters also wrote that the requirements would improve home installation compliance and subsequently improve the longevity of manufactured homes at a minimal cost to homeowners. In addition, members of the DAPIA Technical Advisory Group, at its March 2005 meeting, recommended that other pier locations, such as perimeter and shear wall support locations required by the manufacturer's designs and instructions, also be identified.

HUD Response: The final rule requires identification of each column pier support location along the marriage line, as well as for each pier location required along the perimeter of the home, each required shear wall support location, and other special pier support locations specified in the manufacturer's instructions.

Formaldehyde Health Notice Comments

HUD did not accept and include in the December 1, 2004, proposed rule, MHCC's recommendation that would have removed the Health Notice on formaldehyde emissions (the Health Notice) currently required by § 3280.309 of the Construction and Safety Standards.

Comment: The decision to continue to post the Health Notice in each manufactured home as described in

§ 3280.309 is contradictory to MHCC's recommendation. One commenter wrote that HUD rejected the proposed MHCC recommendation not to prominently display the Health Notice in each manufactured home. The commenter stated that, contrary to HUD's assertion that MHCC did not provide any data supporting its recommendation to remove the requirement, MHCC discussed this issue with HUD at MHCC meetings in 2004, and reviewed several documents related to formaldehyde. The commenter stressed that it is not recommending any changes to the current standards regarding the formaldehyde emission controls; the commenter is only recommending changes to the Health Notice. The commenter continued by stating that all of this information was considered by MHCC in coming to its decision to require that the Health Notice on formaldehyde be placed in the homeowner's packet rather than having it prominently displayed in the home.

A commenter wrote that the decision to continue to post the Health Notice in each manufactured home as described in § 3280.309 stigmatizes the manufactured home industry. The commenter is disappointed that HUD did not issue for public comment the proposal to eliminate the requirement for the Health Notice to be placed in manufactured homes. Manufactured homes are the only homes in America that must display these notices and they stigmatize manufactured homes. Another commenter wrote that the formaldehyde notice serves only as a sales deterrent, while contributing to existing misunderstanding by the public regarding health-related issues associated with formaldehyde. The commenter urged HUD to reevaluate its decision on the Health Notice and put it forth for another round of public comment. One commenter wrote that this notice shouldn't be displayed so prominently and asked, ''Why should it be the first thing a prospective buyer sees when they enter a new manufactured home?'' Another commenter wrote that for the past 20 years formaldehyde levels in manufactured housing have declined so that they are no higher than in any other residential structure. The manufactured home product and materials used to construct it have progressed to the point where the need for a displayed Health Notice ''only contributes to the public's notion that manufactured homes are somehow ''inferior'' to other types of housing.'' Other commenters suggested that if such a warning is still deemed necessary, then the warning should be included in the Homeowner's Manual with an explanation that all homes contain some amounts of formaldehyde.

Some commenters wrote that the decision to continue to post the Health Notice in manufactured homes as described in § 3280.309 ignores current and available scientific evidence that formaldehyde emissions have been greatly reduced. HUD should reconsider its rejection of MHCC's proposal in light of current research that is available to support MHCC's recommendation. Specifically, three commenters wrote that the Manufactured Housing Research Alliance (MHRA) has produced the most recent and up-to-date study on the health risks of formaldehyde in manufactured homes. ''Formaldehyde Concentrations in Manufactured Homes: The Current Situation'' (July 2004) investigates this issue from several different aspects and shows that formaldehyde should no longer pose any greater concern than in conventional housing. One commenter continued by stating that ''[e]ven though it is only one paper, it is a summation of many other studies that are more current than the ones used by HUD almost 20 years ago when the notice became part of the Standards.'' The commenter wrote that the language of the Health Notice refers to the Ventilation Option, which was deleted in 1994. This Ventilation Option, formerly § 3280.710(g), was replaced by the Additional Ventilation requirement in § 3280.103(b). Another commenter wrote that consumer formaldehyde complaints have been essentially eliminated. Another commenter wrote that it is ''common knowledge'' that formaldehyde emissions in manufactured homes have been dramatically reduced since the requirement for the Health Notice was first imposed. Additionally, the commenter claimed that HUD implied that only manufactured homes are permitted to use construction materials containing urea-formaldehyde (UF) resins, and that this assertion is untrue as the commenter is not aware of such a restriction for modular or site-built homes. One commenter stated that the removal of the Health Notice would likely be supported by the findings in National Institute of Standards and Technology's (NIST) IAQ manufactured housing research with HUD's Healthy Homes Program and asked whether HUD consulted with NIST before rejecting MHCC's proposal.

Two commenters submitted six points to illustrate that data does exist showing that formaldehyde levels in today's manufactured homes have changed in the 20 years since Department regulations were implemented. Specifically, the six reasons listed are: (1) Gypsum wallboard has replaced the UF bonded plywood as the interior wall covering of choice; (2) maximum formaldehyde emissions from UF bonded plywood and particleboard wood product materials has been drastically reduced; (3) the HUD Code is the only model building code that regulates formaldehyde emissions levels, which makes it not likely that either manufactured home builders or homebuyers would develop a rare nasal cancer; (4) the HUD Code ventilation requirements increase the volume of indoor air exhausted from the home, which can dilute any indoor air pollutants; (5) one of the original reasons for singling out HUD Code homes as having formaldehyde problems was the small home size; now, however, as floor size increases, the volume of air in the living space increases, and the dilution of air borne contaminants can be reduced; and (6) the measured concentration of formaldehyde levels has been on a downward trend since 1985.

HUD Response: HUD had not accepted for inclusion in the proposed rule MHCC's proposal to remove the requirement to temporarily post a Health Notice on formaldehyde emissions in each manufactured home (24 CFR 3280.309), because HUD has not found it supported by a sufficient factual and scientific record. As indicated in the proposed rule, a determination to discontinue the Health Notice would require a similar level of factual and scientific support that was provided to HUD when the rule was being promulgated. As also indicated in the proposed rule, HUD recognizes that improvements have been made in particleboard and plywood panel processing resulting in lower emission levels than from panels bonded with UF resin systems that were available at the time of the implementation of the Department's formaldehyde emission control requirements. HUD also recognizes that the measured formaldehyde concentration levels in manufactured homes produced since 1985 is significantly lower than in homes built prior to the implementation of the Construction and Safety Standards. HUD is also aware, however, that the sample of homes studied, as indicated in the MHRA report referenced in the comments [''Formaldehyde Concentrations in Manufactured Homes, The Current Situation''] is extremely small in comparison to the large number of homes produced during the same period

and that the sample of homes studied were subject to a variety of testing parameters and measurement methods. This leaves some question as to the statistical validity and overall confidence in the test results due to the relatively small sample size of homes evaluated. Further, even the MHRA report states: ''The health consequences of various formaldehyde levels continue to be a topic of debate among researchers. Particularly, at very low concentration levels (below 0.1PPM) there is no consensus on safe levels of durations of environmental formaldehyde exposure.'' However, as indicated in the preamble of the final rule on formaldehyde in 1984, there is a sector of the population that has greater sensitivity to and is at more risk of formaldehyde's irritant effects and that will react adversely to formaldehyde at extremely low levels of exposure. This includes the elderly, young children, and individuals with a history of asthma, allergies, or lung problems. The purpose of the Health Notice is to advise prospective purchasers that the home contains materials that emit formaldehyde and to describe acute symptoms that may occur under formaldehyde exposure for those individuals who may be at greater risk.

However, as indicated in the preamble of the proposed rule, HUD will continue to study the formaldehyde issue—including reviewing any new scientific evidence—and intends to consult with the Consumer Product Safety Commission, the Environmental Protection Agency, and the Department's Office of Healthy Homes to study the health risks to occupants at current formaldehyde exposure levels to determine if any regulatory controls are still needed to limit formaldehyde emissions in manufactured homes. As part of its review and evaluation, HUD will also consider the requirements of other building codes as they may relate to formaldehyde exposure and indoor air quality for single-family residential construction. HUD intends to work with MHCC in developing and supporting any further rulemaking proposals on formaldehyde.

Roof Truss Testing Requirement Comments

Based on the recommendations of MHCC, the December 1, 2004, proposed rule would have amended § 3280.402 by providing more stringent initial qualification of truss designs and by expanding and clarifying the requirements for follow-up testing to better ensure that subsequent production of trusses will meet the requirements of the Construction and Safety Standards.

Comment: The test procedures for roof trusses, as described in § 3280.402, should be severed from the remaining proposals, rejected by HUD, and remanded to MHCC for further consideration. One commenter wrote that the revised test protocol will lead to destructive testing and could limit truss designs that would ultimately pass the non-destructive test. Certain truss designs could be eliminated. The best route to take is to send the proposal back to MHCC for further study. If these revised test protocols are implemented by final rulemaking, the industry might have to go to totally engineered truss designs, which would be more expensive for the industry. Another commenter stated that the recommended revisions were extracted from the proceedings of the consensus committee and the National Fire Protection Association (NFPA) NFPA 501 Standard on Manufactured Housing, which were based on research conducted by the National Association of Home Builders Research Center (NAHB–RC). The commenter further stated that neither organization had a mandate to consider cost-impact in proposing standards or formulating the recommendations from its studies. Similar concerns were expressed about the NFPA 501 Standard on Manufactured Housing from which these proposals were derived.

Another commenter wrote that concerns have been expressed by and to MHCC members about the more stringent qualification testing of truss designs that have been talked about and supported by the industry, code development work groups, and task forces over the last ten years. The commenter stated MHCC's consensus development process lacked adequate consideration of the true costs associated with the adoption of this proposal, the impact these changes may have on the testing procedures and the industry, and the proposal's impact on roof truss home design and future innovation. The commenter asked that HUD remove this recommendation from the rule and return the proposal to MHCC for further consideration and development.

One commenter wrote that the test procedures for roof trusses, as described in § 3280.402, are not consistent with statutory directives. Although the proposed rule's wording closely follows the text found in NFPA 501, Standard on Manufactured Housing, published by NFPA, the NFPA standard is not in use for manufactured housing and the NFPA is not under a mandate from Congress to protect the affordability of manufactured housing. NFPA 501 and the proposed rule are inconsistent with the model building codes currently in use for site constructed home and factory built modular homes. NFPA 501 and this proposal require excessive data collection and a more stringent recovery deflection limit. Additionally, the commenter stated that the cost of § 3280.402 will adversely affect the affordability of manufactured housing and will stand as an obstacle to the accomplishment and execution of section 602(b)(2) of the Act, which states that a purpose of the Act is to ''facilitate the availability of affordable manufactured homes and to increase home ownership for all Americans.''

One commenter wrote that the new roof truss test procedures as described in § 3280.402 will not be cost-effective. Eliminating the option of 1.75x overload ends one cost effective way of building the homes at the lower end of the manufactured housing market and will place additional costs on sections of the market that can least afford it. Two commenters wrote that the change to the testing procedure will cost much more than the $77.28 cited by HUD. The commenters stated that their truss suppliers place the price per truss for Wind Zone I at 15 to 25 percent, making the eventual cost to the consumer about $325 '' far more than the $77 cited by HUD. Other commenters wrote that deleting the 1.75 proof load test for roof trusses will increase truss member sizes, thereby increasing the cost of trusses by up to 25 percent. This additional cost may add up to $600 per home. One commenter wrote that increased top and bottom chord sizes could raise overall depths of trusses, as well as the transportation height of the home. In the Eastern United States, where overpasses are low, homes will need to be rerouted, resulting in increased shipping costs of $800 and beyond. Finally, another commenter wrote that the recommended revised truss test protocol needs further study and evaluation before implementation. The commenter stated that many truss suppliers have indicated that there may be a 25 percent increase in costs for truss design and testing depending on the style of roof design being considered. Every truss design would need to be re-qualified under the test procedures, and cost estimates run from $200 to $500, far more than the $77.28 per home as indicated.

Two commenters asked specifically why the new roof truss test procedures as described in § 3280.402 are needed. The commenters wrote that they do not see any information indicating that

trusses are failing. They further inquired whether the study referred to in the proposal was conducted during the 1980s? If so, today's trusses are much improved from the trusses referred to in that study. Also, deleting the 1.75 proof tests will limit existing designs and prevent new innovative designs by increasing the top and bottom chord sizes. This deletion will create criteria that are more stringent than and inconsistent with those model building codes that require only a minimum test period of ten seconds for test loads equal to 1.5 times the design wind load. Two commenters wrote that these new criteria will create a huge backlog in truss retesting and redesign, adding to the costs that could be passed on to the consumer. Further, assuming the time frame to perform this task is set at 180 days, that is not enough time to complete the reviews, retests, and approvals. Two commenters wrote that low-sloped cathedral designs, which are common in the industry, will be eliminated. One commenter wrote that the proposed truss testing change should be returned to MHCC for further evaluation. The same commenter wrote that HUD should continue to allow the 1.75 proof load test, because the added costs of eliminating this acceptable test do not appear to be offset by safety considerations.

One commenter wrote that the requirement that deflection of bottom chord be measured, at a minimum, at the truss midspan and panel points is overly burdensome and completely unnecessary. The commenter stated that for many trusses, this requirement would result in a minimum of nine or ten points of deflection measurement during testing, and it is difficult to obtain these deflections with dead load hanging from the bottom chord of the truss at 12 inches on center. Several commenters wrote that measuring deflection at each panel point, mid-span of the truss, and mid-span between each panel point is not necessary and that the current checks at quarter points and mid-span should be more than sufficient. A third commenter wrote that this change will significantly increase the time to perform truss testing and will increase the cost to perform required truss testing for each truss design.

One commenter wrote the dead load test procedures as described in § 3280.402(d)(1) are too expensive and not necessary. HUD should revise the new proposed requirement to add dead load to both the top and bottom chord of the truss so that this is only required if the actual bottom chord dead load exceeds 5 psf; otherwise, allow the entire dead load to be applied to the top chord as is currently permitted. For small bottom chord dead loads (up to and including 5 psf), this added step is not necessary and needlessly adds to the cost of testing.

Another commenter wrote that the live load test procedures as described in § 3280.402(d)(2) are dangerous. In 1994, HUD and NAHB ran proficiency tests comparing tests that pulled on the top chord to test in the inverted position. The tests determined that pulling on the top chord was difficult, impractical, dangerous, and yielded inconsistent results. It was determined that testing the truss in the inverted position provides adequate results. Testing in accordance with existing uplift requirements is simple and provided consistent results. Testing uplift in accordance with the new HUD proposal will have a significant cost impact on the truss approval process. The set-up procedure will take three to four times longer, which will increase the cost for testing a new design substantially. All modifications to truss testing should be delayed until such studies can be prepared for review.

One commenter wrote that the overload phase as proposed in § 3280.402(d)(4) is too stringent. The test procedure for the overload phase would be increased to dead load plus 2.5 times the live load. Although this more stringent truss loading criteria has already been adopted by some manufacturers, combining this with the more stringent deflection acceptance criteria may cause some truss designs to fail that would otherwise be acceptable under the existing provisions.

Several commenters wrote that the acceptance criteria for truss designs, as proposed in § 3280.402(d)(5), are too conservative, inconsistent with building codes, and too expensive. The recovery deflection of L/480 within five minutes after live load removal is too conservative and many manufacturers have permitted up to four hours of recovery time to qualify truss designs. Another commenter wrote that the recovery requirement is inconsistent with the model building codes, which require recovery of not less than 75 percent of the maximum deflection within 24 hours after removal of the load. Another commenter wrote that HUD should remove the requirements to measure no load to dead load deflection and the limit for the same, because this is a totally meaningless requirement. The deflection from no load to dead load is normally compensated for by building camber into the truss. This added step will add needless cost to the test procedure. The commenter requested that HUD revise the proposal for up to four hours for recovery deflection to reach L/480 or better. The commenter explained that five minutes may not be adequate time to allow recovery to occur and could eliminate otherwise acceptable designs thus adding cost. Some of the proprietary criteria in use today by some home manufacturers specifies four hours and ''is working fine without problems.''

One commenter wrote that the uplift load test procedure for roof trusses as proposed in § 3280.402(e) makes it difficult to test and require a change of testing facilities. The test procedure for overload phase requirements increased to 2.5 times the new uplift load for one minute, which is an increase from the 1.75 overload factor of the current standard. Additionally, the test procedure has been revised to provide uplift to the top chord of the truss design and not the existing test set-up of inverting the truss and pushing down on the bottom chord. Truss designs may not be able to be tested due to their current configuration and may not provide flexibility in testing for the tension device placement as a 12-inch spacing might provide. Also, no testing facility that currently qualifies HUD Code home roof trusses would be capable for testing trusses as described by the revised test protocol without a lengthy process to change the test set-up. Another commenter wrote that there have been no documented truss failures due to existing design criteria since the uplift testing went into effect in 1994. The HUD proposal for testing uplift requires 1″ wide straps attached around the top chord at 6″ o.c. In some cases, truss designs with closely spaced verticals and webs will be physically impossible to test to the 6″ requirement. This requirement would limit truss design and innovation. Pulling up on straps at 12″ o.c. provides the same uplift load and similar results as pulling on the uplift straps 6″ o.c. Additionally, the proposed method requires cylinders spaced at 12″ o.c., to apply 6″ o.c. uplift strapping. This will require some truss manufacturers to redesign their current truss testing equipment, which commonly has cylinders at 24″ o.c. This retrofit will be costly and time consuming. One commenter wrote that compliance with the requirement cannot typically be achieved at panel point because of the width of connector plates. One commenter supported the conversion of the uplift test to a more reasonable appropriate uplift test. The commenter wrote that the spacing of the uplift points, however, appears to be too conservative. Instead of every 6″, it

seems that every 12″ would be sufficient and be easier to convert existing testing equipment with hydraulic cylinders at 24″.

Finally, commenters urged HUD to allow a lengthy, reasonable time period for phase-in of the new requirements for truss testing similar to what has been done in the past. It is hoped that HUD will allow 12 months for all testing to be completed.

HUD Response: In view of comments received from the public, the Department is returning this proposal on truss testing procedures to MHCC for further consideration and requests the following be considered by MHCC during its deliberations:

1. Whether the non-destructive testing procedure for roof trusses that permits a lower overall safety factor to be used in conducting the tests based on a presumed low failure rate for roof trusses should be eliminated.

MHCC could consider including the non-destructive procedure, if adequate safeguards are provided to assure that initial qualification tests would be conducted using minimum quality of materials and workmanship or if a statistically valid sample of trusses is tested in lieu of the minimum requirements. In addition, enhanced follow-up testing provisions would be needed to account for the lower factor of safety of 1.75 currently permitted by the non-destructive testing procedure.

2. The need for the upright tension tests to evaluate the uplift resistance of the trusses.

Tests conducted by the NAHB Research Center indicated that trusses tested in the inverted position consistently failed at average loads greater than trusses tested in the upright position and had lower mid-span deflections than trusses tested in the upright position. In addition, the failure modes were different for some truss designs when tested in the upright position as compared to the inverted position.

3. Should the factor of safety for uplift testing be reduced from 2.5 to the current requirement of 1.75 times the design wind pressures in consideration of comments received regarding safety during testing.

4. The costs associated with any recommended revisions to the truss testing requirements.

HUD's decision to not make final the proposed rule section, as recommended by MHCC, is consistent with the record of comments received from the public, including MHCC itself (the Committee having reconsidered its prior position). However, HUD views truss testing procedures as too important a safety matter to leave unaddressed. The standards in place (*i.e.*, reflected in the current regulations) have not been modified in many years. The issue, having been raised, needs to be examined to determine whether, in fact, existing standards are adequate to protect homeowners in all geographic areas of the country. Accordingly, HUD anticipates MHCC will expeditiously re-evaluate and resubmit proposed truss testing procedures. HUD will work closely with MHCC in evaluating any new proposals for truss testing procedures and may amend HUD's requirements, as necessary, in a future rulemaking.

Thermal Protection Comments

The December 1, 2004, proposed rule would have amended § 3280.504(b) to codify certain provisions of a waiver that permits manufactured homes intended to be sited in humid climates to have the vapor retarder installed outside of the home's thermal insulation.

Comment: The proposed condensation control and installation of vapor retarders described in § 3280.504(b)(4) is not practical and should provide exceptions. Several commenters stated that HUD should provide more exemptions, including: (1) Kitchen back-splash materials of less than 50 square feet in the area installed around countertops, sinks, and ranges; (2) bathroom tub areas and shower compartments; (3) cabinetry and built-in furniture, in any location; and (4) hardwood wall paneling used under chair rails in dining room areas, less than 50 square feet in area. One commenter explained that these construction features are commonly installed against exterior walls of manufactured homes and do not represent a large exposed wall where condensation due to the hot-humid climates would appear to be excessive. Also, a September 2000 MHRA study revealed that hardwood paneling is not detrimental to the established proposal waiver requirements of a minimum 5.0 perm rating. Another commenter wrote that it is absolutely necessary to provide some minor exception to the requirement that the interior finish have a combined permeance of not less than 5.0 perms. MHCC has already discussed with HUD the need to include these exceptions, which are part of further changes to the Construction and Safety Standards that have been approved by MHCC. These changes are in concept but have not yet been put into proposed rule form. The vapor retarder location specified in § 3280.504(b)(4) is an alternative to that called for in § 3280.504(b)(1) and therefore could not be used with a vented wall cavity specified in § 3280.504(b)(3). From a practical-usability standpoint, in order for the alternative vapor retarder location to be of any use at all, some minor exceptions are absolutely necessary to the requirement that the interior finish have a combined permeance of not less than 5.0 perms. These exceptions were recommended by MHCC and are also embodied in the NFPA–501 2003 edition at section 8.4.2.1.6. Another commenter wrote that the requirement to have the interior finish have a combined permeance of not less than 5.0 perms makes good sense, but a set of exceptions is necessary, because it is impractical to build a home with all interior surfaces at 5.0 perms or more. Without these exceptions, no manufacturer will be able to place the vapor barrier on the outside in the appropriate zones. HUD had similar wording in its April 2002 waiver, but without these necessary exceptions. As a result, virtually no manufacturer has been able to use the waiver. The only reason to restrict the permanence of the interior surfaces is to make sure any moisture that gets past the exterior barrier is able to exit the wall to the interior. These few suggested exceptions will not trap moisture in the wall. In fact, some materials are usually not tight-fitted against the framing; therefore, moisture should easily escape the cavity. The commenter also wrote that other building codes have no interior wall restrictions at all associated with vapor barriers. For instance, 2003 IBC—article 1403.3, 2003 IRC—article R318.1, and 2003 IECC—article 502.1 make no mention of interior perm ratings. HUD should allow these exceptions so the industry can catch up to present building science. Without these exceptions, the vapor barrier will remain on the inside in the hot, humid climate and moisture will be trapped in the home.

HUD Response: HUD agrees with many of the comments; therefore, the final rule in § 3280.504 now includes exceptions to the 5.0 perm requirement for interior finish materials of up to 50 square feet in area.

Comment: The focus of § 3280.504(b)(4) should be reducing air movement rather than vapor retarders. One commenter wrote that § 3280.504(b)(4) does not address any effective construction measure to reduce the larger problem of air movement into the wall cavity. In fact, the performance measure that would impact the reduction of air movement would be the use of a continuous air barrier. Homes with low permeable sheathings have

been observed in the Gulf Coast, and they have experienced moisture problems because the wood sheathing is installed with a required gap to allow for expansion and contraction. These expansion and contraction seams should be the focus, not just vapor pressure. The much larger problem involves large pressure swings in homes where mechanical equipment is operated.

HUD Response: HUD and MHCC may consider developing, in a future rulemaking, requirements for the use of continuous air barriers for exterior walls and requirements for expansion and contraction gaps in wall sheathing to reduce the amount of air movement in exterior wall cavities.

Comment: Ventilated walls as described in § 3280.504(b)(3) are not a good idea because there is no ventilation rate or calculated method shown that provides a minimum performance to reduce the amount of moisture. Also, whole-house testing has shown that air movement created by negative pressure draws moisture through construction seams. The creation of even more pathways by ventilating the wall will allow even more moisture to be drawn into the walls.

HUD Response: HUD, in coordination with MHCC, may consider, in a future rulemaking, eliminating the current alternative for controlling condensation in exterior wall cavities as is currently permitted in § 3280.504(b)(3) of the Construction and Safety Standards.

Comment: Reference to the American Architectural Manufacturers Association (AAMA) 1500 standard in § 3280.508(e) should be changed to the National Fenestration Rating Council (NFRC) 100 Standard. One commenter wrote that the final rule should eliminate reference to AAMA 1500 for the following reasons: Because the majority of manufacturers have moved to NFRC; the NFRC is supported by United States Department of Energy (USDOE) and Energy Star; HUD is the only federal agency still relying on AAMA 1500 thermal performance; and NFRC–100 labels provide consumers, plant, and IPIA data on the window, while the AAMA label does not provide that data.

Another commenter wrote that the proposed rule to permit window manufacturers the alternative to use NFRC 100 to rate window energy performance is a step in the right direction.

HUD Response: The final rule permits the use of either reference standard for rating window or glazing products for thermal transmittance and resistance to condensation.

Plumbing Systems Comments

The December 1, 2004, proposed rule would have amended § 3280.607(a) to require restricted flow faucets and showerheads and add a paragraph (b) to require the use of low water consumption toilets.

Comment: The proposal is consumer-friendly. Two commenters wrote that technology has improved low water consumption fixtures and faucets, so it is a sound proposal.

HUD Response: The final rule requires the use of low consumption water fixtures and toilets as indicated in the proposed rule.

Heating, Cooling, and Fuel Burning Requirement Comments

As recommended by MHCC, the December 1, 2004, proposed rule would have amended § 3280.709 by requiring the installation of a corrosion-resistant water drip collection and drain pan under each water heater.

Comment: The requirement was not developed with any justification and should be dropped. One commenter requested that this section be deleted. The commenter wrote that it believes that the proposal has not been developed in compliance with the HUD Final Information Quality Guidelines published in the November 18, 2002, **Federal Register** Notice. Specifically, the HUD Guidelines provide in Section VI that ''information [HUD] disseminates to the public is objective, useful, and has integrity.'' HUD has not presented any information to justify this requirement, including any economic or technical justification for the addition of a corrosion-resistant water drip collection and drain pan to be installed under each water heater. In addition, such a requirement will result in problems of installation, cost, drainage, and, for fossil fuel type water heaters, can result in the blockage of combustion air openings for water heaters that obtain combustion air from the bottom of the unit, a very typical manufactured home application.

Some commenters wrote that a drain pan would impede air flow into the water heater. One commenter wrote that to install a drain pan under the water heater would restrict the ability of the water heater to receive the proper amount of combustion air. Moreover, doing so would require modifications to the design and construction that could significantly increase the costs without any economic justification. Another commenter wrote that one-half of the gas-fired water heaters sold for installation in manufactured homes are of the direct vent design. This requires all air for combustion to enter the water heater directly from the outside. An air tube is provided that penetrates the floor under the water heater to supply the air from under the coach. Requiring a drain pan for this design would present a challenging sealing problem to make the drip pan effective. The commenter requested that paragraph (h) be revised to exempt water heaters of the direct vent ''through the floor'' design from the drain pan requirement. Also, the installation of a popular direct gas fired water heater would require an approximate four-inch hole to be made through the pan to provide for its combustion of air inlet. It is unlikely that water leakage in the water heater compartment could result in structural deterioration and damage; water heaters are too large in diameter to fit between floor joists as they are commonly installed. This proposal should be removed from consideration.

One commenter wrote that the drain pan issue is already addressed in a current requirement. The supplementary information provided for the proposed rule states that the present rule does not require that a drain pan be provided or that the water heater compartment be built in a protective manner, such as a shower stall, but fails to mention the requirement in § 3280.305(g)(2) that addresses the issue by requiring that wood, wood fiber, or plywood floors or subfloors in water heater compartments be moisture-resistant by sealing or by an overlay of nonabsorbent material applied with water resistant adhesive.

Two commenters wrote that the water drip collection pan requirement is a good idea and will eliminate problems caused by leaking water heaters at a minimal cost. The rule also brings manufactured homes up to date with other building codes.

HUD Response: Section 3280.709(h) of the final rule requires a corrosion-resistant water drip and collection pan to be installed under each water heater. Almost all electric or fossil fuel water heaters currently used in manufactured homes can be installed on a conventional water heater pan. Only a very small percentage of gas water heaters currently being used in manufactured homes cannot be set on a conventional pan due to an opening in the bottom of the water heater that is aligned with a hole in the bottom of the floor that draws combustion air into the appliance. Further, a drip pan could be designed to have a separate drain hole alongside the air inlet opening, which would allow those types of water

heaters to continue to be used. While the Construction and Safety Standards do require the floor decking directly under the water heater area to be moisture-resistant, the drip pan will help prevent water from collecting in the water heater compartment and circulating into surrounding areas, and being absorbed into surrounding gypsum panels, deteriorating and/or warping surrounding area floor decking, carpet, and padding. In addition, floor insulation and bottom board materials may also become saturated in surrounding areas due to the accumulation of water in the compartment, making those materials ineffective and possibly causing mold and mildew to form. The installation of the drip pan will enhance the home's durability at a minimal cost to consumers.

Electrical Systems Comments

Comment: The 1996 National Electrical Code (NEC) that HUD proposes to adopt is outdated. The manufactured home should meet the requirements of more current electrical code requirements, and thereby provide protection to home occupants that technology has made available since 1996. One commenter stated that the update to the 1996 NEC is not practical. The commenter stated that to adopt a code that is nine years behind the code now being adopted by many localities is ''ridiculous.'' The NEC 1996 edition is no longer in print and to require manufacturers to try and find this book so that they can determine what changes to the code affect them and what is the required standard they must meet is not logical. Another commenter wrote that hundreds or thousands of the 1996 edition of the NEC will have to be obtained if the code update goes into effect, and that if HUD Code homes are three or four revisions behind the NEC, it reinforces the perception that manufactured housing is ''inferior'' to other housing. Also, any upgrade to a more recent version of the NEC will require many electrical drawings to be revised. The commenter encouraged HUD to adopt the same ''phase-in'' program HUD used when changing to the new smoke alarm requirements. Another commenter wrote that the electrical standard should be updated to the 2005 edition of the NEC. The commenter noted that arc-fault circuit-interrupter protection that has been adopted in more recent versions of the NEC may have been the reason for proposing adoption of the 1996 version of the NEC. The commenter also agreed with MHCC's reluctance to adopt the requirements for arc-fault due to a lack of available product and technology in the market at this time, and would suggest adopting the 2005 NEC with an exception for the arc-fault protection requirements.

HUD Response: The Department agrees with the comments, and the final rule has been revised to incorporate the 2005 edition of the NEC. Also, as suggested by the commenters, the provisions for arc-fault circuit protection are not included in the final rule except that if such protection is installed, it must comply with all provisions of the NEC.

Comments Regarding Revisions to Standards Incorporated by Reference

Comment: The NEC HUD proposes to adopt is outdated. HUD should update all proposed changes to the standards incorporated by reference to the most recent editions of those standards.

HUD Response: See discussion under the Electrical Systems Comments heading.

Comment: HUD should review the two additional sets of MHCC recommendations and update any reference standard contained in this Notice of Propose Rulemaking (NPRM) to the latest available edition receiving MHCC approval. One commenter specifically cited, as an example, the Voluntary Standard for Utilization in Manufactured Homes, and AAMA 1704, Voluntary Standard: Egress Window Systems for Utilization in Manufactured Homes. HUD should take advantage of MHCC's reference standards update process by reviewing all ballots on file and suggesting the latest reference standard edition for proposed rulemaking.

HUD Response: The final rule does include some later editions of reference standards than were cited in the December 1, 2004, proposed rule. However, the final rule does not update to the 2002 edition of the AAMA 1704 standard for egress windows due to changes in the later editions that may affect the ability of an occupant to egress during an emergency. HUD, in coordination with MHCC, may also consider making further updates to the reference standards in future rulemakings.

Comment: One commenter wrote that HUD should correct the title of ASTM 773 to read Standard Test Method for Accelerated Weathering of Sealed Insulating Glass Units, and also correct the title of ASTM 774 to read Standard Specification for the Classification of the Durability of Sealed Insulating Glass Units.

HUD Response: The final rule corrects the title of these two reference standards as recommended by the comment.

Comment: One commenter wrote that HUD should clarify whether ASTM E84–91 will be deleted from the HUD Code, because § 3280.203 still has both the ASTM E84 and the NFPA 255 test methods available to determine surface burning characteristics of building materials.

HUD Response: Section 3280.203(a) of the final rule permits the use of either test method.

Comment: One commenter recommended that certain updated reference standards be included in the final rule, including: (1) ANSI Z21.1—2000—Household Cooking Gas Appliances—§ 3280.703; (2) ANSI Z21.5.1—2002—Gas Clothes Dryers Volume 1—§ 3280.703; (3) ANSI Z21.10.1—2004—Gas Water Heaters—Volume 1, Storage Water Heaters with Input Ratings of 75,000 BTU per hour or less—§ 3280.703; (4) ANSI Z21.15 (R2003)—1997—Manually Operated Gas Valves for Appliances, Appliance Connector Valves and Hose End Valves—§ 3280.703; (5) ANSI Z21.20—2000—Automatic Gas Ignition Systems and Components—§ 3280.703; (6) ANSI Z21.21—2000—Automatic Valves for Gas Appliances—§ 3280.703; (7) ANSI Z21.22 (R2003)—1999—Relief Valves—§ 3280.703; (8) ANSI Z21.24—2001 Connectors for Gas Appliances—§ 3280.703; (9) ANSI Z21.40.1 (R2002)—1996—Gas Fired Heat Activated, Air Conditioning and Heat Pump—§ 3280.703, § 3280.714(a)(2); (10) ANSI Z21.47—2003— Gas Fired Central Furnaces (Note—Incorporates provisions of Z21.64 now discontinued, that are related to direct vent)—§ 3280.703; (11) ANSI Z21.75—2001—Connectors for Outdoor Gas Appliances and Manufactured Homes—§ 3280.703; (12) ANSI/LC 1—1997—Gas Piping Systems Using Corrugated Stainless Steel Tubing—§ 3280.703; and (13) ANSI Z2223.1/NFPA 54—2002—National Fuel Gas Code—§ 3280.703.

HUD Response: Some of the recommended updates to the reference standards have been included in the final rule, as discussed and listed in section III.I. of this preamble.

Comment: One commenter stated that the referenced standard for gas piping systems using corrugated stainless steel tubing, LC–1–1997, should be moved from the Appliances category under § 3280.703 to Ferrous Pipe and Fittings, which is a more appropriate category. In addition, this referenced standard should also include its addenda, *i.e.*, LC–1a–1999, for completeness.

HUD Response: The final rule does not contain the reference standard for corrugated stainless steel tubing for use in gas piping systems, as the publication that was proposed to be included in the standards incorporated by reference was not available.

Comment: Two commenters wrote that in § 3280.705—Gas Piping Systems—a new section (5), titled Corrugated Stainless Steel Tubing (CSST) Systems, should be included. CSST interior gas piping systems should be designed and certified to the ANSI/LC–1, Gas Piping Systems Using Corrugated Stainless Steel Tubing, and should be installed in accordance with this code, the Z223.1/NFPA 54 National Fuel Gas Code, and the manufacturer's installation instructions. The commenter explained that since the HUD proposal is including a reference to the ANSI/LC–1 CSST standard, the proposed additional provision is needed in the interior gas piping section of the standard.

HUD Response: HUD, in coordination with MHCC, may consider provisions governing the installation of corrugated stainless steel tubing and the inclusion of an appropriate reference standard for CSST gas piping systems in a future rulemaking.

Comment: One commenter wrote that AFPA 1997, Manual for Engineered Wood Construction, is already an obsolete standard reference and should be updated to the 2001 edition. By updating it to the 2001 version, manufacturers could better take advantage of utilizing and sharing designs with modular packages.

HUD Response: The final rule incorporates the 2001 edition of the Manual for Engineered Wood Construction.

Comment: One commenter wrote that the ANSI/TPI 1 1990 has been removed from the list of reference standards and has not been replaced with an alternative design standard. All other model building codes cite the ANSI/TPI as the standard to use when designing metal plate connected roof trusses. Accordingly, the ANSI/TPI 1–2002 reference standard should be incorporated into the amendments to ensure all designs are calculated to the same criteria.

HUD Response: The standard for metal plate connected roof trusses currently incorporated by reference in § 3280.304 is TPI–85, not ANSI/TPI–1990. HUD is retaining its current requirement in the final rule and may, in coordination with MHCC, consider an update of this reference standard in a future rulemaking.

Comment: One commenter wrote that the final rule should contain a reference to Medium Density Fiberboard (MDF). MDF is a commonly used material for built-in cabinets and moldings in manufactured homes. MDF is a common core material used in Hardwood Plywood, ANSI/HPVA HP–1, and another standard referenced in 24 CFR 3280. A reference to MDF for Interior Applications, ANSI A208.2–2002, should be added to § 3280.304(b)(1).

HUD Response: HUD, in coordination with MHCC, may consider including a reference standard for MDF materials in a future rulemaking.

Comment: One commenter indicated that the reference to subsection 221 of the 1995 edition of the NFPA 58 is incorrect, and that the proper reference to relief valves in the 1995 edition is to subsection 2–3.2. The commenter explained that at a minimum, the agency should revise this reference; however, HUD should ideally refer to the 2001 edition of the NFPA 58.

HUD Response: The final rule updates the reference standard to the 2001 edition of NFPA 58 as suggested by the comments.

Other Public Comments

Comment: Generally, HUD should not require or include metric equivalents. The building community does not use metric on plans and specifications for any type of residential building. Metric units are necessary only for federally funded building projects. One commenter wrote that most aspects of the construction industry have been, and will continue to be, slow to convert to metric. A dual system would only create confusion and take up additional space. However, there may be some isolated cases where reference to metric units may be helpful. One commenter stated that requiring the use of metric units would be cumbersome and could be error-prone, and there appears to be no one in the United States construction industry who is using metric dimensions. Other commenters said simply that HUD should not require metric equivalents.

HUD Response: HUD, in coordination with MHCC, may address the use of metric equivalents, on an as-needed basis, in future rulemakings.

Comment: One commenter wrote that § 3280.707(d) contains minimum efficiency requirements for central heating and water heating appliances that need to be updated to the Department of Energy (DOE) minimum efficiency requirements.

HUD Response: HUD anticipates addressing the adoption of the DOE minimum energy efficiency requirements for central heating and water heater appliances, in coordination with MHCC, in a future rulemaking. HUD and DOE have jointly formulated, and are dedicated to, a housing energy efficiency policy that would serve the goal of reducing national and family energy needs.

Comment: One commenter wrote that § 3280.702 still has a definition for water heaters that has the term ''other than space heating.'' The commenter explained that there are many types of combination water heater space heaters that are used in manufactured homes, and this verbiage needs to be deleted.

HUD Response: HUD will refer this comment to MHCC and may consider the definition of water heaters in a future rulemaking.

Comments of the Manufactured Housing Consensus Committee

The following comments were submitted to HUD on behalf of the Manufactured Housing Consensus Committee (MHCC):

Comment: HUD should reconsider MHCC's recommendation to eliminate the requirement to post the Formaldehyde Health Notice in each manufactured home.

HUD Response: Please refer to the above discussion of public comments under the Formaldehyde Health Notice Comments heading of the preamble.

Comment: HUD should reconsider its decision to modify MHCC's recommendation on fireblocking in § 3280.206.

HUD Response: Please refer to the above discussion of public comments on fire blocking.

Comment: Testing Protocol approvals under § 3280.303(g) should be delegated to DAPIAs.

HUD Response: Section 3280.303(g) no longer requires prior HUD approval of alternative testing procedures except for procedures used to evaluate one-piece metal roof systems.

Comment: HUD should reconsider its modification of MHCC's recommendation and permit DAPIAs to also approve testing protocols for one-piece metal roofing.

HUD Response: Please refer to the above discussion of Body and Frame Requirement Comments, Part B–1.

Comment: HUD should concentrate on a single system of units and only refer to metric units when helpful.

HUD Response: Please refer to the above discussion of metric units under the Other Public Comments heading of the preamble.

Comment: Additional Testing is not needed for critical connections when engineering calculations are provided.

HUD Response: Please refer to the above discussion in Body and Frame Requirement Comments, Part B–3. Suitable load tests are now an alternative to engineering calculations rather than a mandatory provision in the final rule.

Comment: HUD should permit some minor exceptions to the requirements for interior finish materials in hot-humid climates.

HUD Response: Section 3280.504(b)(4) of the final rule includes minor exceptions to the 5.0 perm requirement for interior finish materials used in hot-humid climates.

Comment: HUD should return the truss testing recommendations in § 3280.402 to MHCC for further consideration.

HUD Response: Please refer to the discussion of public comments on truss testing. HUD is returning the truss-testing proposal to MHCC for further consideration.

III. Section-by-Section Revisions

The final rule amends the following sections of the Construction and Safety Standards in a manner that is different from the proposed rule and revises the incorporation by reference of the indicated reference standards.

A. Whole-House Ventilation

The final rule amends § 3280.103(b) by simplifying the requirements for sizing whole-house ventilation systems of manufactured homes. The final rule establishes a minimum and maximum capacity for these systems while continuing to require the systems to be balanced, requires combination passive and mechanical systems to be adequately sized and provided with inlets and exhaust to release any unbalanced pressure, no longer accepts passive-only systems, requires operating instructions for the system to be included in the consumer manual, and requires the operating switch to be identified with a label.

B. Firestopping

The proposed rule amending § 3280.206 changes the term ''Firestopping'' to ''Fireblocking'' to be consistent with current building code terminology and application. The final rule also replaces and clarifies existing language to better define locations where fireblocking is required.

C. Body and Frame Requirements

The final rule amends § 3280.303(g) by no longer requiring a manufacturer to first submit alternative testing procedures to HUD for approval when recognized testing procedures are not available, except as required by § 3280.305(c)(1)(iii) for one-piece metal roofing systems.

Section 3280.305(c)(1) is also being amended by adding a new paragraph (iii) to permit the use of certain one-piece metal roofing without structural sheathing in the high wind areas, provided HUD has approved the testing procedures to be used. The final rule amends § 3280.305(c)(3)(i) by adding paragraphs (A), (B), and (C) and by clarifying where middle and north zone roof load requirements would be applicable. The amended rule also now designates counties in certain states within the South or Middle Roof Load Zones where higher Middle or North Roof Load Zones are required.

Section 3280.305(c)(3) is amended by incorporating a new paragraph (iv) requiring that skylights must be capable of withstanding the roof loads for which the home is designed.

The final rule amends § 3280.305(e) by clarifying fastener performance requirements for joining the major structural elements of manufactured homes and by requiring that a continuous load path be provided for transferring all forces between elements and for carrying all imposed forces to the home's foundation/anchorage system.

The final rule amends § 3280.305(e)(2) by reducing the minimum thickness requirements for steel strapping required in Wind Zones II and III from 26 gauge (0.0179 inch) to 0.016 inch. Other alternatives, such as a combination of structural rated sheathing that overlaps the roof and/or floor and strapping, or engineered connectors or structural rated sheathing only, must be substantiated by either engineering analysis or suitable load tests. The final rule amends § 3280.305(g)(3) to require wood panel products used as floor or sub-floor materials on the exterior of the home to be rated for exterior exposure and be protected from moisture by sealing or applying nonabsorbent overlay with water resistant adhesive. This will provide protection against deterioration of exterior floor decking materials when exposed to moisture.

The final rule amends § 3280.306(b)(1) to require that each column support pier location required along the marriage line(s) of multi-section manufactured homes, at perimeter support locations, and at shear wall locations be identified at each pier location by paint, label, or other acceptable methods. These location identifications are to be visible after the home is installed.

D. Subpart E—Testing

The final rule amends § 3280.401 by clarifying that design live load deflection criteria do not apply when the structural assembly being evaluated does not include structural framing members.

E. Subpart F—Thermal Protection

The final rule amends § 3280.504(b) by adding new paragraphs (4) and (5) to permit the vapor retarder for exterior walls to be installed on the exterior side, rather than the interior side, of the wall insulation, or to be constructed with an external covering and sheathing having a combined permeance of not greater than 1.0 perms, provided that for either alternative that the interior finish and interior wall panel materials have a combined permeance of not less than 5.0 perms. However, based on the comments received, the final rule now also provides for certain minor exceptions to the 5.0 perm interior finish or wall panel requirements.

The final rule amends § 3280.508(e) by permitting window manufacturers the alternative to rate their window energy performance by utilizing National Fenestration Rating Council (NFRC) standard 100 or by using AAMA standard 1503 for this purpose. Inclusion of the NFRC standard would alleviate the need for those manufacturers who previously have been utilizing NFRC 100 from also having to test the AAMA 1500 and vice-versa.

The final rule will also amend § 3280.510 by incorporating a map that will designate the applicable Humid and Fringe zones by state and county. A reproduction of the map will now be required to be included on the Heating Certificate and could also be combined with the U_o map for those homes constructed for those zones in addition to or in combination with the Uo value map. A statement, ''This home is designed and constructed to be sited only in humid or fringe climate regions as shown on the Humid and Fringe Climate Map,'' will also be required in conjunction with the Humid and Fringe zone map on the Heating Certificate.

F. Subpart G—Plumbing Systems

The final rule amends § 3280.607(a) by requiring the use of restricted flow faucets and showerheads and by adding a paragraph (b) to require the use of low water consumption water closets. This will conserve water and help assure continued availability of adequate water supplies, as well as reduce wastewater flows. The final rule will also include requirements for low consumption

water closets (1.6 gallons per flush), and clarify that showerheads and faucets are also to meet updated requirements (maximum flow rate of 2.5 gallons per minute) for water conservation as required by the Energy Policy Act of 1992.

G. Subpart H—Heating, Cooling and Fuel Burning Systems

The final rule amends § 3280.709 by adding a paragraph (h) to require the installation of a corrosion-resistant water drip collection and drain pan under each water heater.

The final rule amends § 3280.715(c) to require joints and seams of sheet metal and flexible metal ducts, including risers, trunks, crossovers, branches, and plenums to be mechanically secured and made substantially airtight. The final rule also requires that the tapes and sealants used to seal the duct systems be applied to dry clean surfaces having no dirt, grease, or oil on them. Currently, the standards specify only that the joints and seams of ducts be securely fastened and made substantially airtight. In addition, sealants and tapes will also be required to be listed in accordance with UL 181A for rigid ducts and UL 181B for flexible ducts.

H. Subpart I—Electrical Systems

The final rule amends § 3280.806(d)(9) by clarifying that a receptacle outlet would be provided on a wall adjacent to and within 36 inches of the outside edge of each bathroom basin. This wall receptacle outlet would be in addition to any outlet that is part of a lighting fixture or appliance that is over a bathroom basin. This revision will no longer permit a receptacle that is integral with the light fixture over a bathroom basin to serve as the only outlet for a bathroom basin location. This change also addresses safety concerns related to the permissible length of power cords for small appliances that may arise in areas in which flowing water and electrical outlets are in close proximity, such as light fixtures at bathroom basin locations.

The final rule also amends § 3280.808(o) to provide a tolerance for the gap at the edge of a box in walls or ceilings of noncombustible material consistent with the National Electrical Code.

I. Revisions to Standards Incorporated by Reference (Reference Standards)

The following is a list of the standards incorporated by reference that is being revised by this final rule. Each reference standard is preceded by an indicator to identify the type of change being made. A new reference standard being added is indicated by the designation ''N,'' a reference standard being updated is indicated by the designation ''U,'' and a reference standard being deleted is indicated by the designation ''DELETED.'' In some cases, it was necessary to use a different or more recent edition of a reference standard than indicated in the proposed rule, because either the date of the standard was incorrectly cited or the reference standard was out of date and no longer available from the publishing organization. These changes in dates are identified in the list below by italics. In other cases, a proposed reference standard was not available and, as a result, HUD is retaining the existing reference standard. These changes are identified in the list below by a single asterisk. Two new proposed reference standards, not presently contained in the Construction and Safety Standards, could not be located, and have been eliminated from the final rule. These reference standards are identified in the list below by a double asterisk. The sections of the Construction and Safety Standards being amended by each modification are also shown on the right of each reference standard being added, updated, or deleted.

U AA	1994	Aluminum Design Manual, Specifications and Guidelines for Aluminum Structures, Part 1–A, Sixth Edition, October 1994, and Part 1–B, First Edition, October 1994.	3280.304(b).
N AAMA/WDMA 101/I.S.2–97	1997	Voluntary Specifications for Aluminum, Vinyl (PVC) and Wood Windows and Glass Doors.	3280.304(b)(1); 3280.403(b)&(e); 3280.404 (b).
N *AAMA 1600/I.S. 7–00*	*2003*	Voluntary Specification for Skylights	3280.305.
U AAMA 1701.2–95	1995	Voluntary Standard Primary Window and Sliding Glass Door for Utilization in Manufactured Housing.	3280.403(b); 3280.403(e); 3280.404(b).
U AAMA 1702.2–95	1995	Voluntary Standard Swinging Exterior Passage Door for Utilization in Manufactured Housing.	3280.405(b); 3280.405(e); 3280.405(e)(2).
U *ANSI/AFPA NDS–2001*	*2001*	National Design Specification for Wood Construction, 2001 Edition, with Supplement, Design Values for Wood Construction.	3280.304(b)(1).
* *AFPA*	*1992*	Design Values for Joists and Rafters	3280.304(b)(1).
U AISI	1996	Specification for the Design of Cold-Formed Steel Structural Members.	3280.304(b)(1); 3280.305(j)(1).
DELETED ANSI C73.17	1972	National Standard Dimensions of Caps, Plugs, and Receptacles, Ground Type.	3280.803(g).
U *ANSI Z21.1*	*2000*	Household Cooking Gas Appliances	3280.703.
U *ANSI Z21.5.1–1999; CSA 7.1–M99.*	*1999*	Gas Clothes Dryers Volume 1—Type 1 Clothes Dryers with Addendum Z21.5.1a–1999.	3280.703.
U *ANSI Z21.10.1–1998; CSA 4.1–M98.*	*1998*	Gas Water Heaters—Volume 1, Storage Water Heaters with Input Ratings of 75,000 BTU Per Hour or Less with Addendum Z21.10.1a–2000.	3280.703.

U ANSI Z21.15–1997; CGA 9.1–M97.	1997	Manually Operated Gas Valves for Appliances, Appliance Connector Valves, and Hose End Valves.	3280.703.
U *ANSI Z21.20*	*2000*	Automatic Gas Ignition Systems and Components with Addendum Z21.20a–2000.	3280.703.
U *ANSI Z21.21–2000; CSA 6.5–2000.*	*2000*	Automatic Valves for Gas Appliances	3280.703.
N *ANSI Z21.22–1999; CSA 4.4–M99.*	*1999*	Relief Values for Hot Water Supply Systems	3280.703.
* *ANSI Z21.23*	*1989*	Gas Appliance Thermostats with Addendum Z21.23a–1991	3280.703.
U ANSI Z21.24–1997; CGA 6.10–M97.	*1997*	Connectors for Gas Appliances	3280.703.
U ANSI Z21.40.1–1996; CGA 2.91–M96.	1996	Gas Fired, Heat Activated Air Conditioning and Heat Pump Appliances.	3280.703; 3280.714(a)(2).
* *ANSI Z21.47*	*1990*	Gas-Fired Central Furnaces (Except Direct Vent System Control Furnaces) with Addendum Z21.47a–1990 and Z21.47b–1992.	3280.703.
* *ANSI Z21.64*	*1990*	Direct Vent Central Furnaces with Addendum Z21.64a–1992 (Discontinued—Now part of Z21.47).	3280.703.
U ANSI Z34.1–1993	1993	Third Party Certification Programs for Products, Processes, and Services.	3280.403(e)(1); 3280.405(e)(1).
N ANSI Z124.5–1997	1997	Plastic Toilet (water closets) Seats	3280.604(b).
N ANSI Z124.7–1997	1997	Prefabricated Plastic Spa Shells	3280.604(b).
** *ANSI Z124.8*	*1990*	Bathtub Liners	3280.604(b).
N ANSI Z124.9–1994	1994	Plastic Urinal Fixtures	3280.604(b).
U ANSI/AHA A135.4–1995	1995	Basic Hardboard	3280.304(b)(1).
U ANSI/AHA A135.5–1995	1995	Prefinished Hardboard Paneling	3280.304(b)(1).
U ANSI/AHA A135.6–1998	1998	Hardboard Siding	3280.304(b)(1).
U ANSI A208.1–1999	1999	Particleboard	3280.304(b)(1).
N ASME A112.4.1–1993	1993	Water Heater Relief Valve Drain Tubes	3280.604(b).
N ASME A112.4.3–1999	1999	Plastic Fittings for Connecting Water Closets to the Sanitary Drainage System.	3280.604(b).
* ANSI/ASME A112.18.1M	1989	Plumbing Fixture Fittings	3280.604(b).
N ASME A112.18.3M–1996	1996	Performance Requirements for Backflow Protection Devices and Systems in Plumbing Fixture Fittings.	3280.604(b).
N ASME A112.18.6–1999	1999	Flexible Water Connectors	3280.604(b).
N ASME A112.18.7–1999	1999	Deck Mounted Bath/Shower Transfer Valves with Integral Backflow Protection.	3280.604(a).
N ASME A112.19.6	1995	Hydraulic Performance Requirements for Water Closets and Urinals.	3280.604(b).
N ASME A112.19.9M–1991	1991	Non-Vitreous Ceramic Plumbing Fixtures	3280.604(b).
N ASME A112.19.10–1994	1994	Dual Flush Devices for Water Closets	3280.604(b).
N ANSI/NEMA WD 6–1997	1997	Wiring Devices—Dimensional Specifications (Replaces C73.17 of the same title.).	3280.803.
N *ANSI/NSF 61–2001*	*2001*	Drinking Water System Components—Health Effects	3280.604(b)(2).
DELETED NWWDA IS 1–87		Wood Flush Doors	3280.304(b)(1); 3280.405(c)(1).
DELETED			

ANSI/NWWDA I.S.2–87	1987	Wood Windows (This standard is replaced by AAMA/WDMA 101/I.S.2–97 NWWDA [National Wood Window and Door Association] is now the WDMA [Window and Door Manufacturers Association]).	3280.304(b)(1).
DELETED			
ANSI/NWWDA I.S.3–88	1988	Wood Sliding Patio Doors (This standard is replaced by AAMA/WDMA 101/I.S.2–97).	3280.304(b)(1).
DELETED			
NWWDA IS 4–88		Water Repellent Preservative Non Pressure Treatment for Millwork.	3280.304(b)(1).
DELETED			
APA PRP E108, E445N	1989	Performance Standards and Policies	3280.304(b)(1).
U			
APA E30P	1996	Design/Construction Guide Residential and Commercial Structures.	3280.304(b)(1).
U			
PS 1–95	1995	Construction and Industrial Plywood (with Typical APA Trademarks).	3280.304(b)(1).
*			
PS 2–92 (also known as NIST Standard PS 2–96).	1992	Voluntary Product Standard Performance Standard for Wood-Based Structural Use Panels.	3280.304(b)(1).
*			
APA S 811M	1990	Design and Fabrication of Plywood Curved Panels, PDS Suppl. 1.	3280.304(b)(1).
*			
APA S 812Q	1992	Design and Fabrication of Glued Plywood Lumber Beams PDS Suppl. 2.	3280.304(b)(1).
*			
APA U 813L	1990	Design and Fabrication of Plywood Stressed Skin Panels PDS Suppl. 3.	3280.304(b)(1).
U			
APA H815E	1995	Design and Fabrication of All Plywood Beams (PDS Suppl. 5.)	3280.304(b)(1).
N			
APA D410A	2004	Panel Design Specification	3280.304(b)(1).
*			
APA U814 H	1990	Design and Fabrication of Plywood Sandwich Panels, Suppl. 4	3280.304(b)(1).
N			
SEI/ASCE–8–02	*2002*	Specification for the Design of Cold-Formed Stainless Steel Structural Members.	3280.304(b)(1); 3280.305(j).
N			
ASCE–19–96	1996	Structural Applications of Steel Cables for Buildings	3280.304(b)(1).
U			
ASHRAE	1997	1997 ASHRAE Handbook, Fundamentals, Inch-Pound Edition	3280.508.
N			
ASSE #1051 Revised: 1996; ANSI: 1998.	1990	Performance Requirements for Air Admittance Valves for Plumbing Drainage Systems—Fixture and Branch Devices.	3280.604(b).
U			
ASTM A 539–99	1999	Standard Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines.	3280.703; 3280.705(b)(4).
U			
ASTM B 280–95	1995	Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service.	3280.703; 3280.705(b)(3); 3280.706(b)(3).
U			
ASTM C 36/C36M–99	*1999*	Standard Specification for Gypsum Wallboard	3280.304(b)(1).
U			
ASTMD 4442–92 (Reapproved 1997).	*1997*	Standard Test Methods for Direct Moisture Content Measurement of Wood and Wood-Base Materials.	3280.304(b)(1).
U			
ASTM E 84–01	2001	Standard Test Method for Surface Burning Characteristics of Building Materials.	3280.203(a).
U			
ASTM E 96–95	1995	Standard Test Methods for Water Vapor Transmission of Materials.	3280.504(a).
U			
ASTM E 162–94	1994	Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source.	3280.203(a).
U			
ASTM E 773–97	1997	Standard Test Method for Accelerated Weathering of Sealed Insulating Glass Units.	3280.403(d)(2).
U			
ASTM E 774–97	1997	Standard Specification for the Classification of the Durability of Sealed Insulating Glass Units.	3280.403(d)(2).
U			
ASTM E 1333–96	1996	Standard Test Method for Determining Formaldehyde Concentrations in Air and Emission Rates from Wood Products Using a Large Chamber.	3280.406(b).

U HPVA Design Guide HP–SG–96	1996	Structural Design Guide for Hardwood Plywood Wall Panels	3280.304(b)(1).
U ANSI/HPVA HP–1–1994 (Approved 1995).	1994	American National Standard for Hardwood and Decorative Plywood.	3280.304(b)(1).
DELETED HUD–FHA UM–25d–73	1973	Application and Fastening Schedule: Power-Driven, Driven Fasteners, Use of Materials Bulletin UM–25d.	3280.304(b)(1).
U IAPMO TSC 9–97	1997	Standard for Gas Supply Connectors for Manufactured Homes	3280.703.
* * *ANSI/IAS LC 1*	*1997*	Gas Piping Using Corrugated Stainless Steel Tubing with Addendum LC–1A–1999.	3280.703.
* *IITRI Fire and Safety Research Project J6461.*	*1979*	Development of Mobile Home Fire Test Methods to Judge the Fire-Safe Performance of Foam Plastic Sheathing and Cavity Insulation (Note: this is an editorial revision to correct the title and insert the date of publication only.).	3280.207(a).
N NER–272	1997	National Evaluation Report, Power Driven Staples and Nails for Use in All Types of Buildings Construction. (This is published by the National Evaluation Service.).	3280.304(b).
U NFPA 31	1997	Standard for the Installation of Oil-Burning Equipment	3280.703; 3280.707(f).
U *NFPA 54–2002/ANSI Z223.1–2002.*	*2002*	National Fuel Gas Code	3280.703.
U *NFPA 58*	*2001*	Liquefied Petroleum Gas Code	3280.703; 3280.704(b)(5)(i).
U *NFPA 70*	*2005*	National Electrical Code	3280.801(a); 3280.801(b); 3280.803(k)(1); (k)(3); 3280.804(a); 3280.805(a)(3); 3280.806(a)(2); 3280.807(c); 3280.808(a)(m)&(q); 3280.811(b).
U NFPA 220	1995	Standard on Types of Building Construction, Chapter 2, Definitions of ''limited combustible'' and ''noncombustible material''.	3280.202.
N NFPA 255	1996	Standard Method of Test of Surface Burning Characteristics of Building Materials.	3280.203(a).
N NFRC 100	1997	Procedure for Determining Fenestration Product U-factors	3280.508(e).
U SJI	1994	Fortieth Edition Standard Specifications Load Tables and Weight Tables for Steel Joist and Joist Girders.	3280.304(b)(1).
U *UL 94*	*1996*	Test for Flammability of Plastic Materials for Parts in Devices and Appliances, Fifth Edition, with 2001 revisions.	3280.715(e)(1).
U *UL 103*	*1995*	Factory-Built Chimneys for Residential Type and Building Heating Appliances, Ninth Edition, with 1999 revisions.	3280.703.
U *UL 109*	*1997*	Tube Fittings for Flammable and Combustible Fluids, Refrigeration Service, and Marine Use, Sixth Edition, with 2001 revisions.	3280.703.
U *UL 127*	1996	Factory-Built Fireplaces, Seventh Edition, with 1999 revisions ...	3280.703.
U *UL 174*	*1996*	Household Electric Storage Tank Water Heaters, Tenth Edition, with 1997 revisions.	3280.703.
U *UL 181*	*1996*	Factory-Made Air Ducts and Air Connectors, Ninth Edition, with 1998 revisions.	3280.703; 3280.715(e).
N *UL 181A*	*1994*	Closure Systems for Use with Rigid Air Ducts and Air Connectors, Second Edition, with 1998 revisions.	3280.703; 3280.715(c).
N *UL 181B*	*1995*	Closure Systems for Use with Flexible Air Ducts and Air Connectors, First Edition, with 1998 revisions.	3280.703; 3280.715(c).
U *UL 307A*	*1995*	Liquid Fuel-Burning Heating Appliances for Manufactured Homes and Recreational Vehicles, Seventh Edition, with 1997 revisions.	3280.703; 3280.707(f).

U UL 307B	*1995*	Gas-Burning Heating Appliances for Manufactured Homes and Recreational Vehicles, Fourth Edition, with 1998 revisions.	3280.703.
U UL 311	*1994*	Roof Jacks for Manufactured Homes and Recreational Vehicles, Eighth Edition, with 1998 revisions.	3280.703.
U UL 441	*1996*	Gas Vents, Ninth Edition, with 1999 revisions	3280.703.
DELETED UL 465	1987	Central Cooling Air Conditioners (This standard is discontinued and replaced by UL 1995.).	3280.703.
U UL 569	*1995*	Pigtails and Flexible Hose Connectors for LP-Gas, Seventh Edition, with 2001 revisions.	3280.703; 3280.705.
U UL 737	*1996*	Fireplace Stoves, Eighth Edition, with 2000 revisions	3280.703.
DELETED UL 1025	1991	Electric Air Heaters (This standard is discontinued and replaced by UL 2021.).	3280.703.
U UL 1042	*1994*	Electric Baseboard Heating Equipment, Fourth Edition, with 1998 revisions.	3280.703.
U UL 1482	*1996*	Solid-Fuel Type Room Heaters, Fifth Edition, with 2000 revisions.	3280.703.
N UL 1995	*1995*	Heating and Cooling Equipment, Second Edition, with 1999 revisions (Replaces UL 465, UL 559 and UL 1096).	3280.703.
N UL 2021	*1997*	Fixed and Location-Dedicated Electric Room Heaters, Second Edition, with 1998 revisions (Replaces UL 1025).	3280.703.

IV. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action, as provided under section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Paperwork Reduction Act

The information collection requirements contained in this rule are currently approved by OMB under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0253. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule will not impose any Federal mandates on any State, local, or tribal government or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). Although the Finding of No Significant Regulatory Impact for the proposed rule remains applicable to the final rule, a Supplemental Finding of No Significant Regulatory Impact has been added to discuss changes made in the final rule. Both the Finding of No Significant Impact and the Supplemental Finding are available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule and in so doing certifies that the rule would not have a significant economic impact on a substantial number of small entities. The rule would regulate establishments primarily engaged in making manufactured homes (NAICS 32991). The Small Business Administration's size standards define an establishment primarily engaged in making manufactured homes as small if it does not exceed 500 employees. Of the 222 firms included under this NAICS definition, 198 are small manufacturers that fall below the small business threshold of 500 employees. The final rule will apply to all of the manufacturers. The rule would, thus, affect a substantial number of small entities. However, based on an analysis of the costs and the fact that a small manufacturer would just as likely produce homes at the higher end of the cost spectrum as would a major producer, evaluating the effect of the increase is not discernible based on the size of the manufacturing operation. For the reasons stated below, HUD knows of no instance in which a manufacturer with fewer than 500 employees would be significantly affected by this rule.

HUD, in cooperation with MHCC, previously conducted an economic cost impact analysis for this rule. A copy of the economic analysis is available for

public inspection and copying between 8 a.m. and 5 p.m. weekdays at the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. The economic analysis previously concluded the potential cost impact, based on a per home cost, to be approximately $77.28 to retailers and $96.60 to purchasers or an estimated annual cost impact of $13,137,600 to retailers and $16,422,000 to purchasers. This is based on an estimated annual production rate of 170,000 manufactured homes per year. HUD now estimates that the annual projected cost impacts indicated in the proposed rule have been reduced by more than 40 percent in the final rule, as a result of the removal of the revisions to the truss testing procedures from the final rule. Further, the final cost estimates would be even lower today based on present annual production rates, which range between 130,000 and 140,000 homes per year. In addition, the cost of the paperwork burden associated with this rule is estimated to be approximately $112,000 for the entire industry, which is less than an additional $1.00 per unit. Additional information about the paperwork burden can be found in the Paperwork Reduction Act section of the preamble. This does not represent a significant economic effect on either an industry-wide or on a per-unit basis.

These relatively small increases in cost associated with this final rule would not impose a significant burden for a small business for homes that can cost the purchaser between $40,000 and $100,000. Therefore, although this rule would affect a substantial number of small entities, it would not have a significant economic impact on them.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

V. Incorporation by Reference

These reference standards are approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the following organizations:

AA—The Aluminum Association, 1525 Wilson Boulevard, Suite 600, Arlington, VA 22209, (703) 358–2960, *www.aluminum.org.*

AFPA—American Forest and Paper Association, 1111 19th Street, NW., Washington, DC 20036, (202) 463–2700, fax (202) 463–5180, *www.afandpa.org.*

AHA—American Hardboard Association, 1210 West Northwest Highway, Palatine, IL 60067, (847) 934–8800, fax (847) 934–8803, *www.hardboard.org.*

AISI—American Iron and Steel Institute, 1101 17th Street, NW., Washington, DC 20036, (202) 452–7100, fax (202) 463–6573, *www.aisc.org.*

ANSI—American National Standards Institute, 25 West 43rd Street, New York, NY 10036, (212) 642–4900, fax (212) 398–0023, *www.ansi.org.*

APA—The Engineered Wood Association, 7011 South 19th Street, Tacoma, WA 98411, (253) 565–6600, fax (253) 565–7265, *www.apawood.org.*

ASCE—American Society of Civil Engineers, 1015 15th Street, NW., Washington, DC 20005, (202) 789–2200, fax (202) 289–6797, *www.asce.org.*

ASHRAE—American Society for Heating, Refrigeration and Air Conditioning Engineers, 1791 Tuillie Circle, NE., Atlanta, GA 30329, (404) 636–8400, fax (404) 321–5478, *www.ashrae.org.*

ASME—American Society of Mechanical Engineers, 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007, 1–800 843–2763, fax 1–973–882–8113, *www.asme.org.*

ASSE—American Society of Sanitary Engineering, P.O. Box 40362, Bay Village, OH 44140, (216) 835–3040, fax (216) 835–3488, *www.asse-plumbing.org.*

ASTM—American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, (610) 832–9500, fax (610) 832–9555, *www.astm.org.*

CSA (IAS)—CSA International (formerly International Approval Services), 8501 East Pleasant Valley Road, Cleveland, OH 44131, (216) 524–4990, fax (216) 642–3463, *www.csa-international.org.*

CPA—Composite Panel Association (formerly the National Particle-board Association) 18928 Premier Court, Gaithersburg, MD 20879–1574, (301) 670–0604, fax (301) 840–1252, *www.pbmdf.com.*

HPVA—Hardwood Plywood and Veneer Association, 1825 Michael Faraday Drive, Reston, VA 22090, (703) 435–2900, fax (703) 435–2537, *www.hpva.org.*

HUD—Department of Housing and Urban Development, Office of Manufactured Housing Programs, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–6423, fax (202) 708–4213.

IAPMO—International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, CA 91789, (909) 595–8449, fax (909) 594–1537, *www.iapmo.org.*

IIT—IIT Research Institute, 10 West 35th Street, Chicago, IL 60616, (312) 567–3000, fax (312) 567–4167, *www.iitri.org.*

NEMA—National Electrical Manufacturers Association, 1300 North 17th Street, Suite 1847, Rosslyn, VA 22209, (703) 841–3200, fax (703) 841–5900, *http://www.nema.org.*

NER—International Code Council Evaluation Service [Previously known as National Evaluation Service], 5360 Workman Mill Road, Whittier, CA 90601–0543.

NFPA—National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, (617) 770–3000, fax (617) 770–0700, *www.nfpa.org.*

NFRC—National Fenestration Rating Council, Incorporated, 1300 Spring Street, Suite 120, Silver Spring, MD 20910, (301) 589–6372, fax (301) 588–0854, *www.nfrc.org.*

NSF—NSF International, P.O. Box 130140, Ann Arbor, MI 48113, (313) 769–8010, fax (313) 769–0109, *www.nsf.org.*

PS—National Institute of Standards and Technology, Voluntary Product Standards, Gaithersburg, MD 20810, (301) 975–2000, fax (301) 926–1559, *www.nist.gov.*

SJI—Steel Joist Institute, 1205 48th Avenue North, Suite A, Myrtle Beach, SC 29577, (803) 626–1995, fax (803) 449–1343, *www.steeljoist.org.*

TPI—Truss Plate Institute, 583 D'Onofrio Drive, Suite 200, Madison, WI 53719, (608) 833–5900, fax (608) 833–4360, *www.tpinst.org.*

UL—Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062, (847) 272–8800, fax (847) 509–6257, *www.ul.com.*

WDMA (NWWDA)—Window and Door Manufacturers Association (formerly the National Wood Window and Door Association), 1400 East Touhy Avenue, Des Plaines, IL 60018, (847) 299–5200, fax (847) 299–1286, *www.wdma.com.*

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for Manufactured

Housing Construction and Safety Standards is 14.171.

List of Subjects in 24 CFR Part 3280

Housing standards, Incorporation by reference, Manufactured homes.

■ Accordingly, for the reasons stated in the preamble, HUD is amending 24 CFR part 3280 as follows:

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

■ 1. The authority citation for part 3280 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5403, and 5424.

■ 2. In § 3280.4(b), revise the address for *HUD User* and add the following organizations to the list in alphabetical order to read as follows:

§ 3280.4 Incorporation by reference.

* * * * *

(b) * * *

HUD User, 11491 Sunset Hills Road, Reston, VA 20190–5254

* * *

NEMA—National Electrical Manufacturers Association, 1300 North 17th Street, Suite 1847, Rosslyn, VA 22209

NER—International Code Council Evaluation Service [Previously known as National Evaluation Service], 5360 Workman Mill Road, Whittier, CA 90601–0543

* * *

NFRC—National Fenestration Rating Council, 8984 Georgia Avenue, Suite 320, Silver Spring, MD 20910

* * *

WDMA—Window and Door Manufacturers Association [Previously known as the National Wood Window and Door Association, NWWDA], 1400 East Touhy Avenue, Des Plaines, IL 60018

* * * * *

■ 3. In § 3280.103, revise paragraph (b) to read as follows:

§ 3280.103 Light and ventilation.

* * * * *

(b) *Whole-house ventilation.* Each manufactured home must be provided with whole-house ventilation having a minimum capacity of 0.035 $ft^3/min/ft^2$ of interior floor space or its hourly average equivalent. This ventilation capacity must be in addition to any openable window area. In no case shall the installed ventilation capacity of the system be less than 50 cfm nor more than 90 cfm. The following criteria must be adhered to:

(1) The ventilation capacity must be provided by a mechanical system or a combination passive and mechanical system. The ventilation system or provisions for ventilation must not create a positive pressure in Uo Value Zone 2 and Zone 3 or a negative pressure condition in Uo Value Zone 1. Mechanical systems must be balanced. Combination passive and mechanical systems must have adequately sized inlets or exhaust to release any unbalanced pressure. Temporary pressure imbalances due to gusting or high winds are permitted.

(2) The ventilation system or provisions for ventilation must exchange air directly with the exterior of the home, except the ventilation system, or provisions for ventilation must not draw or expel air with the space underneath the home. The ventilation system or provisions for ventilation must not draw or expel air into the floor, wall, or ceiling/roof systems, even if those systems are vented. The ventilation system must be designed to ensure that outside air is distributed to all bedrooms and main living areas. The combined use of undercut doors or transom grills connecting those areas to the room where the mechanical system is located is deemed to meet this requirement.

(3) The ventilation system or a portion of the system is permitted to be integral with the home's heating or cooling system. The system must be capable of operating independently of the heating or cooling modes. A ventilation system that is integral with the heating or cooling system is to be listed as part of the heating and cooling system or listed as suitable for use with that system.

(4) A mechanical ventilation system, or mechanical portion thereof, must be provided with a manual control, and must be permitted to be provided with automatic timers or humidistats.

(5) A whole-house ventilation label must be attached to the whole-house ventilation control, must be permanent, and must state: ''WHOLE-HOUSE VENTILATION''.

(6) Instructions for correctly operating and maintaining whole-house ventilation systems must be included with the homeowner's manual. The instructions must encourage occupants to operate these systems whenever the home is occupied, and must refer to the labeled whole-house ventilation control.

* * * * *

■ 4. In § 3280.202, revise the definition of ''Limited combustible'' and the definition of ''Noncombustible material'' to read as follows:

§ 3280.202 Definitions.

* * * * *

Limited combustible: A material meeting:

(1) The definition contained in Chapter 2 of NFPA 220–1995, Standard on Types of Building Construction; or

(2) 5/16-inch or thicker gypsum board.

Noncombustible material: A material meeting the definition contained in Chapter 2 of NFPA 220–1995, Standard on Types of Building Construction.

* * * * *

■ 5. In § 3280.203, revise paragraph (a) introductory text to read as follows:

§ 3280.203 Flame spread limitations and fire protection requirements.

(a) *Establishment of flame spread rating.* The surface flame spread rating of interior-finish material must not exceed the value shown in § 3280.203(b) when tested by Standard Test Method for Surface Burning Characteristics of Building Materials, ASTM E84–01, 2001, or Standard Method of Test of Surface Burning Characteristics of Building Materials NFPA 255, 1996, except that the surface flame spread rating of interior-finish materials required by § 3280.203(b)(5) and (6) may be determined by using the Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E 162–94. However, the following materials need not be tested to establish their flame spread rating unless a lower rating is required by the standards in this part:

* * * * *

■ 6. Revise § 3280.206 to read as follows:

§ 3280.206 Fireblocking.

(a) *General.* Fireblocking must comply with the requirements of this section. The integrity of all fireblocking materials must be maintained.

(b) *Fireblocking materials.* Fireblocking must consist of the following materials:

(1) Minimum one inch nominal lumber, 5/16 inch thick gypsum board, or equivalent fire resistive materials; or

(2) Other Listed or Approved Materials;

(c) *Fireblocking locations.* (1) Fireblocking must be installed in concealed spaces of stud walls, partitions, and furred spaces at the floor and ceiling levels. Concealed spaces must not communicate between floor levels. Concealed spaces must not communicate between a ceiling level and a concealed roof area, or an attic space.

(2) Fireblocking must be installed at the interconnection of a concealed vertical space and a concealed horizontal space that occurs:

(i) Between a concealed wall cavity and the ceiling joists above; and

(ii) At soffits, drop ceilings, cover ceilings, and similar locations.

(3) Fireblocking must be installed around the openings for pipes, vents,

and other penetrations in walls, floors, and ceilings of furnace and water heater spaces. Pipes, vents, and other penetrations that cannot be moved freely within their opening are considered to be fireblocked. Materials used to fireblock heat producing vent penetrations must be noncombustible or limited combustible types.

■ 7. In § 3280.207, revise paragraph (a)(4) introductory text to read as follows:

§ 3280.207 Requirements for foam plastic thermal insulating materials.

(a) * * *

(4) The foam plastic insulating material has been tested as required for its location in wall and/or ceiling cavities in accordance with testing procedures described in the Illinois Institute of Technology Research Institute (IIT) Report, ''Development of Mobile Home Fire Test Methods to Judge the Fire-Safe Performance of Foam Plastic Sheathing and Cavity Insulation, IITRI Fire and Safety Research Project J–6461, 1979'' or other full-scale fire tests accepted by HUD, and it is installed in a manner consistent with the way the material was installed in the foam plastic test module. The materials must be capable of meeting the following acceptance criteria required for their location:

* * * * *

■ 8. In § 3280.303, paragraph (g) is revised to read as follows:

§ 3280.303 General requirements.

* * * * *

(g) *Alternative test procedures.* In the absence of recognized testing procedures either in the Standards in this part or in the applicable provisions of those standards incorporated in this part by reference, the manufacturer electing this option must develop or cause to be developed testing procedures to demonstrate the structural properties and significant characteristics of the material, assembly, subassembly component, or member, except for testing methods involving one-piece metal roofing as would be required in § 3280.305(c)(1)(iii). Such testing procedures become part of the manufacturer's approved design. Such tests must be witnessed by an independent licensed professional engineer or architect or by a recognized testing organization. Copies of the test results must be kept on file by the manufactured home manufacturer.

9. In § 3280.304, revise paragraph (b)(1) to read as follows:

§ 3280.304 Materials.

* * * * *

(b)(1) Standards for some of the generally used materials and methods of construction are listed in the following table:

Aluminum

Aluminum Design Manual, Specifications and Guidelines for Aluminum Structures, Part 1-A, Sixth Edition, October 1994, and Part 1-B, First Edition, October 1994.

Steel

Specification for Structural Steel Buildings—Allowable Stress Design and Plastic Design—AISC–S335, 1989. The following parts of this reference standard are not applicable: 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.4.6, 1.5.1.5, 1.5.5, 1.6, 1.7, 1.8, 1.9, 1.10.4 through 1.10.7, 1.10.9, 1.11, 1.13, 1.14.5, 1.17.7 through 1.17.9, 1.19.1, 1.19.3, 1.20, 1.21, 1.23.7, 1.24, 1.25.1 through 1.25.5, 1.26.4, 2.3, 2.4, 2.8 through 2.10.

Specification for the Design of Cold-Formed Steel Structural Members—AISI–1996.

Specification for the Design of Cold-Formed Stainless Steel Structural Members—SEI/ASCE 8–02, 2002.

Standard Specifications Load Tables and Weight Tables for Steel Joists and Joist Girders, SJI, Fortieth Edition, 1994.

Structural Applications of Steel Cables for Buildings—ASCE19, 1996.

Standard Specification for Strapping, Flat Steel and Seals—ASTM D3953, 1991.

Wood and Wood Products

Basic Hardboard—ANSI/AHA A135.4–1995.

Prefinished Hardboard Paneling—ANSI/AHA A135.5–1995.

Hardboard Siding—ANSI/AHA A135.6–1998.

American National Standard for Hardwood and Decorative Plywood—ANSI/HPVA HP–1–1994 (Approved 1995).

Structural Design Guide for Hardwood Plywood Wall Panels—HPVA Design Guide HP–SG–96, 1996.

For wood products—Structural Glued Laminated Timber—ANSI/AITC A190.1–1992.

Construction and Industrial Plywood (With Typical APA Trademarks)—PS 1–95.

APA Design/Construction Guide, Residential and Commercial—APA E30-P–1996.

Design Specifications for Metal Plate and Wood Connected Trusses—TPI–85.

Design and Fabrication of All-Plywood Beams—APA H–815E (PDS Supplement #5), 1995.

Panel Design Specification—APA D410A, 2004.

Design and Fabrication of Glued Plywood-Lumber Beams—APA–S 812Q, Suppl. 2–1992.

Design and Fabrication of Plywood Curved Panels—APA–S 811M, Suppl. 1, 1990.

Design and Fabrication of Plywood Sandwich Panels—APA–U 814H, Suppl. 4, 1990.

Voluntary Product Standard, Performance Standard for Wood-based Structural Use Panels—PS 2–92, 1992 (also known as NIST Standard PS 2–96).

Design and Fabrication of Plywood Stressed-Skin Panels—APA–U 813L, Suppl. 3, 1990.

National Design Specifications for Wood Construction, 2001 Edition, with Supplement, Design Values for Wood Construction, NDS–2001, ANSI/AFPA.

Wood Structural Design Data, 1989, Revised 1992, AFPA.

Span Tables for Joists and Rafters—PS–20–70, 1993, AFPA.

Design Values for Joists and Rafters 1992, AFPA.

Particleboard—ANSI A208.1–1999.

Voluntary Specifications for Aluminum, Vinyl (PVC) and Wood Windows and Glass Doors—ANSI/AAMA/NWWDA 101/I.S.2–97.

Standard Test Methods for Puncture and Stiffness of Paperboard, and Corrugated and Solid Fiberboard—ASTM D781, 1973.

Standard Test Methods for Direct Moisture Content Measurement of Wood and Wood-Base Materials—ASTM D 4442–92 (Re-approved 1997), 1997.

Standard Test Methods for Use and Calibration of Hand-Held Moisture Meters—ASTM D4444, 1992.

Other

Standard Specification for Gypsum Wallboard—ASTM C 36/C 36M–99, 1999.

Fasteners

National Evaluation Report, Power Driven Staples, Nails, and Allied Fasteners for Use in All Types of Building Construction—NER–272, 1997.

Unclassified

Minimum Design Loads for Buildings and Other Structures—ASCE 7–1988.

Safety Performance Specifications and Methods of Test for Safety Glazing Materials Used in Building—ANSI Z97.1–1984.

* * * * *

■ 10. In § 3280.305:

■ A. Add paragraph (c)(1)(iii);

■ B. Add paragraphs (c)(3)(i)(A) through (C) following the table in paragraph (c)(3)(i);

■ C. Add paragraph (c)(3)(iv);

■ D. Revise paragraph (e);

■ E. Redesignate paragraphs (g)(3) through (g)(5) as paragraphs (g)(4) through (g)(6);

■ F. Add new paragraph (g)(3);

■ G. Redesignate paragraph (i)(l) as follows:

Old paragraph	New paragraph
(i)(1)(i)	(j)(1)
(i)(1)(ii)	(j)(2)
(i)(1)(ii)(A)	(j)(2)(i)
(i)(1)(ii)(B)	(j)(2)(ii)
(i)(1)(ii)(C)	(j)(2)(iii)

■ H. Reserve vacated paragraph (i); and

■ I. Revise newly redesignated paragraph (j)(1) to read as follows:

§ 3280.305 Structural design requirements.

* * * * *

(c) * * *

(1) * * *

(iii) One-piece metal roofing capable of resisting the design wind pressures for ''Components and Cladding: (Exterior roof coverings)'' in the Table for Design Wind Pressures in this section is allowed to be used without structural sheathing, provided the metal roofing is tested using procedures that have been approved by HUD and that meet all requirements of §§ 3280.303(c) and (g) and 3280.401.

* * * * *

(3) * * *

(i) * * *

(A) *North Roof Load Zone.* The following counties in each of the following states are deemed to be within the North Roof Load Zone:

Maine—Aroostook, Piscataquis, Somerset, Penobscot, Waldo, Knox, Hancock, and Washington.

Alaska—All Counties

(B) *Middle Roof Load Zone.* The following counties in each of the following states are deemed to be within the Middle Roof Load Zone:

States	Counties			
South Dakota	Grant	Brookings	Hanson	Lincoln
	Codington	Miner	Minnehaha	Yankton
	Deuel	Lake	Hutchinson	Union
	Hamlin	Moody	Turner	Clay
	Kingsbury	McCook		
Minnesota	Koochiching	Stearns	Renville	Sibley
	Itasca	Swift	McLeod	Nicollet
	Hubbard	Kandiyohi	Carver	Blue Earth
	Cass	Meeker	Dakota	Martin
	Crow Wing	Wright	Goodhue	Watonwan
	Aitkin	Lac qui Parle	Wabasha	Brown
	St. Louis	Chippewa	Winona	Redwood
	Lake	Yellow Medicine	Fillmore	Lyon
	Cook	Mille Lacs	Mower	Lincoln
	Carlton	Kanabec	Olmsted	Pipestone
	Pine	Benton	Dodge	Murray
	Wadena	Isanti	Rice	Cottonwood
	Todd	Sherburne	Steele	Jackson
	Morrison	Anoka	Freeborn	Nobles
	Douglas	Chisapo	Faribault	Rock
	Grant	Washington	Waseca	St. Croix
	Stevens	Hennepin	Le Sueur	
	Pope	Ramsey	Scott	
Iowa	Hanock	Mitchell	Hamilton	Buena Vista
	Lyon	Howard	Webster	Cherokee
	Osceola	Chickasaw	Calhoun	Plymouth
	Dickinson	Butler	Sac	Sioux
	Emmet	Floyd	Ida	O'Brien
	Kossuth	Cerro Gordo	Humboldt	Clay
	Winnebago	Franklin	Pocahontas	Wright
	Worth	Hardin	Palo Alto	Crawford
Wisconsin	Douglas	Oconto	Pepin	Lincoln
	Bayfied	Menominee	Pierce	Oneida
	Ashland	Langlade	Dunn	Polk
	Iron	Marathon	Eau Claire	Burnett
	Vilas	Clark	Chippewa	Washburn
	Forest	Jackson	Rusk	Sawyer
	Florence	Trempealeau	Barron	Price
	Marinette	Buffalo	Taylor	Doon
Michigan	Houghton	Iron	Presque Isle	Wexford
	Baraga	Dickinson	Charlevoix	Benzie
	Marquette	Menominee	Montmorency	Grand Traverse
	Alger	Delta	Alpena	Kalkaska
	Luce	Schoolcraft	Alcona	Oscoda
	Chippewa	Mackinaw	Ogemaw	Otsego
	Keweenaw	Cheyboygan	Roscommon	Leelanau
	Ontonagon	Emmet	Missaukee	Antrim
	Gogebic			
New York	St. Lawrence	Herkimer	Onondage	Genesee
	Franklin	Lewis	Madison	Orleans
	Clinton	Oswego	Cayuga	Niagara
	Essex	Jefferson	Seneca	Erie
	Hamilton	Oneida	Wayne	Wyoming
	Warren	Fulton	Ontario	Monroe
	Saratoga	Montgomery	Yates	
	Washington	Schenectady	Livingston	
Massachusetts	Essex			
Maine	Franklin	Kennebec	Lincoln	Cumberland
	Oxford	Androscoggin	Sagadahoc	York
Montana	All Counties			
Idaho	All Counties			
Colorado	All Counties			

Wyoming	All Counties			
Utah	All Counties			
Vermont	Franklin	Orleans	Caledonia	Addison
	Grand Isle	Essex	Washington	Rutland
	Lamoille	Chittendon	Orange	Windsor
New Hampshire	Coos	Belknap	Sullivan	Hillsborough
	Grafton	Strafford	Rockingham	Cheshire
	Carroll	Merrimack		

(C) *South Roof Load Zone.* The states and counties that are not listed for the North Roof Load Zone in paragraph (c)(3)(i)(A) of this section, or the Middle Roof Load Zone in paragraph (c)(3)(i)(B) of this section, are deemed to be within the South Roof Load Zone.

* * * * *

(iv) Skylights must be capable of withstanding roof loads as specified in paragraphs (c)(3)(i) or (c)(3)(ii) of this section. Skylights must be listed and tested in accordance with AAMA 1600/I.S.7–00, 2003, Voluntary Specification for Skylights.

* * * * *

(e) *Fastening of structural systems.* (1) Roof framing must be securely fastened to wall framing, walls to floor structure, and floor structure to chassis, to secure and maintain continuity between the floor and chassis in order to resist wind overturning, uplift, and sliding, and to provide continuous load paths for these forces to the foundation or anchorage system. The number and type of fasteners used must be capable of transferring all forces between elements being joined.

(2) For Wind Zone II and Wind Zone III, roof framing members must be securely fastened at the vertical bearing points to resist design overturning, uplift, and sliding forces. When engineered connectors are not installed, roof framing members must be secured at the vertical bearing points to wall framing members (studs), and wall framing members (studs) must be secured to floor framing members, with 0.016 inch base metal, minimum steel strapping or engineered connectors, or by a combination of 0.016 inch base metal, minimum steel strapping or engineered connectors, and structural-rated wall sheathing that overlaps the roof and floor system if substantiated by structural analysis or by suitable load tests. Steel strapping or engineered connectors are to be installed at a maximum spacing of 24 inches on center in Wind Zone II, and 16 inches on center in Wind Zone III. *Exception:* Where substantiated by structural analysis or suitable load tests, the 0.016 inch base metal minimum steel strapping or engineered connectors may be omitted at the roof to wall and/or wall to floor connections, when structural rated sheathing that overlaps the roof and wall and/or wall and floor is capable of resisting the applicable design wind loads.

* * * * *

(g) * * *

(3) Wood panel products used as floor or subfloor materials on the exterior of the home, such as in recessed entryways, must be rated for exterior exposure and protected from moisture by sealing or applying nonabsorbent overlay with water resistant adhesive.

* * * * *

(j) *Welded connections.* (1) All welds must be made in accordance with the applicable provisions of the Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, AISC–S335, 1989; the Specification for the Design of Cold-Formed Steel Structural Members, AISI, 1996; and the Specification for the Design of Cold-Formed Stainless Steel Structural Members, SEI/ASCE 8–02, 2002.

* * * * *

■ 11. In § 3280.306, revise paragraph (b)(1) to read as follows:

§ 3280.306 Windstorm protection.

* * * * *

(b) *Contents of instructions.* (1) The manufacturer must provide printed instructions with each manufactured home that specify the location and required capacity of stabilizing devices on which the home's design is based. The manufacturer must identify by paint, label, decal stencil, or other means: the location of each column support pier location required along the marriage line(s) of multi-section manufactured homes; each pier location required along the perimeter of the home; each required shear wall pier support; and any other special pier support locations specified in the manufacturer's printed instructions. Such identifications must be visible after the home is installed. The manufacturer must provide drawings and specifications, certified by a registered professional engineer or architect, that indicate at least one acceptable system of anchoring, including the details or required straps or cables, their end connections, and all other devices needed to transfer the wind loads from the manufactured home to an anchoring or foundation system.

* * * * *

■ 12. In § 3280.401, revise paragraphs (a) and (b) to read as follows:

§ 3280.401 Structural load tests.

* * * * *

(a) *Proof load tests.* Every structural assembly tested must be capable of sustaining its dead load plus superimposed live loads equal to 1.75 times the required live loads for a period of 12 hours without failure. Tests must be conducted with loads applied and deflections recorded in ¼ design live load increments at 10-minute intervals until 1.25 times design live load plus dead load has been reached. Additional load shall then be applied continuously until 1.75 times design live load plus dead load has been reached. Assembly failure shall be considered as design live load deflection (or residual deflection measured 12 hours after live load removal) that is greater than the limits set in § 3280.305(d), rupture, fracture, or excessive yielding. Design live load deflection criteria do not apply when the structural assembly being evaluated does not include structural framing members. An assembly to be tested shall be of the minimum quality of materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this test shall be subject to a continuing qualification testing program acceptable to HUD.

(b) *Ultimate load tests.* Ultimate load tests must be performed on a minimum of three assemblies or components to generally evaluate the structural design. Every structural assembly or component tested must be capable of sustaining its total dead load plus the design live load increased by a factor of safety of at least 2.5. A factor of safety greater than 2.5 shall be used when required by an applicable reference standard in § 3280.304(b)(1). Tests shall be conducted with loads applied and deflections recorded in 1/4 design live load increments at 10-minute intervals

until 1.25 times design live load plus dead load has been reached. Additional loading shall then be applied continuously until failure occurs, or the total of the factor of safety times the design live load plus the dead load is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in § 3280.305(d), rupture, fracture, or excessive yielding. Design live load deflection criteria do not apply when the structural assembly being evaluated does not include structural framing members. Assemblies to be tested shall be representative of average quality or materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this test shall be subject to a periodic qualification testing program acceptable to HUD.

■ 13. In § 3280.403, revise paragraph (b), paragraph (d)(2), and paragraph (e) to read as follows:

§ 3280.403 Standard for windows and sliding glass doors used in manufactured homes.

* * * * *

(b) *Standard.* All primary windows and sliding glass doors shall comply with AAMA 1701.2–95, Voluntary Standard Primary Window and Sliding Glass Door for Utilization in Manufactured Housing, except the exterior and interior pressure tests must be conducted at the design wind loads required for components and cladding specified in § 3280.305(c)(1).

* * * * *

(d) * * *

(2) Sealed insulating glass, where used, must meet all performance requirements for Class C in accordance with ASTM E 774–97, Standard Specification for the Classification of the Durability of Sealed Insulating Glass Units. The sealing system must be qualified in accordance with ASTM E 773–97, Standard Test Methods for Accelerated Weathering of Sealed Insulating Glass Units. Each glass unit must be permanently identified with the name of the insulating glass manufacturer.

(e) *Certification.* All primary windows and sliding glass doors to be installed in manufactured homes must be certified as complying with AAMA 1701.2–95. This certification must be based on tests conducted at the design wind loads specified in § 3280.305(c)(1).

(1) All such windows and doors must show evidence of certification by affixing a quality certification label to the product in accordance with ANSI Z34.1–1993, Third-Party Certification Programs for Products, Processes, and Services.

(2) In determining certifiability of the products, an independent quality assurance agency shall conduct pre-production specimen tests in accordance with AAMA 1701.2–95. Further, such agency must inspect the product manufacturer's facility at least twice per year.

* * * * *

■ 14. In § 3280.404, revise paragraph (b) to read as follows:

§ 3280.404 Standard for egress windows and devices for use in manufactured homes.

* * * * *

(b) *Performance.* Egress windows including auxiliary frame and seals, if any, shall meet all requirements of AAMA 1701.2–95, Voluntary Standard Primary Window and Sliding Glass Door for Utilization in Manufactured Housing and AAMA Standard 1704–1985, Voluntary Standard Egress Window Systems for Utilization in Manufactured Housing, except the exterior and interior pressure tests for components and cladding must be conducted at the design wind loads required by § 3280.305(c)(1).

* * * * *

■ 15. In § 3280.405, revise paragraphs (b), (c) and (e) to read as follows:

§ 3280.405 Standard for swinging exterior passage doors for use in manufactured homes.

* * * * *

(b) *Performance requirements.* The design and construction of exterior door units must meet all requirements of AAMA 1702.2–95, Voluntary Standard Swinging Exterior Passage Door for Utilization in Manufactured Housing.

(c) *Materials and methods.* Any material or method of construction shall conform to the performance requirements as outlined in paragraph (b) of this section. Plywood shall be exterior type and preservative treated in accordance with NWWDA I.S.4–81, Water Repellent Preservative Non-Pressure Treatment for Millwork.

* * * * *

(e) *Certification.* All swinging exterior doors to be installed in manufactured homes must be certified as complying with AAMA 1702.2–95, Voluntary Standard Swinging Exterior Passage Door for Utilization in Manufactured Housing.

(1) All such doors must show evidence of certification by affixing a quality certification label to the product in accordance with ANSI Z34.1–1993, Third Party Certification Programs for Products, Processes, and Services.

(2) In determining certifiability of the products, an independent quality assurance agency must conduct a pre-production specimen test in accordance with AAMA 1702.2–95, Voluntary Standard Swinging Exterior Passage Door for Utilization in Manufactured Housing.

* * * * *

■ 16. In § 3280.406, revise the introductory text in paragraph (b) to read as follows:

§ 3280.406 Air chamber test method for certification and qualification of formaldehyde emission levels.

* * * * *

(b) *Testing.* Testing must be conducted in accordance with the Standard Test Method for Determining Formaldehyde Levels from Wood Products Under Defined Test Conditions Using a Large Chamber, ASTM E 1333–96, with the following exceptions:

* * * * *

■ 17. In § 3280.504, revise paragraph (a)(1) and paragraph (b) to read as follows:

§ 3280.504 Condensation control and installation of vapor retarders.

(a) *Ceiling vapor retarders.* (1) In U_o Value Zones 2 and 3, ceilings must have a vapor retarder with a permeance of not greater than 1 perm (as measured by ASTM E 96–95 Standard Test Methods for Water Vapor Transmission of Materials) installed on the living space side of the roof cavity.

* * * * *

(b) *Exterior walls.* (1) Exterior walls must have a vapor retarder with a permeance no greater than 1 perm (dry cup method) installed on the living space side of the wall; or

(2) Unventilated wall cavities must have an external covering and/or sheathing that forms the pressure envelope. The covering and/or sheathing must have a combined permeance of not less than 5.0 perms. In the absence of test data, combined permeance is permitted to be computed using the following formula: P total = $(1/[(1/P_1) + (1/P_2)])$, where P_1 and P_2 are the permeance values of the exterior covering and sheathing in perms. Formed exterior siding applied in sections with joints not caulked or sealed, are not considered to restrict water vapor transmission; or

(3) Wall cavities must be constructed so that ventilation is provided to dissipate any condensation occurring in these cavities; or

(4) Homes manufactured to be sited in ''humid climates'' or ''fringe climates'' as shown on the Humid and Fringe Climate Map in this paragraph are permitted to have a vapor retarder specified in paragraph (b)(1) of this section installed on the exterior side of the wall insulation or be constructed with an external covering and sheathing with a combined permeance of not greater than 1.0 perms, provided the interior finish and interior wall panel materials have a combined permeance of not less than 5.0 perms. The following need not meet the minimum combined permeance rating of not less than 5.0 perms for interior finish or wall panel materials:

(i) Kitchen back splash materials, less than 50 square feet in area installed around countertops, sinks, and ranges;

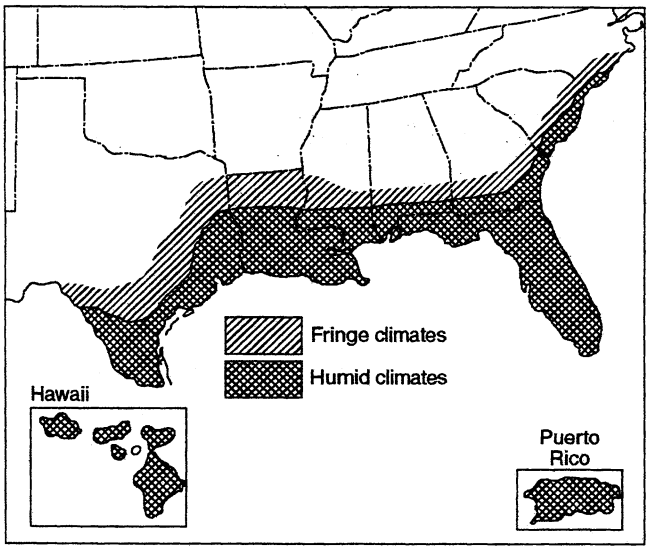
(ii) Bathroom tub areas, shower compartments;

(iii) Cabinetry and built-in furniture;

(iv) Trim materials;

(v) Hardboard wall paneling of less than 50 square feet in area under chair rails.

Humid and Fringe Climate Map



(5) The following areas of local governments (counties or similar areas, unless otherwise specified), listed by state are deemed to be within the humid and fringe climate areas shown on the Humid and Fringe Climate Map in paragraph (b)(4) of this section, and the vapor retarder or construction methods specified in paragraph (b)(4) of this section may be applied to homes built to be sited within these jurisdictions:

Alabama

Baldwin, Barbour, Bullock, Butler, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Lowndes, Marengo, Mobile, Monroe, Montgomery, Pike, Washington, Wilcox.

Florida

All counties and locations within the State of Florida.

Georgia

Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clay, Clinch, Coffee, Colquitt, Cook, Crisp, Decatur, Dougherty, Early, Echols, Effingham, Evans, Glynn, Wayne, Grady, Irwin, Jeff Davis, Lanier, Lee, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Quitman, Randolph, Seminole, Tattnall, Terrell, Thomas, Tift, Turner, Ware, Worth.

Hawaii

All counties and locations within the State of Hawaii.

Louisiana

All counties and locations within the State of Louisiana.

Mississippi

Adams, Amite, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Pearl River, Perry, Pike, Rankin, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson.

North Carolina

Brunswick, Carteret, Columbus, New Hanover, Onslow, Pender.

South Carolina

Jasper, Beaufort, Colleton, Dorchester, Charleston, Berkeley, Georgetown, Horry.

Texas

Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Colorado, Comal, De Witt, Dimmit, Duval, Falls, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hopkins, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kaufman, Kennedy, Kinney, Kleberg, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Madison, Marion, Matagorda, Maverick, McMullen, Medina, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Polk, Rains, Refugio, Robertson, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Starr, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wood, Zapata, Zavala.

* * * * *

■ 18. In § 3280.508, revise paragraphs (a), (b), and (e) to read as follows:

§ 3280.508 Heat loss, heat gain, and cooling load calculations.

(a) Information, values and data necessary for heat loss and heat gain determinations must be taken from the 1997 ASHRAE Handbook of Fundamentals, Inch-Pound Edition, chapters 22 through 27. The following portions of those chapters are not applicable:

23.1 Steel Frame Construction
23.2 Masonry Construction
23.3 Foundations and Floor Systems
23.15 Pipes
23.17 Tanks, Vessels, and Equipment
23.18 Refrigerated Rooms and Buildings
24.18 Mechanical and Industrial Systems
25.19 Commercial Building Envelope Leakage
27.9 Calculation of Heat Loss from Crawl Spaces

(b) The calculation of the manufactured home's transmission heat loss coefficient (Uo) must be in accordance with the fundamental principles of the 1997 ASHRAE Handbook of Fundamentals, Inch-Pound Edition, and, at a minimum, must address all the heat loss or heat gain considerations in a manner consistent with the calculation procedures provided in the document, Overall U-values and Heating/Cooling Loads—Manufactured Homes—February 1992–PNL 8006, HUD User No. 0005945.

* * * * *

(e) U values for any glazing (e.g., windows, skylights, and the glazed portions of any door) must be based on tests using AAMA 1503.1–1988, Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows, Doors, and Glazed Wall Sections, or the National Fenestration Rating Council 100, 1997 Edition, Procedure for Determining Fenestration Product U-factors. In the absence of tests, manufacturers are to use the residential window U values contained in Chapter 29, Table 5 of the 1997 ASHRAE Handbook of Fundamentals, Inch-Pound Edition. In the event that the classification of the window type is indeterminate, the manufacturer must use the classification that gives the higher U value. Where a composite of materials from two different product types is used, the product is to be assigned the higher U value. For the purpose of calculating U_o values, storm windows are treated as an additional pane.

* * * * *

■ 19. In § 3280.510, add paragraph (d) to read as follows:

§ 3280.510 Heat loss certificate.

* * * * *

(d) The following additional statement must be provided on the heating certificate and data plate required by § 3280.5 when the home is built with a vapor retarder of not greater than one perm (dry cup method) on the exterior side of the insulation: ''This home is designed and constructed to be sited only in humid or fringe climate regions as shown on the Humid and Fringe Climate Map.'' A reproduction of the Humid and Fringe Climate Map in § 3280.504 is to be provided on the heating certificate and data plate. The map must be not less than 3½ inch x 2¼ inch in size and may be combined with the U_o Value Zone Map for Manufactured Housing in § 3280.506.

■ 20. In § 3280.604, revise paragraph (b)(2) and the table following paragraph (b)(2) to read as follows:

§ 3280.604 Materials.

* * * * *

(b) * * *

(2) When a plastic material or component is not covered by the Standards in the following table, it must be certified as non-toxic in accordance with ANSI/NSF 61–2001, Drinking water system components—Health effects.

Ferrous Pipe and Fittings

Gray Iron Threaded Fittings—ANSI/ASME B16.4–1992.

Malleable Iron Threaded Fittings—ANSI/ASME B16.3–1992.

Material and Property Standard for Special Cast Iron Fittings—IAPMO PS 5–84.

Welding and Seamless Wrought Steel Pipe—ANSI/ASME B36.10–1979.

Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless—ASTM A53–93.

Pipe Threads, General Purpose (Inch)—ANSI/ASME B1.20.1–1983.

Standard Specification for Cast Iron Soil Pipe and Fittings—ASTM A74–92.

Standard Specification for Hubless Cast Iron Soil Pipe and Fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications—CISPI–301–90.

Nonferrous Pipe and Fittings

Standard Specification for Seamless Copper Pipe, Standard Sizes—ASTM B42–93.

Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube—ASTM B251–93.

Standard Specification for Seamless Copper Water Tube—ASTM B88–93.

Standard Specification for Copper Drainage Tube (DWV)—ASTM B306–92.

Wrought Copper and Copper Alloy Solder-Joint Pressure Fitting—ASME/ANSI B16.22–1989.

Wrought Copper and Wrought Copper Alloy Solder-Joint Drainage Fittings-DWV—ASME/ANSI B16.29–1986.

Cast Copper Alloy Solder-Joint Pressure Fittings—ANSI B16.18–1984.

Cast Copper Alloy Solder-Joint Drainage Fittings-DWV—ASME B16.23–1992.

Cast Copper Alloy Fittings for Flared Copper Tubes—ASME/ANSI B16.26–1988.

Standard Specification for Seamless Red Brass Pipe, Standard Sizes—ASTM B43–91.

Cast Bronze Threaded Fittings, Classes 125 and 250—ANSI/ASME B16.15–1985.

Plastic Pipe and Fittings

Standard Specification Acrylonitrile-Butadiene-Styrene (ABS) Schedule 40 Plastic Drain, Waste, and Vent Pipe and Fittings—ASTM D2661–91.

Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste, and Vent Pipe and Fittings—ASTM D2665–91b.

Standard Specification for Drain, Waste, and Vent (DWV) Plastic Fittings Patterns—ASTM D3311–92.

Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Schedule 40, Plastic Drain, Waste, and Vent Pipe With a Cellular Core—ASTM F628–91.

Standard Specification for Chlorinated Poly (Vinyl Chloride) (CPVC) Plastic Hot- and Cold-Water Distribution Systems—ASTM D2846–92.

Standard Specification for Polybutylene (PB) Plastic Hot- and Cold-Water Distribution Systems—ASTM D3309–92a.

Plastic Piping Components and Related Materials—ANSI/NSF 14–1990.

Miscellaneous

Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings—ASTM C564–88.

Backflow Valves—ANSI A112.14.1–1975.

Plumbing Fixture Setting Compound—TTP 1536A–1975.

Material and Property Standard for Cast Brass and Tubing P-Traps—IAPMO PS 2–89.

Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems—ANSI Z21.22–1986, With Addendum Z21.22a-1990.

Standard Specification for Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe and Fittings—ASTM D2235–88.

Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems—ASTM D2564–91a.

Specification for Neoprene Rubber Gaskets for HUB and Spigot Cast Iron Soil Pipe and Fittings—CISPI–HSN–85.

Plumbing System Components for Manufactured Homes and Recreational Vehicles—ANSI/NSF 24–1988.

Material and Property Standard for Diversion Tees and Twin Waste Elbow—IAPMO PS 9–84.

Material and Property Standard for Flexible Metallic Water Connectors—IAPMO PS 14–89.

Material and Property Standard for Dishwasher Drain Airgaps—IAPMO PS 23–89.

Material and Property Standards for Backflow Prevention Assemblies—IAPMO PS 31–91.

Performance Requirements for Air Admittance Valves for Plumbing Drainage Systems, Fixture and Branch Devices—ASSE

Standard #1051, 1990 Revised: 1996/ANSI 1998.

Drinking Water System Components–Health Effects—ANSI/NSF 61–2001.

Plumbing Fixtures

Plumbing Fixtures (General Specifications)—FS WW–P–541E/GEN–1980.

Vitreous China Plumbing Fixtures—ANSI/ASME A112.19.2(M)–1990.

Enameled Cast Iron Plumbing Fixtures—ANSI/ASME A112.19.1M–1987.

Porcelain Enameled Formed Steel Plumbing Fixtures—ANSI/ASME A112.19.4(M)–1984.

Plastic Bathtub Units with Addenda Z124.1a–1990 and Z124.16–1991—ANSI Z124.1–1987.

Standard for Porcelain Enameled Formed Steel Plumbing Fixtures—IAPMO TSC 22–85.

Plastic Shower Receptors and Shower Stalls with Addendum Z124.2a–1990—ANSI Z124.2–1987.

Stainless Steel Plumbing Fixtures (Designed for Residential Use)—ANSI/ASME A112.19.3M–1987.

Material and Property Standard for Drains for Prefabricated and Precast Showers—IAPMO PS 4–90.

Plastic Lavatories with Addendum Z124.3a–1990—ANSI Z124.3–1986.

Safety Performance Specifications and Methods of Test for Safety Glazing Materials Used in Building—ANSI Z97.1–1984.

Water Heater Relief Valve Drain Tubes—ASME A112.4.1–1993.

Flexible Water Connectors—ASME A112.18.6–1999.

Performance Requirements for Backflow Protection Devices and Systems in Plumbing Fixture Fittings—ASME A112.18.3M–1996.

Non-Vitreous Ceramic Plumbing Fixtures—ASME A112.19.9M–1991.

Dual Flush Devices for Water Closets—ASME A119.19.10–1994.

Deck Mounted Bath/Shower Transfer Valves with Integral Backflow Protection—ASME A112.18.7–1999.

Plastic Fittings for Connecting Water Closets to the Sanitary Drainage System—ASME A112.4.3–1999.

Hydraulic Performance Requirements for Water Closets and Urinals, ASME A112.19.6–1995.

Plumbing Fixture Fittings—ASME/ANSI A112.18.1M–1989.

Trim for Water Closet, Bowls, Tanks, and Urinals—ANSI A112.19.5–1979.

Plastic Water Closets, Bowls, and Tanks with Addenda Z124.4a-1990—ANSI Z124.4–1986.

ANSI Z124.5, Plastic Toilet (Water Closets) Seats, 1997.

ANSI Z124.7, Prefabricated Plastic Spa Shells, 1997.

Whirlpool Bathtub Appliances—ASME/ANSI A112.19.7M–1987.

ANSI Z–124.9, Plastic Urinal Fixtures, 1994.

Performance Requirements for Individual Thermostatic Pressure Balancing and Combination Control for Bathing Facilities—ASSE 1016–1988 (ANSI 1990).

Performance Requirements for Pressurized Flushing Devices (Flushometers) for Plumbing Fixtures—ASSE 1037–1990 (ANSI–1990).

Performance Requirements for Water Closet Flush Tank Fill Valves (Ballcocks)—ASSE 1002 Revision 5–1986 (ANSI/ASSE–1979).

Performance Requirements for Hand-held Showers—ASSE 1014–1989 (ANSI–1990).

Hydrants for Utility and Maintenance Use—ANSI/ASME A112.21.3M–1985.

Performance Requirements for Home Laundry Equipment—ASSE 1007–1986.

Performance Requirements for Hot Water Dispensers, Household Storage Type Electrical—ASSE 1023, (ANSI/ASSE–1979).

Plumbing Requirements for Residential Use (Household) Dishwashers—ASSE 1006, (ASSE/ANSI–1986).

Performance Requirements for Household Food Waste Disposer Units—ASSE 1008–1986.

Performance Requirements for Temperature Activated Mixing Valves for Primary Domestic Use—ASSE 1017–1986.

Water Hammer Arresters—ANSI A112.26.1–1969 (R 1975).

Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances—ASME/ANSI A112.19.8M–1989.

Air Gaps in Plumbing Systems—ASME A112.1.2–1991.

Performance Requirements for Diverters for Plumbing Faucets with Hose Spray, Anti-Siphon Type, Residential Applications—ASSE 1025 (ANSI/ASSE–1978).

Performance Requirements for Pipe Applied Atmospheric Type Vacuum Breakers—ASSE 1001 (ASSE/ANSI–1990).

Performance Requirements for Hose Connection Vacuum Breakers—ASSE 1011–1981 (ANSI–1982).

Performance Requirements for Wall Hydrants, Frost Proof Automatic Draining, Anti-Backflow Types—ANSI/ASSE 1019–1978.

■ 21. In § 3280.607, add new paragraph (a)(6), redesignate paragraphs (b)(2)(iii) through (v) as paragraphs (b)(2)(iv) through (vi), respectively, add new paragraph (b)(2)(iii), and revise paragraph (c)(6)(iv) to read as follows:

§ 3280.607 Plumbing fixtures.

(a) * * *

(6) *Water conservation.* All lavatory faucets, showerheads, and sink faucets must not exceed a flow of 2.5 gallons per minute (gpm).

(b) * * *

(2) * * *

(iii) All water closets must be low consumption (1.6 gallons per flush (gpf)) closets.

* * * * *

(c) * * *

(6) * * *

(iv) *Electrical.* Wiring must comply with the National Electrical Code NFPA 70–1996, Section 680G.

■ 22. In § 3280.703, revise the table following the introductory text to read as follows:

§ 3280.703 Minimum standards.

* * * * *

Appliances

Heating and Cooling Equipment, Second Edition, with 1999 revisions—UL 1995, 1995.

Liquid Fuel-Burning Heating Appliances for Manufactured Homes and Recreational Vehicles, Seventh Edition, with 1997 revisions—UL 307A–1995.

Fixed and Location-Dedicated Electric Room Heaters, Second Edition, with 1998 revisions—UL 2021–1997.

Electric Baseboard Heating Equipment, Fourth Edition, with 1998 revisions—UL 1042–1994.

Electric Central Air Heating Equipment—UL 1096-Fourth Edition-1986 with revisions July 16, 1986, and January 30, 1988.

Gas Burning Heating Appliances for Manufactured Homes and Recreational Vehicles, Fourth Edition, with 1998 revisions—UL 307B–1995.

Gas Clothes Dryers Volume 1, Type 1 Clothes Dryers—ANSI Z21.5.1–/CSA 7.1–M99—1999 with Addendum Z21.5.1a–1999.

Gas Fired Absorption Summer Air Conditioning Appliances—ANSI Z21.40.1/CGA 2.91–M961996.

Gas-Fired Central Furnaces (Except Direct Vent System Central Furnaces)—ANSI Z21.47–1990 with Addendum Z21.47a–1990 and Z21.47b–1992.

Household Cooking Gas Appliances—ANSI Z21.1–2000.

Refrigerators Using Gas Fuel—ANSI Z21.19–1990, with Addendum ANSI Z21.19a–1992 and Z21.19b–1995.

Gas Water Heaters—Volume 1, Storage Water Heaters with Input Ratings of 75,000 BTU per hour or Less—ANSI Z21.10.1–1998 with Addendum Z21.10.1a–2000.

Household Electric Storage Tank Water Heaters, Tenth Edition—UL 174–1996, with 1997 revisions.

Ferrous Pipe and Fittings

Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless—ASTM A53–93.

Standard Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines—ASTM A539–1999.

Pipe Threads, General Purpose (Inch)—ANSI/ASME B1.20.1–1983.

Welding and Seamless Wrought Steel Pipe—ANSI/ASME B36.10–1979.

Nonferrous Pipe, Tubing, and Fittings

Standard Specification for Seamless Copper Water Tube—ASTM B88–93.

Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service—ASTM B280, A–95.

Connectors for Gas Appliances—ANSI Z21.24/CGA 6.10–M97–1997.

Manually Operated Gas Valves for Appliances, Appliance Connector Valves and Hose End Valves—ANSI Z21.15/CGA 9.1–M97–1997.

Standard for Gas Supply Connectors for Manufactured Homes—IAPMO TSC 9–1997.

Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tubes—ASTM B251–93.

Standard Specification for Seamless Copper Pipe, Standard Sizes—ASTM B42–93.

Miscellaneous

Factory-Made Air Ducts and Connectors, Ninth Edition—UL 181, 1996 with 1998 revisions.

Standard for Safety Closure Systems for use with Rigid Air Ducts and Air Connectors, UL 181A, 1994, with 1998 revisions.

Standard for Safety Closure Systems for use with Flexible Air Ducts and Air Connectors, First Edition—UL 181B, 1995, with 1998 revisions.

Tube Fittings for Flammable and Combustible Fluids, Refrigeration Service, and Marine Use, Sixth Edition—UL 109–1997, with 2001 revisions.

Pigtails and Flexible Hose Connectors for LP-Gas, Seventh Edition—UL 569, 1995 with 2001 revisions.

Roof Jacks for Manufactured Homes and Recreational Vehicles, Eighth Edition—UL 311, 1994, with 1998 revisions.

Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems—ANSI Z21.22/CSA 4.4–M99, 1999.

Automatic Gas Ignition Systems and Components—ANSI Z21.20 with Addendum Z21.20a–2000.

Automatic Valves for Gas Appliances—ANSI Z21.21/CSA 6.5–2000.

Gas Appliance Thermostats—ANSI Z21.23–1989, with Addendum Z21.23a–1991.

Gas Vents, Ninth Edition—UL 441, 1996 with 1999 revisions.

Standard for the Installation of Oil-Burning Equipment, NFPA 31, 1997 Edition.

National Fuel Gas Code—NFPA 54–2002/ANSI Z223.1–2002.

Warm Air Heating and Air Conditioning Systems, NFPA 90B, 1996 Edition.

Liquefied Petroleum Gas Code, NFPA 58–2001 Edition.

Flares for Tubing—SAE–J533b–1992.

Factory-Built Chimneys for Residential Type and Building Heating Appliances, Ninth Edition—UL 103, 1995, with 1999 revisions.

Factory-Built Fireplaces, Seventh Edition—UL 127–1996, with 1999 revisions.

Solid-Fuel Type Room Heaters, Fifth Edition—UL 1482, 1995, with 2000 revisions.

Fireplace Stoves, Eight Edition, with 2000 revisions—UL 737, 1996.

Unitary Air-Conditioning and Air-Source Heat Pump Equipment—ANSI/ARI 210/240–89.

AGA Requirements for Gas Connectors for Connection of Fixed Appliances for Outdoor Installation, Park Trailers, and Manufactured (Mobile) Homes to the Gas Supply—No. 3–87.

■ 23. In § 3280.704, revise paragraph (b)(5)(i) to read as follows:

§ 3280.704 Fuel supply systems.

* * * * *

(b) * * *

(5) *LP-gas safety devices.* (i) DOT containers must be provided with safety relief devices as required by the regulation of the U.S. Department of Transportation. ASME containers must be provided with relief valves in accordance with subsection 2.3.2 of NFPA 58–2001, Standard for the Storage and Handling Liquefied Petroleum Gases. Safety relief valves must have direct communication with the vapor space of the vessel.

* * * * *

■ 24. In § 3280.705, revise paragraphs (b)(3), (b)(4), (c)(2), (l)(1), (l)(2)(ii), and (l)(3) to read as follows:

§ 3280.705 Gas piping systems.

* * * * *

(b) * * *

(3) Copper tubing must be annealed type, Grade K or L, conforming to the Standard Specification for Seamless Copper Water Tube, ASTM B88–93, or must comply with the Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Service, ASTM B280–1995. Copper tubing must be internally tinned.

(4) Steel tubing must have a minimum wall thickness of 0.032 inch for tubing of ½ inch diameter and smaller and 0.049 inch for diameters ½ inch and larger. Steel tubing must be in accordance with ASTM Standard Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines, ASTM A539–1999, and must be externally corrosion protected.

(c) * * *

(2) The connection(s) between units must be made with a connector(s) listed for exterior use or direct plumbing sized in accordance with § 3280.705(d). A shutoff valve of the non-displaceable rotor type conforming to ANSI Z21.15–1997, Manually Operated Gas Valves for Appliances, Appliances Connector Valves, and Hose End Valves, suitable for outdoor use must be installed at each crossover point upstream of the connection.

* * * * *

(l) * * *

(1) A listed LP-Gas flexible connection conforming to UL 569–1995, Pigtails and Flexible Hose Connectors for LP Gas, or equal must be supplied when LP-Gas cylinders(s) and regulator(s) are supplied.

(2) * * *

(ii) The outlet must be provided with an approved quick-disconnect device, which must be designed to provide a positive seal on the supply side of the gas system when the appliance is disconnected. A shutoff valve of the non-displaceable rotor type conforming to ANSI Z21.15–1997, Manually Operated Gas Valves, must be installed immediately upstream of the quick-disconnect device. The complete device must be provided as part of the original installation.

* * * * *

(3) *Valves.* A shutoff valve must be installed in the fuel piping at each appliance inside the manufactured home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components. The shutoff valve must be located within 6 feet of any cooking appliance and within 3 feet of any other appliance. A shutoff valve may serve more than one appliance if located as required by this paragraph (3). The shutoff valve must be of the non-displaceable rotor type and conform to ANSI Z21.15–1997, Manually Operated Gas Valves.

* * * * *

■ 25. In § 3280.706, revise paragraph (b)(3) to read as follows:

§ 3280.706 Oil piping systems.

* * * * *

(b) * * *

(3) Copper tubing must be annealed type, Grade K or L conforming to the Standard Specification for Seamless Copper Water Tube, ASTM B88–93, or shall comply with ASTM B280–1995, Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service.

* * * * *

■ 26. In § 3280.707, revise paragraph (f) to read as follows:

§ 3280.707 Heat producing appliances.

* * * * *

(f) *Oil-fired heating equipment.* All oil-fired heating equipment must conform to Liquid Fuel-burning Heating Appliances for Manufactured Homes and Recreational Vehicles, UL 307A—1995, with 1997 revisions, and be installed in accordance with Standard for the Installation of Oil Burning Equipment, NFPA 31–1997. Regardless of the requirements of the above-referenced standards, or any other standards referenced in this part, the following are not required:

(1) External switches or remote controls which shut off the burner or the flow of oil to the burner, or

(2) An emergency disconnect switch to interrupt electric power to the equipment under conditions of excessive temperature.

■ 27. In § 3280.709, add paragraph (h) to read as follows:

§ 3280.709 Installation of appliances.

* * * * *

(h) A corrosion resistant water drip collection and drain pan must be

installed under each water heater that will allow water leaking from the water heater to drain to the exterior of the manufactured home, or to a drain.

■ 28. In § 3280.714, revise paragraph (a)(2) to read as follows:

§ 3280.714 Appliance cooling.

(a) * * *

(2) Gas fired absorption air conditioners must be listed or certified in accordance with ANSI Z21.40.1–1996, Gas Fired, Heat Activated, Air Conditioning and Heat Pump Appliances, and certified by a nationally recognized testing agency capable of providing follow-up service.

* * * * *

■ 29. In § 3280.715, revise paragraph (c), the introductory text of paragraph (e), and paragraph (e)(1) to read as follows:

§ 3280.715 Circulating air systems.

* * * * *

(c) *Joints and seams.* Joints and seams of sheet metal and factory-made flexible ducts, including trunks, branches, risers, crossover ducts, and crossover duct plenums, shall be mechanically secured and made substantially airtight. Slip joints in sheet metal ducts shall have a lap of at least one inch and shall be mechanically fastened. Tapes or caulking compounds shall be permitted to be used for sealing mechanically secure joints. Sealants and tapes shall be applied only to surfaces that are dry and dust-, dirt-, oil-, and grease-free. Tapes and mastic closure systems for use with factory-made rigid fiberglass air ducts and air connectors shall be listed in accordance with UL Standard 181A–1994, with 1998 revisions. Tapes and mastic closure systems used with factory-made flexible air ducts and air connectors shall be listed in accordance with UL Standard 181B–1995, with 1998 revisions.

* * * * *

(e) *Registers and grilles.* Fittings connecting the registers and grilles to the duct system must be constructed of metal or material that complies with the requirements of Class 1 or 2 ducts under UL 181–1996 with 1998 revisions, Factory Made Air Ducts and Connectors. Air supply terminal devices (registers) when installed in kitchen, bedrooms, and bathrooms must be equipped with adjustable closeable dampers. Registers or grilles must be constructed of metal or conform with the following:

(1) Be made of a material classified 94V–0 or 94V–1, when tested as described in UL 94–1996, with 2001 revisions, Test for Flammability of Plastic Materials for Parts in Devices and Appliances, Fifth Edition; and

* * * * *

■ 30. In § 3280.801, revise paragraphs (a) and (b) to read as follows:

§ 3280.801 Scope.

(a) Subpart I of these Standards and part B of Article 550 of the National Electrical Code (NFPA No. 70–2005) cover the electrical conductors and equipment installed within or on manufactured homes and the conductors that connect manufactured homes to a supply of electricity.

(b) In addition to the requirements of this Standard and Article 550 of the National Electrical Code, NFPA No. 70–2005, the applicable portions of other Articles of the National Electrical Code must be followed for electrical installations in manufactured homes. The use of arc-fault breakers under Articles 210.12(A) and (B), 440.65, and 550.25(A) and (B) of the National Electrical Code, NFPA No. 70–2005 is not required. However, if arc-fault breakers are provided, such use must be in accordance with the National Electrical Code, NFPA No. 70–2005. Wherever the requirements of this standard differ from the National Electrical Code, these standards apply.

* * * * *

■ 31. In § 3280.803, redesignate the receptacle/cap illustration and caption that follows paragraph (g) to the end of paragraph (f), and revise the redesignated caption following the redesignated illustration, paragraph (k)(1), the introductory text of paragraph (k)(3), and paragraphs (k)(3)(ii) and (k)(3)(iii) to read as follows:

§ 3280.803 Power supply.

* * * * *

(f) * * *

50-ampere 125/250 volt receptacle and attachment-plug-cap configurations, 3 pole, 4-wire grounding types used for manufactured home supply cords and manufactured home parks. Complete details of the 50-ampere cap and receptacle can be found in the American National Standard Dimensions of Caps, Plugs, and Receptacles, Grounding Type (ANSI/NEMA—WD–6–1997–Wiring Devices–Dimensional Specifications).

* * * * *

(k) * * *

(1) One mast weatherhead installation installed in accordance with Article 230 of the National Electrical Code, NFPA No. 70–2005, containing four continuous insulated, color-coded, feeder conductors, one of which shall be an equipment grounding conductor; or

* * * * *

(3) Service equipment installed on the manufactured home in accordance with Article 230 of the National Electrical Code, NFPA No. 70–2005, and the following requirements:

* * * * *

(ii) Exterior equipment, or the enclosure in which it is installed must be weatherproof and installed in accordance with Article 312.2(A) of the National Electrical Code, NFPA No. 70–2005, and conductors must be suitable for use in wet locations;

(iii) Each neutral conductor must be connected to the system grounding conductor on the supply side of the main disconnect in accordance with Articles 250.24, 250.26, and 250.28 of the National Electrical Code, NFPA No. 70–2005.

* * * * *

■ 32. In § 3280.804, revise paragraph (a) and the first sentence of paragraph (k) to read as follows:

§ 3280.804 Disconnecting means and branch-circuit protective equipment.

(a) The branch-circuit equipment is permitted to be combined with the disconnecting means as a single assembly. Such a combination is permitted to be designated as a distribution panelboard. If a fused distribution panelboard is used, the maximum fuse size of the mains must be plainly marked with lettering at least ¼-inch high and that is visible when fuses are changed. (See Article 110.22 of NFPA 70–2005, National Electrical Code, concerning identification of each disconnecting means and each service, feeder, or branch circuit at the point where it originated and the type marking needed.)

* * * * *

(k) When a home is provided with installed service equipment, a single disconnecting means for disconnecting the branch circuit conductors from the service entrance conductors must be provided in accordance with Article 230, Part VI of the National Electrical Code, NFPA No. 70–2005. * * *

* * * * *

■ 33. In § 3280.805, revise paragraph (a)(3)(iv) to read as follows:

§ 3280.805 Branch circuits required.

(a) * * *

(3) * * *

(iv) The rating of the range branch circuit is based on the range demand as specified for ranges in § 3280.811(a)(5). For central air conditioning, see Article 440 of the National Electrical Code, NFPA No. 70–2005.

* * * * *

■ 34. In § 3280.806, revise paragraph (a)(2) and paragraph (d)(9) to read as follows:

§ 3280.806 Receptacle outlets.

(a) * * *

(2) Installed according to Article 406.3 of the National Electrical Code, NFPA No. 70–2005.

* * * * *

(d) * * *

(9) At least one wall receptacle outlet shall be installed in bathrooms within 36 inches (914 mm) of the outside edge of each basin. The receptacle outlet must be located on a wall that is adjacent to the basin location. This receptacle is in addition to any receptacle that is part of a lighting fixture or appliance. The receptacle must not be enclosed within a bathroom cabinet or vanity.

* * * * *

■ 35. In § 3280.807, revise paragraph (c) to read as follows:

§ 3280.807 Fixtures and appliances.

* * * * *

(c) If a lighting fixture is provided over a bathtub or in a shower stall, it must be of the enclosed and gasketed type, and be listed for use in wet locations. See also Article 410.4(D) of the National Electrical Code, NFPA No. 70–2005.

* * * * *

■ 36. In § 3280.808, revise paragraphs (a), (m), (o), and (q), remove paragraph (r), and re-designate paragraph (s) as paragraph (r), to read as follows:

§ 3280.808 Wiring methods and materials.

(a) Except as specifically permitted by this part, the wiring methods and materials specified in the National Electrical Code, NFPA No. 70–2005, must be used in manufactured homes.

* * * * *

(m) Outlet boxes of dimensions less than those required in Table 314.16(A) of the National Electrical Code, NFPA No. 70–2005, are permitted provided the box has been tested and approved for that purpose.

* * * * *

(o) Outlet boxes must fit closely to openings in combustible walls and ceilings and must be flush with the finish surface or project therefrom. In walls and ceilings of noncombustible material, outlet boxes and fittings must be installed so that the front edge of the box or fitting will not be set back from the finished surface more than ¼ inch. Plaster, drywall, or plasterboard surfaces that are broken or incomplete must be repaired so that there will be no gaps or open spaces greater than ⅛ inch at the edge of the box or fitting.

* * * * *

(q) A substantial brace for securing a box, fitting, or cabinet must be as described in the National Electrical Code, NFPA 70–2005, Article 314.23(B), or the brace, including the fastening mechanism to attach the brace to the home structure, must withstand a force of 50 lbs. applied to the brace at the intended point(s) of attachment for the box in a direction perpendicular to the surface on which the box is installed.

* * * * *

■ 37. In § 3280.811, revise the introductory text of paragraph (b) to read as follows:

§ 3280.811 Calculations.

* * * * *

(b) The following is an optional method of calculation for lighting and appliance loads for manufactured homes served by single 3-wire 120/240 volt set of feeder conductors with an ampacity of 100 or greater. The total load for determining the feeder ampacity may be computed in accordance with the following table instead of the method previously specified. Feeder conductors whose demand load is determined by this optional calculation are permitted to have the neutral load determined by Article 220.61 of the National Electrical Code, NFPA No. 70–2005. The loads identified in the table as ''other load'' and as ''Remainder of other load'' must include the following:

* * * * *

Dated: November 22, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 05–23387 Filed 11–23–05; 12:30 pm]

BILLING CODE 4210–27–P

Federal Register

Wednesday,
November 30, 2005

Part V

The President

Memorandum of November 2, 2005—Assignment of Certain Reporting Functions

Presidential Determination No. 2006–4 of November 22, 2005—Presidential Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Federal Register
Vol. 70, No. 229
Wednesday, November 30, 2005

Presidential Documents

Title 3—

The President

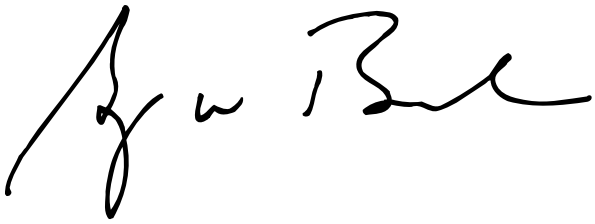
Memorandum of November 2, 2005

Assignment of Certain Reporting Functions

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President contained within section 1205 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, November 2, 2005.

[FR Doc. 05–23539
Filed 11–29–05; 8:45 am]
Billing code 4710–10–P

Presidential Documents

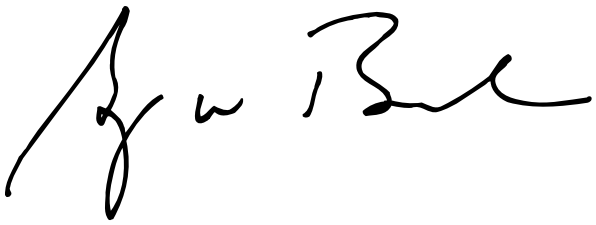
Presidential Determination No. 2006–4 of November 22, 2005

Presidential Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $5 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet unexpected urgent humanitarian needs of refugees and other victims of the October 2005 earthquake in Pakistan. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to arrange for the publication of this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, November 22, 2005.

[FR Doc. 05–23540
Filed 11–29–05; 8:45 am]
Billing code 4710–10–P

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November 30, 2005

Part VI

The President

Proclamation 7965—National Drunk and Drugged Driving Prevention Month, 2005

Proclamation 7966—National Pearl Harbor Remembrance Day, 2005

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 7965 of November 22, 2005

National Drunk and Drugged Driving Prevention Month, 2005

By the President of the United States of America

A Proclamation

During National Drunk and Drugged Driving Prevention Month, we renew our efforts to educate all Americans about the tragic consequences of impaired driving and encourage all Americans to drive responsibly.

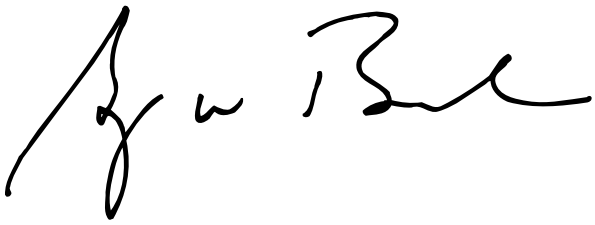
Every year, too many of our citizens get behind the wheel of an automobile after drinking alcohol or using drugs. This puts drivers, passengers, and others on the road at risk. Last year alone, drunk driving killed more than 16,000 people and accounted for more than 30 percent of all motor vehicle deaths.

My Administration remains committed to saving lives and preventing injuries resulting from drunk and drugged driving. The Department of Transportation's National Highway Traffic Safety Administration oversees the ''You Drink & Drive. You Lose.'' program, which educates our citizens about the dangers of driving under the influence. This campaign also encourages lifesaving measures to help keep impaired drivers off the road—including sobriety checkpoints, saturation patrols, and prosecution of those who break the law. To protect our Nation's young people and deter underage drinking, the Helping America's Youth initiative, led by First Lady Laura Bush, is promoting positive youth development and educating our children about the dangers associated with alcohol and drug use. With the help of parents, educators, and faith-based and community organizations, this initiative teaches our children to avoid alcohol and drug use, make healthy choices, and build lives of purpose.

Keeping drunk and drugged drivers off the road is vital for the safety of our loved ones and fellow citizens. All Americans can encourage responsible actions and work to ensure that those around them do not operate a vehicle while under the influence. When law enforcement, communities, and individuals unite against impaired driving, lives are saved and our Nation's roadways are made safer for everyone.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 2005 as National Drunk and Drugged Driving Prevention Month. I encourage all Americans to help keep our Nation's roadways safe by making responsible decisions and taking appropriate measures to prevent drunk and drugged driving.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of November, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–23549
Filed 11–29–05; 9:09 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7966 of November 28, 2005

National Pearl Harbor Remembrance Day, 2005

By the President of the United States of America

A Proclamation

On National Pearl Harbor Remembrance Day, we pray for those lost on December 7, 1941, and we honor the courage of a generation of Americans who devoted themselves to one of the great missions in our country's history. After the surprise attack on Pearl Harbor took more than 2,400 American lives, millions of our citizens answered the call to defend our liberty, and the world witnessed the power of freedom to overcome tyranny.

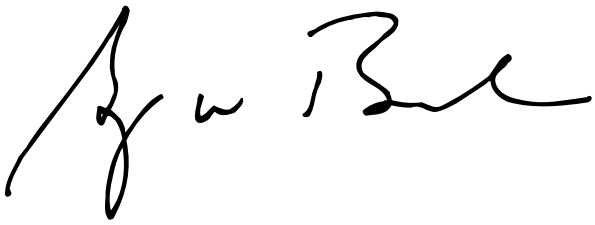
Liberty's ultimate triumph was far from clear in the early days of World War II. When our country was attacked at Pearl Harbor, America was emerging from the Great Depression, and several nations had larger armies than the United States. In Asia and Europe, country after country had fallen before the armies of militaristic tyrants. However, the brave and determined men and women of our Nation maintained their faith in the power of freedom and democracy. They fought and won a world war against two of the most ruthless regimes the world has ever known. In the years since those victories, the power of freedom and democracy has transformed America's enemies in World War II into close friends.

Today, our goal is to continue to spread freedom and democracy and to secure a more peaceful world for our children and grandchildren. We are grateful to the men and women who are defending our flag and our freedom in the first war of the 21st century. These patriots are protecting our country and our way of life by upholding the tradition of honor, bravery, and integrity demonstrated by those who fought for our Nation in World War II. The service and sacrifice of our World War II veterans continue to inspire people across our country, and we remain deeply grateful for all that these heroes have done for the cause of freedom.

The Congress, by Public Law 103–308, as amended, has designated December 7 of each year as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 7, 2005, as National Pearl Harbor Remembrance Day. I encourage all Americans to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff this December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of November, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–23550
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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 30, 2005

ENVIRONMENTAL PROTECTION AGENCY

Toxic substances:
- Chemical inventory update reporting
  - Correction; published 11-30-05

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Bering Sea, Aleutian Islands, Unalaska Island, AK; published 11-23-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Airbus; published 10-26-05
- Boeing; published 10-26-05
- Burkhart Grob Luft Und Raumfahrt GmbH & Co. KG; published 10-12-05
- Empresa Brasileira de Aeronautica S.A. (EMBRAER); published 10-26-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; Open for comments until further notice; published 8-26-05 [FR 05-16698]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Beef promotion and research; comments due by 12-5-05; published 10-5-05 [FR 05-20016]

Cherries (tart) grown in—
- Michigan et al.; comments due by 12-7-05; published 11-7-05 [FR 05-22115]

Cotton classing, testing and standards:
- Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):
- Tuberculosis in cattle and bison—
  - State and zone designations; comments due by 12-5-05; published 10-6-05 [FR 05-20098]

Plant-related quarantine, domestic:
- Karnal bunt; comments due by 12-5-05; published 10-5-05 [FR 05-19943]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Turkey operations; J-type cut maximum line speeds use of bar-type cut; comments due by 12-8-05; published 9-9-05 [FR 05-17887]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Reports and guidance documents; availability, etc.:
- National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Meetings; Sunshine Act; Open for comments until further notice; published 10-4-05 [FR 05-20022]

CIVIL RIGHTS COMMISSION

State advisory committees; operations and functions:
- Membership criteria; comments due by 12-5-05; published 11-4-05 [FR 05-21986]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Marine and anadromous species—
  - West coast oncorhynchus mykiss; 10 evolutionary significant units; delineation; comments due by 12-5-05; published 11-4-05 [FR 05-22043]

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Grouper; comments due by 12-7-05; published 11-22-05 [FR 05-23102]
  - Spanish mackerel; comments due by 12-9-05; published 11-9-05 [FR 05-22364]
- West Coast States and Western Pacific fisheries—
  - West Coast salmon; comments due by 12-5-05; published 11-18-05 [FR 05-22858]
  - West Coast salmon; comments due by 12-5-05; published 11-18-05 [FR 05-22863]

International fisheries regulations:
- Atlantic highly migratory species—
  - Fraser River sockeye salmon; inseason orders; comments due by 12-5-05; published 11-18-05 [FR 05-22862]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:
- Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Federal Acquisition Regulation (FAR):
- Additional contract types for certain commercial services; comments due by 12-9-05; published 11-29-05 [FR 05-23394]
- Time-and-materials and labor-hour contracts payments; comments due by 12-9-05; published 11-29-05 [FR 05-23395]

DEFENSE DEPARTMENT

Engineers Corps

Navigation regulations:
- Bonneville Lock and Dam, OR and WA; lockage operations and restricted areas changes; comments due by 12-8-05; published 10-24-05 [FR 05-21171]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:
- Vocational and adult education—
  - Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:
- Environmental Management Site-Specific Advisory Board—
  - Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:
- Test procedures and efficiency standards—
  - Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Industrial process cooling towers; comments due by 12-8-05; published 10-24-05 [FR 05-21188]
- Magnetic tape manufacturing operations; comments due by 12-8-05; published 10-24-05 [FR 05-21186]
- Sterilization facilities; ethylene oxide emissions; comments due by 12-8-05; published 10-24-05 [FR 05-21187]

Air programs:
- Stratospheric ozone protection—
  - Foam blowing substitutes for ozone-depleting substances; unacceptable substitutes list; comments due by 12-5-05; published 11-4-05 [FR 05-21927]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- Virginia; comments due by 12-5-05; published 11-4-05 [FR 05-22031]

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Coastal nonpoint pollution control program—
Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]
Radiation protection programs:
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National Pollutant Discharge Elimination System—
Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]
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Water pollution; effluent guidelines for point source categories:
Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

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Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]
Common carrier services:
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Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]
Radio stations; table of assignments:
Georgia and Tennessee; comments due by 12-5-05; published 11-2-05 [FR 05-21558]
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Virginia and West Virginia; comments due by 12-8-05; published 11-2-05 [FR 05-21557]

FEDERAL MEDIATION AND CONCILIATION SERVICE
Arbitration services:
Arbitration policies, functions, and procedures; amendments; comments due by 12-6-05; published 9-7-05 [FR 05-17648]

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Additional contract types for certain commercial services; comments due by 12-9-05; published 11-29-05 [FR 05-23394]
Time-and-materials and labor-hour contracts payments; comments due by 12-9-05; published 11-29-05 [FR 05-23395]

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services
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Non-random prepayment review; termination; comments due by 12-6-05; published 10-7-05 [FR 05-19925]

HEALTH AND HUMAN SERVICES DEPARTMENT
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Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]
Medical devices—
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

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Country of origin of textile and apparel products; regulations update, restructuring, and consolidation; comments due by 12-5-05; published 10-5-05 [FR 05-19985]

HOMELAND SECURITY DEPARTMENT
Coast Guard
Anchorage regulations:
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HOMELAND SECURITY DEPARTMENT
Privacy Act; implementation; comments due by 12-9-05; published 11-9-05 [FR 05-21952]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
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Homeless assistance; excess and surplus Federal properties; Open for comments until further notice; published 8-5-05 [FR 05-15251]

INTERIOR DEPARTMENT
Land Management Bureau
Land resource management:
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Alaska occupancy and use; Alaska Native veterans allotments; comments due by 12-6-05; published 10-7-05 [FR 05-20164]
Minerals management:
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INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species permit applications
Recovery plans—
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]

INTERIOR DEPARTMENT
Equal Access to Justice Act; implementation; comments due by 12-5-05; published 10-5-05 [FR 05-19896]

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Permanent program and abandoned mine land reclamation plan submissions:
West Virginia; comments due by 12-8-05; published 11-8-05 [FR 05-22194]

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Additional contract types for certain commercial services; comments due by 12-9-05; published 11-29-05 [FR 05-23394]
Time-and-materials and labor-hour contracts payments; comments due by 12-9-05; published 11-29-05 [FR 05-23395]

NUCLEAR REGULATORY COMMISSION
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Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

POSTAL SERVICE
Domestic Mail Manual:
Electronic Verification System (e-VS); postage manifesting and payment of Parcel Select mailings; comments due by 12-7-05; published 11-7-05 [FR 05-22156]

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Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

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2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT
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Airworthiness directives:
Airbus; comments due by 12-5-05; published 10-4-05 [FR 05-19333]

BAE Systems (Operations) Ltd.; comments due by 12-5-05; published 10-4-05 [FR 05-19437]
Boeing; comments due by 12-5-05; published 10-5-05 [FR 05-19939]
Bombardier; comments due by 12-9-05; published 11-9-05 [FR 05-22307]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 12-5-05; published 11-9-05 [FR 05-22311]
Engine Components Inc.; comments due by 12-5-05; published 10-5-05 [FR 05-19940]
Fokker; comments due by 12-5-05; published 10-6-05 [FR 05-19829]
Honeywell; comments due by 12-5-05; published 10-5-05 [FR 05-19938]
Short Brothers; comments due by 12-9-05; published 11-9-05 [FR 05-22305]
Sicma Aero Seat; comments due by 12-5-05; published 10-4-05 [FR 05-19873]
Class E airspace; comments due by 12-9-05; published 10-25-05 [FR 05-21228]

TRANSPORTATION DEPARTMENT

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Motor carrier safety standards:
Parts and accessories necessary for safe operation—
Surge brake requirements; comments due by 12-6-05; published 10-7-05 [FR 05-20297]

TREASURY DEPARTMENT

Internal Revenue Service

Income and excise taxes:
Excess benefit transactions; comments due by 12-8-05; published 9-9-05 [FR 05-17858]

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

In the **List of Public Laws** printed in the *Federal Register* on November 28, 2005, the title of S. 1894, Public Law 109–113, was incorrectly printed. It should read as follows:

S. 1894/P.L. 109–113

Fair Access Foster Care Act of 2005 (Nov. 22, 2005; 119 Stat. 2371)

Last List November 25, 2005

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