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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, April 4, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Thursday, March 9, 2006

Presidential Documents

Title 3—

The President

Presidential Determination No. 2006–11 of February 28, 2006

Export-Import Bank Programs for or in Libya

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including sections 620A and 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2371 and 2381), section 113 in Division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447):

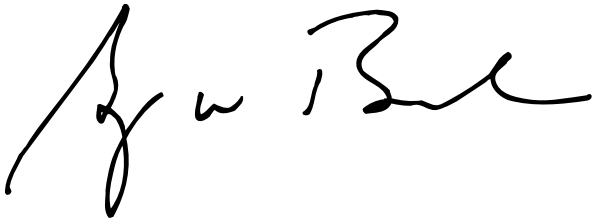
1. I hereby determine that:

(a) national security interests justify a waiver of the prohibition in subsection (a) of section 620A of the Foreign Assistance Act of 1961 with respect to the provision of assistance under the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 *et seq.*), for Libya; and (b) it is important to the national security interests of the United States that direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents may be made available for or in Libya, notwithstanding section 507 or similar provisions in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Division D of Public Law 108–447), or prior acts making appropriations for foreign operations, export financing, and related programs.

2. I hereby waive, through the date that is 24 months from the date of this memorandum, the prohibition in subsection (a) of section 620A of the Foreign Assistance Act of 1961 with respect to the provision of assistance under the Export-Import Bank Act of 1945, as amended, for Libya.

3. The function of the President under subsection (d) of section 620A of the Foreign Assistance Act of 1961 is assigned to the Secretary of State, effective on the date that is 22 months from the date of this memorandum, with respect to provision of assistance under the Export-Import Bank Act of 1945, as amended, for Libya.

You are authorized and directed to transmit this determination to the Congress and publish in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 28, 2006.

[FR Doc. 06–2338
Filed 3–8–06; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register

Vol. 71, No. 46

Thursday, March 9, 2006

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23477; Directorate Identifier 2005–NM–181–AD; Amendment 39–14507; AD 2006–05–10]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ airplanes. This AD requires a one-time detailed inspection for corrosion of the hinge bracket assembly of the left and right main landing gear (MLG) doors, and corrective action if necessary. This AD results from in-service reports of hinge bracket failures on the MLG doors. We are issuing this AD to prevent failure of the hinge bracket on the MLG door, which could result in separation of the door, consequent structural damage to the airplane, and possible injury to people on the ground.

DATES: This AD becomes effective April 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 13, 2006.

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

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

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ airplanes. That NPRM was published in the **Federal Register** on January 4, 2006 (71 FR 297). That NPRM proposed to require a one-time detailed inspection for corrosion of the hinge bracket assembly of the left and right main landing gear (MLG) doors, and corrective action if necessary.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

This AD affects about 35 airplanes of U.S. registry. The required actions will take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the actions for U.S. operators is $9,100, or $260 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–05–10 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14507. Docket No. FAA–2005–23477; Directorate Identifier 2005–NM–181–AD.

Effective Date

(a) This AD becomes effective April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes, and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; as identified in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, Revision 1, dated February 11, 2005.

Unsafe Condition

(d) This AD results from in-service reports of hinge bracket failures on the main landing gear (MLG) doors. We are issuing this AD to prevent failure of the hinge bracket on the MLG door, which could result in separation of the door, consequent structural damage to the airplane, and possible injury to people on the ground.

Compliance

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

Inspection/Corrective Action

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Perform a one-time detailed inspection for corrosion of the hinge bracket assembly of the left and right MLG doors by doing all the applicable actions in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, Revision 1, dated February 11, 2005. Perform any applicable corrective action before further flight in accordance with the service bulletin. If no corrosion is found, before further flight, apply protective treatment in accordance with the service bulletin.

(1) For airplanes on which the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness is on or before February 28, 1991: Within 192 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 12 months after the effective date of this AD, whichever is later.

(2) For airplanes on which the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness is after February 28, 1991: Within 24 months after the effective date of this AD.

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

Inspections Accomplished According to Previous Issue of Service Bulletin

(g) Inspections accomplished before the effective date of this AD in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, dated February 2, 2001, are considered acceptable for compliance with the corresponding action specified in this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install, on any airplane, a hinge bracket assembly of the left and right MLG doors, unless it has been inspected (and any corrective actions done) according to BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, Revision 1, dated February 11, 2005.

No Reporting Required

(i) Although BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, Revision 1, dated February 11, 2005, referenced in this AD, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) British airworthiness directive G–2005–0017, dated July 6, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use BAE Systems (Operations) Limited Inspection Service Bulletin ISB.52–113, Revision 1, dated February 11, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 24, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2141 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23196; Directorate Identifier 2005–NM–187–AD; Amendment 39–14506; AD 2006–05–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200C, –200F, –400, –400D, and –400F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes. This AD requires repetitive inspections for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46; and related investigative and corrective actions, if necessary. This AD results from fatigue tests and an analysis that identified areas of the fuselage lap joints where fatigue cracks can occur. We are issuing this AD to detect and correct fatigue cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, which could adversely

affect the structural integrity of the airplane.

DATES: This AD becomes effective April 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 13, 2006.

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

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

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes. That NPRM was published in the **Federal Register** on December 6, 2005 (70 FR 72599). That NPRM proposed to require repetitive inspections for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46; and related investigative and corrective actions, if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received. The commenter, Boeing, supports the NPRM.

Conclusion

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

Costs of Compliance

There are about 796 airplanes of the affected design in the worldwide fleet. This AD affects about 153 airplanes of U.S. registry. The required inspections will take about 534 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $5,310,630, or $34,710 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–05–09 Boeing: Amendment 39–14506. Docket No. FAA–2005–23196; Directorate Identifier 2005–NM–187–AD.

Effective Date

(a) This AD becomes effective April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005.

Unsafe Condition

(d) This AD results from fatigue tests and an analysis that identified areas of the fuselage lap joints where fatigue cracks can occur. We are issuing this AD to detect and correct fatigue cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, which could adversely affect the structural integrity 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.

Initial Inspections and Related Investigative and Corrective Actions

(f) At the applicable time specified in Table 1 of this AD: Do an external surface high frequency eddy current (HFEC), external low frequency eddy current (LFEC), and internal LFEC inspection, as applicable, for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, and any applicable related investigative and corrective actions by doing all of the actions in accordance with the Accomplishment Instructions of Boeing

Alert Service Bulletin 747–53A2499, dated August 11, 2005, except as provided by paragraph (h) of this AD. Do any applicable related investigative and corrective actions before further flight.

TABLE 1.—INITIAL COMPLIANCE TIME

For airplanes on which Structural Significant Items (SSIs) F–25G, F–25H, and F–25I—	Inspect—
(1) Have not been inspected in accordance with paragraph (d) of AD 2004–07–22, amendment 39–13566 (69 FR 24063, May 3, 2004), using the HFEC method.	Before the accumulation of 22,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.
(2) Have been inspected in accordance with paragraph (d) of AD 2004–07–22, using the HFEC method.	Within 3,000 flight cycles after the most recent supplemental structural inspection document (SSID) inspection of each applicable structural significant item (as given in Boeing Document D6–35022, ''SSID for Model 747 Airplanes,'' Revision G, dated December 2000), or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

Repetitive Inspections

(g) Repeat the applicable inspections required by paragraph (f) of this AD thereafter at intervals not to exceed those specified in paragraph 1.E., ''Compliance'' (including the note) of Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005.

Exception to Service Bulletin Instructions

(h) Where the service bulletin specifies to contact Boeing for appropriate action, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on February 27, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2142 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23357; Directorate Identifier 2005–NM–207–AD; Amendment 39–14505; AD 2006–05–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 777–200 series airplanes. This AD requires installing a new washer between the lower wing surface and the jam nut of the sump drain valve assembly. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent energy from a lightning strike on the bushing for the sump drain valve from arcing to the inside of the center fuel tank wall, which could create an ignition source in the fuel tank and result in a fuel tank explosion.

DATES: This AD becomes effective April 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 13, 2006.

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

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

FOR FURTHER INFORMATION CONTACT: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6500; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 777–200 series airplanes. That NPRM was published in the **Federal Register** on December 20, 2005 (70 FR 75428). That NPRM proposed to require installing a new washer between the lower wing

surface and the jam nut of the sump drain valve assembly.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received. The commenter, Boeing, supports the NPRM.

Conclusion

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

Costs of Compliance

There are about 88 airplanes of the affected design in the worldwide fleet. This AD affects about 22 airplanes of U.S. registry. The required actions will take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $360 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $13,640, or $620 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–05–08 Boeing: Amendment 39–14505. Docket No. FAA–2005–23357; Directorate Identifier 2005–NM–207–AD.

Effective Date

(a) This AD becomes effective April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 777–28–0045, dated September 1, 2005.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent energy from a lightning strike on the bushing for the sump drain valve from arcing to the inside of the center fuel tank wall, which could create an ignition source in the fuel tank and result in a fuel tank explosion.

Compliance

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

Installation

(f) Within 60 months after the effective date of this AD, install a new washer between the lower wing surface and the jam nut of the sump drain valve assembly in both wings, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–28–0045, dated September 1, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(h) You must use Boeing Special Attention Service Bulletin 777–28–0045, dated September 1, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on February 27, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2143 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22715; Directorate Identifier 2005–NM–108–AD; Amendment 39–14503; AD 2006–05–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding three existing airworthiness directives (ADs) that apply to certain Boeing Model 747 airplanes. The existing ADs currently require repetitive inspections of the body station (BS) 2598 bulkhead, and corrective action if necessary. This new AD adds a requirement to modify the bulkhead, including a one-time inspection and corrective action if necessary, which terminates certain repetitive inspections. This AD also requires a post-modification inspection of the modified area. This AD results from new reports of cracking in all three areas that require inspection in accordance with the existing ADs. We are issuing this AD to prevent fatigue cracking of the BS 2598 bulkhead structure, which could result in inability of the structure to carry horizontal stabilizer flight loads, and loss of controllability of the airplane.

DATES: This AD becomes effective April 13, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications as of April 13, 2006.

On October 27, 2003 (68 FR 54990, September 22, 2003), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001.

On August 28, 2001 (66 FR 38365, July 24, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000.

On August 16, 2001 (66 FR 36443, July 12, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2449, Revision 1, dated May 24, 2001.

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

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

FOR FURTHER INFORMATION CONTACT: Nicholas Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would supersede the ADs identified in the following table:

EXISTING ADS

AD	Amendment	**Federal Register** reference	Requirements
2001–14–07	39–12318	66 FR 36443 (July 12, 2001)	Repetitive high-frequency eddy current (HFEC) inspections to detect cracking of the bulkhead frame support at body station (BS) 2598 under the hinge support fittings of the horizontal stabilizer, and repair if necessary.
2001–15–03	39–12337	66 FR 38365 (July 24, 2001)	Repetitive HFEC inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the BS 2598 bulkhead, and repair if necessary.
2003–19–08	39–13311	68 FR 54990 (September 22, 2003).	Repetitive detailed inspections to detect discrepancies of certain areas of the forward and aft sides of the BS 2598 bulkhead, and repair if necessary.

The existing ADs apply to certain Boeing Model 747 airplanes. That NPRM was published in the **Federal Register** on October 19, 2005 (70 FR 60744). That NPRM proposed to continue to require repetitive inspections of the BS 2598 bulkhead, and corrective action if necessary. That NPRM also proposed to add a requirement to modify the bulkhead, including a one-time inspection and corrective action if necessary, which would terminate certain repetitive inspections. That NPRM also proposed to require a post-modification inspection of the modified area.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM. The commenter supports the NPRM.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

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

Costs of Compliance

There are about 1,147 airplanes of the affected design in the worldwide fleet and 280 U.S.-registered airplanes. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Actions	Work hours	Average hourly labor rate	Parts cost	Cost per airplane	Fleet cost
Inspection required by AD 2001–14–07 (per inspection cycle)	18	$65	$0	$1,170	$327,600
HFEC inspection required by AD 2001–15–03 (per inspection cycle)	2	65	0	130	36,400
Detailed inspection required by AD 2001–15–03 (per inspection cycle)	2	65	0	130	36,400
Inspection required by AD 2003–19–08 (per inspection cycle)	4	65	0	260	72,800
Modification	126	65	33,716	41,906	11,733,680

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12318 (66 FR 36443, July 12, 2001), amendment 39–12337 (66 FR 38365, July 24, 2001), and amendment 39–13311 (68 FR 54990, September 22, 2003), and by adding the following new airworthiness directive (AD):

2006–05–06 Boeing: Amendment 39–14503. Docket No. FAA–2005–22715; Directorate Identifier 2005–NM–108–AD.

Effective Date

(a) This AD becomes effective April 13, 2006.

Affected ADs

(b) This AD supersedes ADs 2001–14–07, 2001–15–03, and 2003–19–08.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category; line numbers 1 through 1307 inclusive.

Unsafe Condition

(d) This AD results from reports of cracking in areas required to be inspected by the superseded ADs identified in paragraph (b) of this AD. We are issuing this AD to prevent fatigue cracking of the body station (BS) 2598 bulkhead structure, which could result in inability of the structure to carry horizontal stabilizer flight loads, and loss of controllability of the airplane.

Compliance

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

Restatement of AD 2001–14–07

Repetitive High Frequency Eddy Current (HFEC) Inspections

(f) Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after August 16, 2001 (the effective date of AD 2001–14–07), whichever occurs later: Do an open-hole HFEC inspection to find cracking of the bulkhead frame support under the hinge support fittings of the horizontal stabilizer on the left and right sides at BS 2598, in accordance with Figure 2 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2449, Revision 1, dated May 24, 2001; or Revision 2, dated March 14, 2002. Repeat the inspection after that at intervals not to exceed 3,000 flight cycles. Inspections accomplished before August 16, 2001, per Boeing Alert Service Bulletin 747–53A2449, dated June 8, 2000, are considered acceptable for compliance with the applicable inspection specified in this paragraph.

Repair

(g) If any cracking is found during any inspection required by paragraph (f) of this AD, before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or using a method approved in accordance with paragraph (n) of this AD.

Restatement of Certain Requirements of AD 2001–15–03

Repetitive Inspections

(h) Do a surface HFEC inspection of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corner of the station 2598 bulkhead to find cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; or Revision 3, dated September 27, 2001; at the latest of the times specified in paragraphs (h)(1) and (h)(2) of this AD, as applicable. Repeat the inspection after that at intervals not to exceed 1,500 flight cycles.

(1) For airplanes having line numbers 1 through 1241 inclusive:

(i) Before the accumulation of 6,000 total flight cycles.

(ii) Within 500 flight cycles after August 28, 2001 (the effective date of AD 2001–15–03).

(iii) For airplanes inspected before August 28, 2001, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998 (including inspections of the splice fitting), or Revision 1, dated October 28, 1999: Within 1,500 flight cycles after accomplishment of the last inspection done in accordance with the original service bulletin or Revision 1, as applicable.

(2) For airplanes having line numbers 1242 through 1307 inclusive:

(i) Before the accumulation of 16,000 total flight cycles.

(ii) Within 500 flight cycles after August 28, 2001.

(iii) For airplanes inspected before August 28, 2001, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998 (including inspections of the splice fitting), or Revision 1, dated October 28, 1999: Within 1,500 flight cycles after accomplishment of the last inspection done in accordance with the original service bulletin or Revision 1, as applicable.

Repair

(i) If any cracking is found during the inspections required by paragraph (h) of this AD, before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; or Revision 3, dated September 27, 2001; except where the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, before further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

Restatement of AD 2003–19–08

Repetitive Inspections

(j) Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after October 27, 2003 (the effective date of AD 2003–19–08), whichever is later: Do a detailed inspection of the body station 2598 bulkhead for discrepancies (cracking, elongated fastener holes) of the areas specified in paragraphs (j)(1) and (j)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001; or Revision 1, dated April 28, 2005. Repeat the inspections after that at intervals not to exceed 3,000 flight cycles.

(1) The lower aft inner chords.

(2) The upper aft outer chords, and the diagonal brace attachment fittings, flanges, and rods.

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

Repair

(k) If any discrepancy is found during any inspection required by paragraph (j) of this AD: Before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001; or Revision 1, dated April 28, 2005. If the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

New Requirements of This AD

Modification

(l) Before the accumulation of 20,000 total flight cycles, or within 48 months after the effective date of this AD, whichever occurs later: Modify the bulkhead by doing all applicable actions including surface and open-hole HFEC inspections for cracking of the upper forward inner chord, aft inner chord, upper splice fitting, and frame support fitting, as specified in the Accomplishment Instructions of Boeing Service Bulletin 747–53–2473, dated March 24, 2005. Repair any cracks before further flight in accordance with the service bulletin. Where the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions: Before further flight, repair the cracks using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Accomplishment of the modification terminates the repetitive inspections required by paragraphs (f), (h), and (j)(1) of this AD.

Inspection

(m) Within 20,000 flight cycles after the modification required by paragraph (l) of this AD, inspect the BS 2598 bulkhead for cracks, and repair any cracks before further flight, in accordance with a method approved by the Manager, Seattle ACO.

Alternative Methods of Compliance (AMOCs)

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

(2) AMOCs approved previously according to AD 2000–08–21, amendment 39–11707, and AD 2001–15–03 are approved as AMOCs for the corresponding requirements of paragraphs (h) and (i) of this AD. (AD 2000–08–21 was superseded by AD 2001–15–03.)

(3) AMOCs approved previously according to AD 2001–14–07 are approved as AMOCs for the corresponding requirements of paragraphs (f) and (g) of this AD.

(4) AMOCs approved previously according to AD 2003–19–08 are approved as AMOCs for the corresponding requirements of paragraphs (j) and (k) of this AD.

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

(6) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(o) You must use the service information identified in Table 1 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 1.—ALL MATERIAL INCORPORATED BY REFERENCE

Boeing service bulletin	Revision level	Date
Alert Service Bulletin 747–53A2427	2	October 5, 2000.
Alert Service Bulletin 747–53A2427	3	September 27, 2001.
Alert Service Bulletin 747–53A2467	Original	July 26, 2001.
Service Bulletin 747–53A2467	1	April 28, 2005.
Service Bulletin 747–53–2473	Original	March 24, 2005.
Service Bulletin 747–53A2449	1	May 24, 2001.
Service Bulletin 747–53A2449	2	March 14, 2002.

(1) The Director of the Federal Register approved the incorporation by reference of service bulletins identified in Table 2 of this AD, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 2.—NEW MATERIAL INCORPORATED BY REFERENCE

Boeing service bulletin	Revision level	Date
Alert Service Bulletin 747–53A2427	3	September 27, 2001.
Service Bulletin 747–53A2467	1	April 28, 2005.
Service Bulletin 747–53–2473	Original	March 24, 2005.
Service Bulletin 747–53A2449	2	March 14, 2002.

(2) On October 27, 2003 (68 FR 54990, September 22, 2003), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001.

(3) On August 28, 2001 (66 FR 38365, July 24, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000.

(4) On August 16, 2001 (66 FR 36443, July 12, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2449, Revision 1, dated May 24, 2001.

(5) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2006.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2144 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20220; Directorate Identifier 2004–NM–152–AD; Amendment 39–14504; AD 2006–05–07]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, and –320 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Aerospatiale Model ATR42–200, –300, and –320 airplanes. This AD requires doing repetitive inspections of the upper arms of the main landing gear (MLG) side braces for missing or inadequately bonded identification plates; doing an ultrasonic inspection of the upper arm of the MLG side brace for any defects and related investigative/corrective actions if necessary; and replacing the side brace assembly with a modified part. This AD results from an operator who reported experiencing an unlock warning for the MLG on the right side of the airplane. We are issuing this AD to prevent cracking of the upper arms of the side braces of the MLG, which could result in failure of the MLG during landing and possible damage to the airplane and injury to the flightcrew and passengers.

DATES: This AD becomes effective April 13, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 13, 2006.

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

Contact Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Aerospatiale Model ATR42–200, –300, and –320 airplanes. That supplemental NPRM was published in the **Federal Register** on December 13, 2005 (70 FR 73671). That supplemental NPRM proposed to require repetitive inspections of the upper arms of the main landing gear (MLG) side braces for missing or inadequately bonded identification plates; doing an ultrasonic inspection of the upper arm of the MLG side brace for any defects and related investigative/corrective actions if necessary; and replacing the side brace assembly with a modified part.

Comments

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

Change Made to This AD

We have added a grace period of 25 flight hours to paragraph (i) of this AD for operators who may inadvertently use Revision 1 of Messier-Dowty Special Inspection Service Bulletin 631–32–181, dated March 16, 2005, after the effective date of this AD.

Conclusion

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

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
General visual inspection, per inspection cycle.	1	$65	None	$65	54	$3,510, per inspection cycle.
Replacement of side brace assemblies	2 (1 hour per side brace).	65	$0	130	54	$7,020.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–05–07 Aerospatiale: Amendment 39–14504. Docket No. FAA–2005–20220; Directorate Identifier 2004–NM–152–AD.

Effective Date

(a) This AD becomes effective April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Aerospatiale Model ATR42–200, –300, and –320 airplanes, certificated in any category; with main landing gear (MLG) side brace assemblies having part number (P/N) D22710000–( ) except –8, equipped with upper arms having P/N D56778–10.

Unsafe Condition

(d) This AD results from an operator who reported experiencing an unlock warning for the MLG on the right side of the airplane. We are issuing this AD to prevent cracking of the upper arms of the side braces of the MLG, which could result in failure of the MLG during landing and possible damage to the airplane and injury to the flightcrew and passengers.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For the general visual inspection and ultrasonic inspection specified in paragraphs (g) and (h) of this AD, respectively: Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 2, dated June 3, 2005; and

(2) For the replacement specified in paragraph (j) of this AD: Messier-Dowty Service Bulletin 631–32–176, Revision 1, dated June 2, 2004.

Repetitive Inspections of Identification Plates

(g) Within 2 months or 500 flight hours after the effective date of this AD, whichever is first: Do a general visual inspection of the upper arms of the MLG side braces for inadequately bonded identification plates having P/Ns D61565–1, D61566–1, D61567–1, and D61568–1 and for any missing bead of glue, in accordance with the service bulletin. Thereafter at intervals not to exceed 2 months or 500 flight hours, whichever is first: Repeat the inspection of the upper arm of the MLG side brace for any side brace assembly that has not been inspected in accordance with paragraph (h) of this AD or replaced as required by paragraph (j) of this AD.

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

Ultrasonic Inspection, if Necessary

(h) If any identification plate having P/N D61565–1, D61566–1, D61567–1, or D61568–1 or any bead of glue is missing or found inadequately bonded during any inspection required by paragraph (g) of this AD: Within 25 flight hours since the most recent general visual inspection, do an ultrasonic inspection of the upper arm of the MLG side brace for any defects and do any related investigative and corrective actions as applicable, by doing all of the applicable actions specified in Part 2.B.(3) of the service bulletin; except where the service bulletin specifies replacing the side brace with a side brace equipped with an airworthy upper arm, replace it with a

part modified in accordance with paragraph (j) of this AD. Any corrective actions must be done before further flight after doing the ultrasonic inspection.

Additional Ultrasonic Inspection for Certain Airplanes

(i) For airplanes on which the ultrasonic inspection specified in paragraph (h) of this AD has been accomplished in accordance with Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 1, dated March 16, 2005: Within 25 flight hours after the effective date of this AD, or within 25 flight hours after the ultrasonic inspection, whichever is later, do all the applicable actions specified in paragraph (h) of this AD in accordance with Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 2, dated June 3, 2005.

Replacement With a Modified Side Brace Assembly

(j) At the applicable compliance time specified in paragraph (j)(1) or (j)(2) of this AD: Remove the side brace assembly and replace it with a part modified by doing all of the actions in the service bulletin. Replacement of a side brace assembly with a modified part terminates the repetitive inspections required by paragraph (g) of this AD for that modified side brace assembly only. If the side brace assembly of the left and right MLG is replaced with a modified part, no more work is required by paragraph (g) of this AD.

(1) For airplanes on which Messier-Dowty Service Bulletin 631–32–072 has not been accomplished: Before the accumulation of 15,000 total flight cycles on a side brace assembly since new or since last overhaul, or 96 months on a side brace assembly since new or since last overhaul, whichever is first.

(2) For airplanes on which Messier-Dowty Service Bulletin 631–32–072 has been accomplished: Before the accumulation of 18,000 total flight cycles on a side brace assembly since new or since last overhaul, or 96 months on a side brace assembly since new or since last overhaul, whichever is first.

Credit for Previous Service Bulletin

(k) Replacements done before the effective date of this AD in accordance with Messier-Dowty Service Bulletin 631–32–176, dated February 26, 2004, are acceptable for compliance with the corresponding requirements of paragraph (j) of this AD.

No Reporting Requirement

(l) Although Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 2, dated June 3, 2005, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(n) French airworthiness directive F–2005–106, dated July 6, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(o) You must use Messier-Dowty Service Bulletin 631–32–176, Revision 1, dated June 2, 2004; and Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 2, dated June 3, 2005, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. Messier-Dowty Service Bulletin 631–32–176, Revision 1, dated June 2, 2004, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3	1	June 2, 2004.
2, 4–9	Original	February 26, 2004.

Messier-Dowty Special Inspection Service Bulletin 631–32–181, Revision 2, dated June 3, 2005, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1–5, 7–18	2	June 3, 2005.
6	1	March 16, 2005.

The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/7fxsp0;ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2006.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2145 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23604; Directorate Identifier 2005–NE–49–AD; Amendment 39–14498; AD 2006–05–01]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 500, 700, and 800 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2006–05–01. That AD applies to Rolls-Royce plc RB211 Trent 500, 700, and 800 series turbofan engines. We published AD 2006–05–01 in the **Federal Register** on March 1, 2006, (71 FR 10415). An incorrect engine model number exists in the compliance section, in two places. This document corrects the engine model number. In all other respects, the original document remains the same.

DATES: *Effective Date:* Effective March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule AD, FR Doc. 06–1827, that applies to Rolls-Royce plc RB211 Trent 500, 700, and 800 series turbofan engines was published in the **Federal Register** on March 1, 2006, (71 FR 10415). The following correction is needed:

§ 39.13 [Corrected]

■ On page 10416, in the second column, in compliance paragraph (c), in the fifth line, ''675–17'' is corrected to read ''875–17''. Also, on the same page, in compliance paragraph (i)(1), in the fourth line, ''675–17'' is corrected to read ''875–17''.

Issued in Burlington, MA, on March 3, 2006.

Peter A. White,

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

[FR Doc. 06–2244 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 96 and 104

[Public Notice PN–5338]

International Trafficking in Persons: Interagency Sharing of Information and Coordination of Activities; Technical Amendment

AGENCY: State Department.

ACTION: Final rule; technical amendment.

SUMMARY: This rule was originally published in the **Federal Register** on October 13, 2005 (70 FR 59654). It implemented Section 105 of the Trafficking Victims Protection Act of 2000, as amended by Trafficking Victims Protection Reauthorization Act of 2003. Because of an inadvertent error in the assignment of the correct part in the Code of Federal Regulations for this rule, the Department of State is redesignating the part from part 96 to part 104. The related section numbers are being redesignated from §§ 96.1 and 96.2 to §§ 104.1 and 104.2, respectively. There are no substantive or other changes to the regulations themselves.

DATES: This rule is effective March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Topping, U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (SA–22), 1800 G Street, NW., Suite 2201, Washington, DC 20520; 202–312–9639 or e-mail *TIPprograms@state.gov.*

SUPPLEMENTARY INFORMATION: The rule on International Trafficking in Persons: Interagency Sharing of Information and Coordination of Activities (TIP rule) was originally published in the **Federal Register** on October 13, 2005 (70 FR 59654). It implemented Section 105 of the Trafficking Victims Protection Act of 2000, as amended by the Trafficking Victims Protection Reauthorization Act of 2003. The rule was assigned to part 96 of Title 22 of the Code of Federal Regulations (CFR). The Department of State published another final rule, regarding certain aspects of intercountry adoptions, in the **Federal Register** on February 15, 2006 (71 FR 8063), a portion of which was also assigned to Part 96 but which has not yet been incorporated into the CFR. That final rule was published in the **Federal Register** as a proposed rule on September 15, 2003 (68 FR 54064). Because the Department desires to keep all of its regulations related to intercountry adoptions in the same subchapter and the intercountry adoption rule was published as a proposed rule prior to the publication of the TIP rule, the Department is amending its regulations to redesignate part 956 to part 104. The related section numbers are being redesignated from §§ 96.1 and 96.2 to §§ 104.1 and 104.2, respectively. There are no substantive or other changes to the regulations themselves.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*

List of Subjects in 22 CFR Parts 96 and 104

Administrative practice and procedure.

■ For the reasons set forth above, 22 CFR chapter I is amended as follows:

PART 96—INTERNATIONAL TRAFFICKING IN PERSONS: INTERAGENCY COORDINATION OF ACTIVITIES AND TRAFFICKING IN PERSONS [Redesignated as Part 104]

■ 1. The authority citation for part 96 continues to read as follows:

Authority: 22 U.S.C. 7103(f)(5); Executive Order 13257 (as amended by Executive Order 13333).

Subchapter K—Economic and Other Functions

■ 2. The heading of subchapter K is revised to read as set forth above.

■ 3. Part 96 published in the **Federal Register** on October 13, 2005 (70 FR 59654) is redesignated as part 104 and transferred to subchapter K.

Dated: March 3, 2006.

Holly West-Owen,

Federal Register Liaison, Bureau of Administration, Department of State.

[FR Doc. 06–2251 Filed 3–8–06; 8:45 am]

BILLING CODE 4710–17–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–130]

RIN 1625–AA08

Special Local Regulations for Marine Events; Chesapeake Bay

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Volvo Ocean Race 2005–2006'', sailboat races to be held on the waters of the Chesapeake Bay in the vicinity east of Gibson Island, Maryland, and near the William Preston Lane Jr. Memorial (Chesapeake Bay) Bridge near Annapolis, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in segments of the Chesapeake Bay during the sailboat races.

DATES: This rule is effective from April 29, 2006 through May 7 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–05–130 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, Room 119, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Houck, Project Manager, Marine Information Specialist, U.S. Coast Guard Sector Baltimore, at (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 8, 2005, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Chesapeake Bay in the **Federal Register** (70 FR 72964). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

During April and May 2006, Ocean Race Chesapeake, Inc. will host the Chesapeake Bay visit of the ''Volvo Ocean Race 2005–2006''. Two sailboat racing events are planned during this period to be conducted on the waters of the Chesapeake Bay in the vicinity of the William Preston Lane Jr. Memorial (Chesapeake Bay) Bridge near Annapolis, Maryland. The first event will be the ''In Port Race'' on April 29, 2006 that will take place on the Chesapeake Bay approximately 5 miles east of Gibson Island, Maryland and about 8 miles north of the Chesapeake Bay Bridge. The second event will be the ''Leg 6 Re-Start'' of the 2005–2006 Volvo Round the World Race, on May 7, 2006 that will take place on the Chesapeake Bay between Thomas Point and Sandy Point, near Annapolis, Maryland.

Both events will consist of approximately eight 70-foot long sailing vessels that will participate in both the ''In Port Race'' and a carefully organized

''Re-Start'' to a highly publicized, international sailing race. The restart will consist of opposing teams that will be maneuvering in a predetermined area within the Chesapeake Channel adjacent to the William P. Lane Jr. Memorial (Chesapeake Bay) Bridge Main Channel Span. A fleet of spectator vessels is anticipated to gather nearby to view the competition for both events. Because of the danger posed by many sailing vessels maneuvering in close proximity of each other during the in port race and at the beginning of the race restart, special local regulations are necessary. For the safety concerns noted and to address the need for vessel control to facilitate a fair and accurate restart, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Chesapeake Bay.

Regulatory Evaluation

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

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this special local regulation will prevent traffic from transiting a segment of the Chesapeake Bay in the vicinity of the William P. Lane Jr. Memorial (Chesapeake Bay) Bridge during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be enforced. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit these sections of the Chesapeake Bay during the events.

This temporary rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Although the regulated area will apply to two separate segments of the Chesapeake Bay, traffic may be allowed to pass through the regulated areas with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through a regulated area during an event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Although this regulation prevents traffic from transiting the Chesapeake Channel of the Chesapeake Bay during the Restart event, the effect of this regulation will not be significant because of its limited duration. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this temporary rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary *§ 100.35–T05–130* to read as follows:

§ 100.35-T05–130 Chesapeake Bay, near Annapolis, MD.

(a) *Regulated area* includes two segments within the waters of the Chesapeake Bay. (1) The first segment for the ''In Port Race'' is a square-shaped area, four nautical miles long on each side, bounded by a line drawn from a position at latitude 39°03′08″ N, longitude 076°21′38″ W, thence easterly to a position at latitude 39°03′08″ N, longitude 076°16′32″ W, thence northerly to a position at latitude 39°07′06″ N, longitude 076°16′32″ W, thence westerly to a position at latitude 39°07′06″ N, longitude 076°21′38″ W, thence southerly to a position at latitude 39°03′08″ N, longitude 076°21′38″ W, the point of origin.

(i) There are three designated spectator areas for the first segment. The first spectator area lies northeast of the mouth of the Magothy River, Maryland and is approximately 3000 yards long and 500 yards wide, bounded by a line drawn from a position at latitude, 39°04′05″ N, longitude 076°20′27″ W, thence northeasterly to a position at latitude 39°04′14″ N, longitude 076°20′12″ W, thence northwesterly to a position at latitude 39°05′23″ N, longitude 076°21′25″ W, thence southwesterly to a position at latitude 39°05′13″ N, longitude 076°21′40″ W, thence southeasterly to a position at latitude 39°04′05″ N, longitude 076°20′27″ W, the point of origin.

(ii) The second spectator area lies northwest of the mouth of the Chester River, Maryland and is approximately 2200 yards long and 500 yards wide, bounded by a line drawn from a position at latitude, 39°04′13″ N, longitude 076°17′22″ W, thence northeasterly to a position at latitude 39°05′15″ N, longitude 076°16′32″ W, thence northwesterly to a position at latitude 39°05′23″ N, longitude 076°16′51″ W, thence southwesterly to position at latitude 39°04′28″ N, longitude 076°17′37″ W, thence southeasterly to a position at latitude 39°04′13″ N, longitude 076°17′22″ W, the point of origin.

(iii) The third spectator area lies between Belvidere Shoal and Swan Point Bar, Maryland and is approximately 4800 yards long and 500 yards wide, bounded by a line drawn from a position at latitude, 39°05′30″ N, longitude 076°21′28″ W, thence northeasterly to a position at latitude 39°06′48″ N, longitude 076°19′32″ W, thence easterly to a position at latitude 39°06′48″ N, longitude 076°18′25″ W, thence southeasterly to a position at latitude 39°05′28″ N, longitude 076°16′42″ W, thence northeasterly to a position at latitude 39°05′38″ N, longitude 076°16′32″ W, thence northwesterly to a position at latitude 39°07′01″ N, longitude 076°18′13″ W, thence westerly to a position at latitude 39°07′01″ N, longitude 076°19′35″ W, thence southwesterly to position at latitude 39°05′43″ N, longitude 076°21′40″ W, thence southeasterly to a position at latitude 39°05′30″ N, longitude 076°21′28″ W, the point of origin.

(2) The second segment for the ''Leg 6 Re-Start'' is a rectangle-shaped area, approximately six nautical miles long and 1.5 nautical miles wide, bounded by a line drawn from a position at latitude, 38°54′38″ N, longitude 076°26′44″ W, thence easterly to a position at latitude 38°54′11″ N, longitude 076°24′49″ W, thence northerly to a position at latitude 38°59′40″ N, longitude 076°21′42″ W, thence westerly to a position at latitude 39°00′05″ N, longitude 076°23′33″ W, thence southerly to a position at latitude 38°54′38″ N, longitude 076°26′44″ W, the point of origin.

(i) There are two designated spectator areas for the second segment. The first spectator area lies east of the mouth of the Severn River, Maryland and is approximately three nautical miles long and 500 yards wide, bounded by a line drawn from a position at latitude, 38°56′32″ N, longitude 076°25′31″ W, thence easterly to a position at latitude 38°56′30″ N, longitude 076°25′13″ W,

thence northerly to a position at latitude 38°59′13″ N, longitude 076°23′38″ W, thence westerly to position at latitude 38°59′20″ N, longitude 076°23′55″ W, thence southerly to a position at latitude 38°56′32″ N, longitude 076°25′31″ W, the point of origin.

(ii) The second spectator area lies west of Kent Island, Maryland and is approximately three nautical miles long and 500 yards wide, bounded by a line drawn from a position at latitude, 38°56′17″ N, longitude 076°24′12″ W, thence easterly to a position at latitude 38°56′06″ N, longitude 076°23′53″ W, thence northerly to a position at latitude 38°58′50″ N, longitude 076°22′17″ W, thence westerly to position at latitude 38°58′57″ N, longitude 076°22′37″ W, thence southerly to a position at latitude 38°56′17″ N, longitude 076°24′12″ W, the point of origin.

(3) All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) Coast Guard Patrol Commander means any commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) Official Patrol means any person or vessel authorized by the Coast Guard Patrol Commander or approved by Commander, Coast Guard Sector Baltimore.

(3) Participant includes all vessels participating in the Volvo Ocean Race under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) Except for the Official Patrol, participants, and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) Any person in the regulated area must stop immediately when directed to do so by any Official Patrol and then proceed only as directed.

(3) The operator of any vessel in the regulated area must stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(4) All persons and vessels shall comply with the instructions of the Official Patrol.

(5) When authorized to transit within the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course and near other persons and vessels in the designated spectator areas.

(d) *Enforcement period.* This section will be enforced from 10:30 a.m. to 4:30 p.m. on April 29, 2006, and from 9 a.m. to 5 p.m. on May 7, 2006. If the ''In Port Race'' is postponed due to inclement weather, then the temporary special local regulations will be enforced the same time period during one the next four days, April 30, 2006 through May 3, 2006.

Dated: February 22, 2006.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 06–2204 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–013]

RIN 1625–AA08

Special Local Regulations for Marine Events; St. Mary's River, St. Mary's City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.527 for intercollegiate crew races, marine events to be held April 8, 2006, on the waters of the St. Mary's River at St. Mary's City, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

DATES: 33 CFR 100.527 will be enforced from 7 a.m. to 4 p.m. on April 8, 2006.

FOR FURTHER INFORMATION CONTACT: Ronald Houck, Marine Events Coordinator, Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, and (410) 576–2674.

SUPPLEMENTARY INFORMATION: St. Mary's College of Maryland will sponsor the Seahawk Sprint crew races on the waters of the St. Mary's River. The events will consist of intercollegiate crew rowing teams racing along a 2000 meter course on the waters of the St. Mary's River. A fleet of spectator vessels is expected to gather near the event site to view the competition. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.527 will be enforced for the duration of the event. Under provisions of 33 CFR 100.527, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts so mariners can adjust their plans accordingly.

Dated: February 22, 2006.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 06–2205 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–013]

Drawbridge Operation Regulations: Oceanport Creek, Oceanport, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the New Jersey Transit Rail Operations (NJTRO) Bridge across Oceanport Creek at mile 8.4, at Oceanport, New Jersey. This temporary deviation allows the NJTRO Bridge to remain in the closed position for two weekends from 6 a.m. on Saturday through 6 p.m. on Sunday. This deviation is necessary in order to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from March 25, 2006 through April 23, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The NJTRO Bridge at mile 8.4, across Oceanport Creek has a vertical clearance in the closed position of 4 feet at mean high water and 6 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.736.

The owner of the bridge, New Jersey Transit Rail Operations (NJTRO), requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled mechanical bridge repairs to be implemented during two weekend closure periods with a third weekend to be used as a rain date.

In order to perform the above repairs the bridge must remain in the closed position. Vessels that can pass under the bridge without a bridge opening may do so at all times.

This temporary deviation from the drawbridge operation regulations allows the NJTRO Bridge to remain in the closed position for two weekend closures as follows:

From 6 a.m. on Saturday, March 25, 2006 through 6 p.m. on Sunday, March 26, 2006, and from 6 a.m. on Saturday, April 8, 2006 through 6 p.m. on Sunday, April 9, 2006.

In the event inclement weather requires the cancellation of either of the two weekend closures listed above, the bridge may remain closed on an alternate weekend from 6 a.m. on Saturday, April 22, 2006 through 6 p.m. on Sunday, April 23, 2006.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 2, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 06–2256 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 05–007]

RIN 1625–AA87

Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent fixed security zones in the U.S. navigable waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area. These security zones are an integral part of the Coast Guard's efforts to protect these facilities and the surrounding areas from destruction or damage due to accidents, subversive acts, or other causes of a similar nature. Entry into the zones is prohibited, unless specifically authorized by the Captain of the Port (COTP) San Francisco Bay, or his designated representative. These zones will be subject to discretionary and random patrol and monitoring by Coast Guard, Federal, state and local law enforcement assets.

DATES: This rule is effective April 10, 2006.

ADDRESSES: Documents indicated in this preamble, as being available in the docket, are part of docket COTP San Francisco Bay 05–007 and are available for inspection or copying at the Waterways Safety Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jennifer Green, Waterways Safety Branch, U.S. Coast Guard Sector San Francisco, (510) 437–5873 or the Sector San Francisco Command Center at (415) 399–3547.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 22, 2005 we published a notice of proposed rulemaking (NPRM) entitled, Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA, in the **Federal Register** (70 FR 55607). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On September 22, 2005 we also published a temporary final rule (TFR) in the **Federal Register** (70 FR 55536) establishing temporary fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area, effective from 11:59 p.m. PDT on September 9, 2005, to 11:59 p.m. PST on March 31, 2006.

Background and Purpose

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

To address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against an oil facility pier would have on the public and the environment, the Coast Guard is establishing permanent security zones in the waters extending approximately 100 yards around six separate oil refinery piers. These zones are necessary to protect the people, ports, waterways, and properties of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay areas.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rule and has not changed the regulations from those proposed in the published NPRM.

Regulatory Evaluation

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

We expect the impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule restricts access to the waters encompassed by the security zones, the effect of this rule is not

significant because: (i) The zones encompass only small portions of the waterways; (ii) vessels are able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The size of the zones is the minimum necessary to provide adequate protection for the oil refinery piers, vessels engaged in operations at the oil facility piers, their crews, other vessels operating in the vicinity, and the public.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. We expect this rule may affect owners and operators of vessels, some of which may be small entities: Owners and operators of private vessels intending to fish or sightsee near the oil refinery piers.

These security zones will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic will be able to pass safely around the security zones, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities, (iii) and vessels may receive authorization to transit through the zones by the Captain of the Port or his designated representative on a case-by-case basis. In addition to publication in the **Federal Register**, small entities and the maritime public will be advised of these security zones via public notice to mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the

Instruction, from further environmental documentation because we are establishing a security zone.

An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' (CED) will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.1197, to read as follows:

§ 165.1197 Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, California.

(a) *Locations.* The following areas are security zones:

(1) *Chevron Long Wharf, San Francisco Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Chevron Long Wharf, Richmond, CA, and encompasses all waters in San Francisco Bay within a line connecting the following geographical positions—

Latitude	Longitude
37°55′52.2″ N	122°24′04.7″ W
37°55′41.8″ N	122°24′07.1″ W
37°55′26.8″ N	122°24′35.9″ W
37°55′47.1″ N	122°24′55.5″ W
37°55′42.9″ N	122°25′03.5″ W
37°55′11.2″ N	122°24′32.8″ W
37°55′14.4″ N	122°24′27.5″ W
37°55′19.7″ N	122°24′23.7″ W
37°55′22.2″ N	122°24′26.2″ W
37°55′38.5″ N	122°23′56.9″ W
37°55′47.8″ N	122°23′53.3″ W

and along the shoreline back to the beginning point.

(2) *Conoco-Phillips, San Pablo Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Conoco-Phillips Wharf, Rodeo, CA, and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°03′06.0″ N	122°15′32.4″ W
38°03′20.7″ N	122°15′35.8″ W
38°03′21.8″ N	122°15′29.8″ W
38°03′29.1″ N	122°15′31.8″ W
38°03′23.8″ N	122°15′55.8″ W
38°03′16.8″ N	122°15′53.2″ W
38°03′18.6″ N	122°15′45.2″ W
38°03′04.0″ N	122°15′42.0″ W

and along the shoreline back to the beginning point.

(3) *Shell Terminal, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Shell Terminal, Martinez, CA, and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°01′39.8″ N	122°07′40.3″ W
38°01′54.0″ N	122°07′43.0″ W
38°01′56.9″ N	122°07′37.9″ W
38°02′02.7″ N	122°07′42.6″ W
38°01′49.5″ N	122°08′08.7″ W
38°01′43.7″ N	122°08′04.2″ W
38°01′50.1″ N	122°07′50.5″ W
38°01′36.3″ N	122°07′47.6″ W

and along the shoreline back to the beginning point.

(4) *Amorco Pier, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Amorco Pier, Martinez, CA, and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

Latitude	Longitude
38°02′03.1″ N	122°07′11.9″ W
38°02′05.6″ N	122°07′18.9″ W
38°02′07.9″ N	122°07′14.9″ W
38°02′13.0″ N	122°07′19.4″ W
38°02′05.7″ N	122°07′35.9″ W
38°02′00.5″ N	122°07′31.1″ W
38°02′01.8″ N	122°07′27.3″ W
38°01′55.0″ N	122°07′11.0″ W

and along the shoreline back to the beginning point.

(5) *Valero, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Valero Pier, Benicia, CA, and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

Latitude	Longitude
38°02′37.6″ N	122°07′51.5″ W
38°02′34.7″ N	122°07′48.9″ W
38°02′44.1″ N	122°07′34.9″ W
38°02′48.0″ N	122°07′37.9″ W
38°02′47.7″ N	122°07′42.1″ W

and along the shoreline back to the beginning point.

(6) *Avon Pier, Suisun Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Avon Pier, Martinez, CA, and encompasses all waters in Suisun Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°02′24.6″ N	122°04′52.9″ W
38°02′54.0″ N	122°05′19.5″ W
38°02′55.8″ N	122°05′16.1″ W
38°03′02.1″ N	122°05′19.4″ W
38°02′55.1″ N	122°05′42.6″ W
38°02′48.8″ N	122°05′39.2″ W
38°02′52.4″ N	122°05′27.7″ W
38°02′46.5″ N	122°05′22.4″ W

and along the shoreline back to the beginning point.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33, entry into the security zones described in paragraph (a) of this section is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of a security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of these security zones by federal, state and local law enforcement as necessary.

Dated: February 17, 2006.

W.J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 06–2257 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–AL–0002–200528a; FRL–8042–9]

Approval and Promulgation of Implementation Plans; Alabama: State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM) on September 11, 2003. The revisions include modifications to Alabama's open burning rules found at Alabama Administrative Code (AAC) Chapter 335–3–3–.01. These revisions are part of Alabama's strategy to meet the national ambient air quality standards (NAAQS) by reducing emissions of volatile organic compounds and nitrogen oxides. Open burning creates smoke that contains fine particles (PM2.5) and precursors to ozone. ADEM has found that elevated levels of PM2.5 mirror the months when ozone levels are highest (May–September). These rules are intended to help control levels of PM2.5 and ozone precursors that contribute to high ozone and PM2.5 levels. Today's action is being taken pursuant to section 110 of the Clean Air Act (CAA). In its September 11, 2003, submittal, ADEM also proposed SIP revisions to include changes to AAC Chapter 335–3–4, concerning opacity. EPA is not acting on that part of the revision at this time.

DATES: This direct final rule is effective May 8, 2006 without further notice, unless EPA receives adverse comment by April 10, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number, ''EPA–R04–OAR–2005–AL–0002,'' by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. E-mail: *difrank.stacy@epa.gov*.
3. Fax: 404–562–9019.
4. Mail: ''EPA–R04–OAR–2005–AL–0002,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID Number, ''EPA–R04–OAR–2005–AL–0002.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. DiFrank can also be reached via electronic mail at *difrank.stacy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Today's Action

On September 11, 2003, ADEM submitted to EPA proposed SIP revisions for review and approval into the Alabama SIP. The proposed revisions include changes made by the State of Alabama to its open burning regulations, found at AAC Chapter 335–3–3–.01. These rules became state effective on October 2, 2003.

The original provisions that were part of Chapter 335–3–3–.01(1) still exists, with the exception of subpart (i), which was deleted and included as part of the newly added provision, 335–3–3–.01(2). In summary, the revisions submitted by ADEM include changes to the duration, timing, and location of open burning, and add other specific requirements for open burning.

These other requirements include expansion of the seasonal ban on open burning to now include the months of May and September, and the additional counties of Baldwin, Lawrence, Madison, Mobile, Montgomery, Morgan, and Shelby. The new provision, Chapter 335–3–3–.01(2), also describes new requirements for open burning which include, among others: (1) A limitation on open burning of vegetation or untreated wood for only the specified purposes; (2) a specification regarding fuel; (3) setbacks for all open burning; (4) a requirement to reduce traffic hazards associated with the burning; and (5) a limit on the hours of open burning. No action is being taken with regard to the last paragraph of Chapter 335–3–3–.01(2)(d), referring to open burning in Morgan County during 2003, because it was removed from the Alabama SIP in a separate action in December 2005 (70 FR 76694, December 28, 2005). The proposed revisions summarized above are approvable pursuant to section 110 of the CAA.

EPA is now taking direct final action to approve the proposed revisions, specifically, AAC Chapter 335–3–3–.01(1) and .01(2), into the Alabama SIP. These revisions include the entirety of Alabama's open burning rules and are

part of the State's strategy to meet the NAAQS by reducing emissions of volatile organic compounds and nitrogen oxides.

II. Final Action

EPA is taking direct final action to approve revisions to the Alabama SIP to include changes made to Alabama's open burning rules found at AAC Chapter 335–3–3–.01, as submitted on September 11, 2003, with the exception of one sentence in 335–3–3–.01(2)(d) regarding Morgan County. In addition, at this time, EPA is not acting on the revision to AAC Chapter 335–3–4 concerning opacity.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 8, 2006 without further notice unless the Agency receives adverse comments by April 10, 2006.

If EPA receives such comments, EPA will then publish a document withdrawing the direct final rule and informing the public that such rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 8, 2006 and no further action will be taken on the proposed rule.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely 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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 17, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 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 B—Alabama

■ 2. Section 52.50(c) is amended by revising entries for ''Section 335–3–3.01'' to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter 335–3–3		Control of Open Burning and Incineration		
* *	*	*	*	* *
Section 335–3–3–.01	Open Burning	10/2/2003	3/9/2006 [Insert citation of publication].	We are not acting on the portion of section 2(d) stating "During 2003 only burning may be conducted in Morgan County if any air curtain incinerator is used to burn the materials."
* *	*	*	*	* *

* * * * *

[FR Doc. 06–2184 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R05–RCRA–2006–0043; FRL–8040–3]

Michigan: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Michigan final authorization of the changes to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on November 23, 2005, at 70 FR 70761 and provided for public comment. The public comment period ended on December 23, 2005. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this final action.

EFFECTIVE DATE: This final authorization will be effective on March 9, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2006–0043. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy from 9 a.m. to 4 p.m. at the following addresses: Michigan Department of Environmental Quality, Waste Management Division, Constitution Hall—Atrium North, Lansing, Michigan (mailing address P.O. Box 30241, Lansing, Michigan 48909), contact Ronda Blayer (517) 353–9548; and EPA Region 5, contact Judy Feigler at the following address.

FOR FURTHER INFORMATION CONTACT: Judy Feigler, Waste, Pesticides and Toxics Division, Program Management Branch, State Programs and Authorization Section, Mail Code DM–7J, U.S. Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–4179; fax number (312) 353–3159; e-mail address: *Feigler.Judith@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 23, 2005, EPA published a proposed rule proposing to grant Michigan authorization for changes to its RCRA hazardous waste management program, listed in Section F of that notice, which was subject to public comment. No comments were received. We hereby determine that Michigan's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of EPA's changes to its own regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Michigan's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we hereby grant Michigan final authorization to operate its hazardous waste management program with the changes described in the authorization application. Michigan has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Michigan, including issuing permits, until the State is granted authorization to do so.

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

This decision means that a facility in Michigan subject to RCRA will now have to comply with the authorized state requirements (listed in section F of this document) instead of the equivalent federal requirements in order to comply with RCRA. Michigan has enforcement responsibilities under its state hazardous waste management program for violations of such program, but EPA

retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- 1. Do inspections, and require monitoring, tests, analyses or reports;
- 2. Enforce RCRA requirements and suspend or revoke permits; and
- 3. Take enforcement actions regardless of whether the state has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Michigan is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On November 23, 2005 (70 FR 70761), EPA published the proposed rule. In that proposed rule, we proposed granting authorization of changes to Michigan's hazardous waste management program and opened our decision to public comment. The Agency received no comments on this proposal. EPA found Michigan's revised program to be satisfactory.

E. What Has Michigan Previously Been Authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804–36805) to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan's program on November 24, 1989, effective January 23, 1990 (54 FR 48608); on January 24, 1991, effective June 24, 1991 (56 FR 18517); on October 1, 1993, effective November 30, 1993 (58 FR 51244); on January 13, 1995, effective January 13, 1995 (60 FR 3095); on February 8, 1996, effective April 8, 1996 (61 FR 4742); on November 14, 1997, effective November 14, 1997 (62 FR 61775); on March 2, 1999, effective June 1, 1999 (64 FR 10111); and on July 31, 2002, effective July 31, 2002 (67 FR 49617).

F. What Changes Are We Authorizing With Today's Action?

On September 7, 2005, Michigan submitted a complete program revision application seeking authorization of its changes in accordance with 40 CFR 271.21. We now make a final decision that Michigan's hazardous waste management program revision satisfies all requirements necessary to qualify for final authorization. Therefore, we hereby grant Michigan final authorization for the following program changes:

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES

Description of Federal requirement	Checklist No., if relevant	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
HSWA Codification Rule; Household Waste (Resource Recovery Facilities).	17C	July 15, 1985, 50 FR 28702	R 299.9204(2)(a) and (2)(a)(i)–(ii).
Corrective Action Management Units and Temporary Units.	121	February 16, 1993, 58 FR 8658 ..	R 299.9102(s) and (cc), R 299.9103(r), R 299.9105(c)(vii), R 299.9105(t), R 299.9107(j), R 299.9311, R 299.9413, R 299.9519(9), R 299.9601(1), (2)(k) and (l) and (3)(a), R 299.9627, R 299.9629(3)(a) and (b), R 299.9635(3), R 299.9636, and R 299.11003(1)(u).
Waste Water Treatment Sludges from Metal Finishing Industry; 180-day Accumulation Time.	184	March 8, 2000, 65 FR 12378	R 299.9306(1)(d) and (7)–(10).
Organobromine Production Waste and Petroleum Refining Process Waste: Technical Correction.	187	June 8, 2000, 65 FR 36365	R 299.9220 and R 299.11003(1)(u).
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combusters.	188, 188.1, 188.2	July 10, 2000, 65 FR 42292; May 14, 2001, 66 FR 24270; July 3, 2001, 66 FR 35087.	R 299.9230(2) and (3); R 299.9519(5)(j)(v); R 299.9623(2), (3)(b) and (11); and R 299.11003(1)(n).
Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities.	189	November 8, 2000, 65 FR 67068	R 299.9222, R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(j) and (u).
Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil.	190	December 26, 2000, 65 FR 81373.	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
Storage, Treatment, Transportation and Disposal of Mixed Wastes.	191	May 16, 2001, 66 FR 27218	R 299.9101(q), R 299.9102(d) and (z), R 299.9103(d) and (k), R 299.9104, R 299.9105(b), (j), (k), (v), (w), (z) and (aa), R 299.9203, R 299.9822(2)–(14), R 299.9823(2)–(4) and (6)–(12).
Mixture and Derived-From Rules Revisions.	192A	May 16, 2001, 66 FR 27266	R 299.9203(1)(c), (3), (7) and (8).
Land Disposal Restrictions Correction.	192B	May 16, 2001, 66 FR 27266	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
Change of EPA Mailing Address; Additional Technical Amendments and Corrections.	193	June 28, 2001, 66 FR 34374	R 299.11005(2).

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES—Continued

Description of Federal requirement	Checklist No., if relevant	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules.	194	October 3, 2001, 66 FR 50332	R 299.9203(1)(c) and (7)(c).
Inorganic Chemical Manufacturing Wastes Information and Listing.	195, 195.1	November 20, 2001, 66 FR 58258; April 9, 2002, 67 FR 17119.	R 299.9204(2)(o), R 299.9222, R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(j) and (u).
CAMU Amendments	196	January 22, 2002, 67 FR 2962	R 299.9102(s) and (t), R 299.9107(j), R 299.9635, R 299.9638, and R 299.9639.
Hazardous Air Pollutant Standards for Combusters: Interim Standards.	197	February 13, 2002, 67 FR 6792 ..	R 299.9504(4), (15) and (20), R 299.9508(1)(b), R 299.9601(2)(i) and (7), R 299.9623, R 299.9640, R 299.9808(4), (7) and (9), R 299.11003(1)(v).
Hazardous Air Pollutant Standards for Combusters; Corrections.	198	February 14, 2002, 67 FR 6968 ..	R 299.9519(5)(j)(v), R 299.9808(2), (3), (4), (7) and (9); and R 299.11003(1)(r).
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	199	March 13, 2002, 67 FR 11251	R 299.9202(1)(b)(iii), R 299.9204(1)(v), and R 299.9212(4).
Zinc Fertilizers Made From Recycled Hazardous Secondary Materials.	200	July 24, 2002, 67 FR 48393	R 299.9204(1)(x) and (y), R 299.9311, R 299.9413, R 299.9627, R 299.9801(3) and (5), and R 299.11003(1)(u).
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries.	201	October 7, 2002, 67 FR 62618	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters: Corrections.	202	December 19, 2002, 67 FR 77687.	R 299.9504(4) and (15) and R 299.9508(1)(b), R 299.9623(8), and R 299.9808(7) and (9).
Recycled Used Oil Management Standards.	203	July 30, 2003, 68 FR 44659	R 299.9205(8), R 299.9809 (1)(e) and (2)(p), and R 299.9815(1)(b) and (3)(f).

STATE-INITIATED MODIFICATIONS

State requirement	Effective date	Federal analog
MAC R 299.9205(4)	October 15, 1996	40 CFR 261.5 and 262.34.
MAC R 299.9206(3)	September 11, 2000	40 CFR 261.6(a)(3).
MAC R 299.9206(3)(g)	September 11, 2000	40 CFR 261.6(1)(2).
MAC R 299.9207(3)	June 21, 1994	40 CFR 261.7(b)(1)(i).
MAC R 299.9212(1), (2), and (3)	October 15, 1996	40 CFR 261.21, 261.22, and 261.23.
MAC R 299.9215(3)	April 20, 1988	40 CFR 261.21(c).
MAC R 299.9303(4)	September 22, 1998	40 CFR 262.12(b) and 270.11.
MAC R 299.9304(2)(h) and (4)(c)	October 15, 1996	40 CFR 262.20.
MAC R 299.9304(6)	October 15, 1996	None.
MAC R 299.9306(1)(e) and (f)	October 15, 1996	40 CFR 262.34(a)(1).
MAC R 299.9307(5)–(7)	September 22, 1998	40 CFR 262.40(c).
MAC R 299.9401	October 15, 1996	40 CFR 263.10.
MAC R 299.9404	October 15, 1996	40 CFR 263.12.
MAC R 299.9410(1) and (3)	October 15, 1996	40 CFR 263.30 and 263.31.
MAC R 299.9503(1)(i) and (k) and (5)	October 15, 1996	40 CFR 262.34.
MAC R 299.9508(1)(f)	October 15, 1996	40 CFR 270.14(b)(17).
MAC R 299.9514(1) and (2)(c)	September 22, 1998	40 CFR 124.12.
MAC R 299.9516(3)	October 15, 1996	40 CFR 270.50.
MAC R 299.9611(4)	October 15, 1996	None.
MAC R 299.9629(3)(a)(ii) and (iii) and (3)(b)(ii) and (iii).	September 11, 2000	40 CFR 264.90(a) and 264.101(b).
MAC R 299.9633	October 15, 1996	40 CFR 260.10, definition of ''treatment''.
MAC R 299.9701(2) (removal) and (3) renumbered as (2).	September 11, 2000	40 CFR 264.140(a) and (c).
MAC R 299.9713(6) and (7)	October 15, 1996	40 CFR 264.101(b).
MAC R 299.11004(4)	September 11, 2000	40 CFR part 263.
MAC R 299.11007(2)	September 11, 2000	None.
MAC R 299.11008(2)	September 11, 2000	None.

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

Michigan hazardous waste management regulations are more stringent than the corresponding federal regulations in a number of different areas. The more stringent provisions are being recognized as a part of the federally-authorized program and are federally enforceable. More stringent provisions in the state's authorization application include, but are not limited to, the following:

1. At MAC R 299.9203(7)(a) and (c), Michigan's exclusion differs from the corresponding federal counterpart at 40 CFR 261.3(g)(2)(i) in that the exclusion only applies to mixtures generated as a result of a cleanup conducted at the individual site of generation pursuant to parts 31, 111, 201, or 213 of Michigan's Act 451 (1994 PA 451, MCL 324.101, known as the natural resources and environmental protection act), or CERCLA.

2. At R 299.9306(7)(d)(i) and (ii) and (g), Michigan's rules contain containment, inspection, recordkeeping and emergency requirements that are not found in the federal counterpart at 40 CFR 262.34(g)(4)(i)(A) and (B) and (g)(4)(v), respectively.

3. At R 299.9306(7)(d)(i) and (ii), Michigan provides for management in containers and tanks, respectively, if certain conditions are met. However, Michigan does not allow use of containment buildings, as does 40 CFR 262.34(g)(4)(i)(C), (*i.e.*, Michigan's rules do not have an analog to 40 CFR 262.34(g)(4)(i)(C)).

4. At R 299.9639(5)(e), Michigan does not allow permits as a shield as does the federal counterpart at 40 CFR 264.555(e)(5).

We consider the following state requirements to be beyond the scope of the federal program, though this list may not be exhaustive:

At R 299.9104 and R 299.9203, Michigan regulates more hazardous wastes than the federal counterpart at 40 CFR 266.210. The hazardous wastes that are regulated by Michigan but not by EPA are broader-in-scope requirements.

Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although you must comply with these requirements in accordance with state law, they are not RCRA requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Michigan will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization, until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Michigan is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Michigan?

Michigan is not authorized to carry out its hazardous waste program in Indian country within the state, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Michigan;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation that qualifies as Indian country.

EPA will continue to implement and administer the RCRA program in Indian country. It is EPA's long-standing position that the term ''Indian lands'' used in past Michigan hazardous waste approvals is synonymous with the term ''Indian country.'' *Washington Dep't of Ecology* v. *U.S. EPA*, 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). *See* 40 CFR 144.3 and 258.2.

J. What Is Codification and Is EPA Codifying Michigan's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the state's statutes and regulations that comprise the state's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized state rules in 40 CFR part 272. Michigan's rules, up to and including those revised October 19, 1991, have previously been codified through incorporation-by-reference effective April 24, 1989 (54 FR 7421, February 21, 1989); as amended effective March 31, 1992 (57 FR 3724, January 31, 1992). We reserve the amendment of 40 CFR part 272, subpart X, for the codification of Michigan's program changes until a later date.

K. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and does not impose requirements other than those already imposed by state law (see **SUPPLEMENTARY INFORMATION**, Section A. Why Are Revisions to State Programs Necessary?; and Section C. What is the Effect of Today's Authorization Decision?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

2. Paperwork Reduction Act

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.*).

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

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).

5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., 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).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, or 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.)

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23,

1997) because it is not economically significant and it is not based on environmental health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves state programs as long as they met criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a state program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

12. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 271

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

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

Dated: February 21, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 06–2012 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2006–23848]

RIN 2127–AJ84

Federal Motor Vehicle Safety Standards; Head Restraints

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

ACTION: Final rule; partial response to petitions for reconsideration.

SUMMARY: This document responds, in part, to petitions for reconsideration of the December 2004 final rule amending our head restraints standard. The amended standard contains new requirements applicable to head restraints voluntarily installed in rear outboard designated seating positions. Because of the time constraints faced by vehicle manufacturers in certifying voluntarily installed rear outboard head restraints to the new requirements, we are bifurcating our response. This document addresses those issues we feel are most time sensitive. In particular, we are responding to those petitions asking the agency to delay the application of the new requirements to voluntarily installed rear outboard head restraints. This final rule delays the date on which the manufacturers must comply with the requirements applicable to head restraints voluntarily installed in rear outboard designated seating positions from September 1, 2008 until September 1, 2010. The remaining petitions for reconsideration will be addressed in a separate notice.

DATES: *Effective Date:* The amendments made in this rule are effective May 8, 2006.

Petitions: Petitions for reconsideration of the amendments made by this rule must be received by April 24, 2006.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact David Sutula of the Office of Crashworthiness Standards, Light Duty Vehicle Division, NVS–112, (Phone: (202) 366–3273; Fax: (202) 366–4329; E-mail: *David.Sutula@nhtsa.dot.gov*).

For legal issues, you may contact George Feygin of the Office of Chief Counsel, NCC–112, (Phone: (202) 366–2992; Fax (202) 366–3820; E-mail: *George.Feygin@nhtsa.dot.gov*).

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

On December 14, 2004, we published in the **Federal Register** a final rule (December 2004 final rule) upgrading Federal Motor Vehicle Safety Standard (FMVSS) No. 202, ''Head restraints.'' [1] The standard, which seeks to reduce whiplash injuries in rear collisions, was upgraded to provide better whiplash protection for a wider range of occupants. For front seats, the final rule established a higher minimum height requirement, a requirement limiting the distance between the back of an occupant's head and the occupant's head restraint (backset), as well as a limit on the size of gaps and openings within head restraints. There were also new requirements for height, strength, position retention, and energy absorption. In addition, the final rule established new requirements for head restraints voluntarily installed in rear outboard designated seating positions, and added certain requirements specific to rear head restraints capable of folding or retracting into a ''non-use position'' to accommodate stowable rear seats, or to increase rearward visibility. The upgraded provisions were designated FMVSS No. 202a.

In response to the final rule, vehicle manufacturers expressed concern that adoption of the rear seat head restraint requirements would reduce vehicle

[1] See 69 FR 74848.

utility by interfering with or even reducing the ability to provide the sort of folding seats currently available in ''multi-configuration'' vehicles such as vans and multipurpose passenger vehicles.

II. Petitions for Reconsideration

We received eight petitions for reconsideration of the December 14, 2004, final rule. These petitions were filed by the Alliance of Automobile Manufacturers (Alliance), Syson-Hille and Associates (Syson-Hille), Keiper, Johnson Controls (JC), BMW, Ford Motor Company (Ford), and DaimlerChrysler (DCX). GM filed comments in support of the Alliance petition, and Kongsberg Automotive (Kongsberg) submitted a late petition.

The petitions from the Alliance, Syson-Hille, Keiper, JC, BMW, Ford, DCX and Kongsberg requested revisions to the final rule in the areas of backset measurement and limit, height measurement and limit, clearance between the head restraint and roofline, measurement of the gap between the head restraint and seat back, retention test procedure, dynamic test alternative, energy absorption tests, and owner's manual requirements. Many petitioners also argued for delaying the September 1, 2008, effective date for all new requirements. Our response to these particular issues will be addressed in a subsequent notice.

The remaining petitions for reconsideration pertained to the requirements for optional rear head restraints. The Alliance argued that recently many new vehicles have been designed such that the rear seats retract into the floor. The head restraints on these seats can be lowered to a position nearly flush with the top of the seat back, allowing the seat to be stowed without head restraint removal. The Alliance argued that the new requirements applicable to folding rear head restraints are so stringent that it would be impossible for manufacturers to provide rear head restraints that can retract enough to allow flat-folding rear seats. Ford argued that strong customer demand for vehicle functionality requires rear seats with folding or otherwise stowable seats and stated that the current requirements are not reasonable, necessary or practicable.

The Alliance, BMW, and DCX requested that the manually stowed non-use position compliance option originally in the NPRM be reinstated except that the required torso angle change should be no more than 5 degrees. The Alliance commented that the final rule prohibits designs that meet the 10-degree torso angle requirement from the NPRM even though those designs could provide occupants with an obvious physical cue that the head restraint is not properly positioned. The Alliance added that design work on seats that meet the NPRM criteria are well underway by some companies, and those companies would experience hardship if those designs are prohibited by the final rule.

The Alliance petitioned the agency to allow non-use positions of less than 700 mm, and in-use adjustment positions between 700 and 750 mm. In effect, this petition is asking the agency to lower the minimum height requirement for rear seat head restraints from 750 mm to 700 mm, while maintaining that the head restraint be capable of reaching 750 mm. In addition, the Alliance requested that the clearance between the head restraint and roofline be clarified to ''inside of the headliner.'' The Alliance commented that a clearance of at least 50 mm, with the roof in place, is needed in the rear seat outboard locations to permit convertible roof mechanisms to operate freely. DCX requested that during the roof folding process a clearance of 10 mm be permitted.

Finally, the Alliance and DCX petitioned that NHTSA modify the effective date to require 80 percent compliance with FMVSS 202a beginning September 1, 2008, and 100 percent beginning September 1, 2009, with carry forward credits as has been allowed in other NHTSA rulemakings. The Alliance commented that the effective date set forth in the final rule does not provide sufficient lead-time for design modifications to mechanisms that allow for conversion of passenger compartments to cargo areas. The Alliance further stated that certain vehicle models that are past final design release will continue in production beyond the September 1, 2008, effective date, but would require extensive changes to comply with the mandatory FMVSS 202a requirements. DCX commented that the phase-in would alleviate the need for design and development activity to occur all at once, and potentially eliminate short seat production runs.

GM [2] submitted additional comments on the final rule requesting additional lead-time to permit development of the Global Technical Regulation on head restraints. GM argued that without relief from the existing requirements, an unintended consequence of the final rule would be that manufacturers may opt not to install head restraints in rear seats instead of installing head restraints that present stowage incompatibility or visibility concerns. The Alliance [3] submitted additional comments in support of GM's position.

III. Response to Rear Seat Lead-time Issues in Petitions

This document responds only to those portions of the petitions regarding the lead-time for manufacturers to meet the requirements for head restraints voluntarily installed in rear outboard seating positions. Resolution of the remaining petition for reconsideration issues will be addressed in a subsequent notice.

We agree that manufacturers need additional time to design manually retractable rear head restraints that meet the new performance requirements. In meetings with DCX [4], Ford [5], and GM [6], the petitioners stated that the final rule adversely impacts the design of head restraints for stowable seating. For example, DCX argued that saddle-type (shingle-type) head restraints, often used on stowable folding seats, would not meet the minimum height requirement when adjusted to their lowest position, and would not meet the non-use position criteria. Ford argued that a flat vehicle floor is a key requirement of consumers that would be affected if the final rule were not amended. GM argued that less stringent criteria with respect to non-use positions is preferable to a situation where vehicle operators are forced to remove the rear head restraint to fold the rear seats. GM argued that the standard should be amended to permit seat designs that allow consumers to keep the head restraint attached to the seat when folding, because it will help reduce the risks of improper head restraint installation, non-installation, and potential seat damage.

In meetings [7] held with the agency in August of 2005, GM proposed several options for visual cues that a rear seat head restraint is in a non-use position. These included a permanent label similar to that already present in some Volvo models, and indicators that deploy only when the head restraint is in the lowest position. GM suggested that visual cues such as these could be employed to ensure that consumers properly adjust rear seat head restraints for use after stowage. A delay in the final rule is needed for the agency to fully analyze these cues as an option.

[2] Docket NHTSA–04–19807–17.

[3] Docket NHTSA–04–19807–19.

[4] Docket number NHTSA–2004–19807–13.

[5] Docket number NHTSA–2004–19807–20.

[6] Docket number NHTSA–2004–19807–17.

[7] Dockets NHTSA–04–19807–14 and NHTSA–04–19807–17.

The agency believes that a delay in the effective date of the requirements applicable to rear head restraints would permit development of seat designs that meet the new requirements and still provide for stowage. It is not the agency's intent to discourage vehicle manufacturers from offering head restraints in rear seats. Further, because the vehicles that will become subject to the new requirements in 2008 are either already in production or in the final design stages, we believe that a delay is necessary at this time. Without this action, vehicle manufacturers indicated that they would be forced to remove rear head restraints from MY 2008 vehicles while they are attempting to resolve the issues raised above.

We considered the option of only delaying the application of ''non-use'' provisions for the rear seats. However, to allow a position of non-use below 750 mm, without any limitations, is tantamount to allowing a height lower than 750 mm. Thus, we believe a 2-year delay in regulations for the rear seat head restraints will give manufacturers the extra lead-time needed to address the folding rear seat packaging issues while implementing the front seat regulations.

NHTSA believes that this delay is a reasonable change. Based on National Analysis Sampling System (NASS) data from 2001 to 2003, the distribution of occupants by seating position for all vehicle types shows that 10 percent of all occupants sit in the second (or higher) row of outboard seats. Fewer rear seat occupants are exposed to risks in rear impacts because rear seats are much less likely to be occupied than front seats. We note that children and small adults derive less benefit from taller head restraints because their head center of gravity often does not reach the height of 750 mm above the H point.[8] Therefore, if we further refine these data to include only occupants who are 13 years or older, the relevant percentage is reduced to approximately 5.1 percent. Our conclusions about rear seat occupancy are further supported by the FRIA (Final Regulatory Impact Analysis) data, which indicate that out of a total of 272,464 annually occurring whiplash injuries, approximately 21,429 (7.8 percent) occur to the rear seat occupants. In sum, only a small percentage of occupants who are tall enough to benefit from taller head restraints sit in rear outboard seating positions. Furthermore, without this delay, manufacturers would likely exercise the option to remove rear seat head restraints entirely.

In light of the foregoing, NHTSA is granting an additional 2 years for manufacturers to develop designs that comply with the voluntarily installed rear head restraint requirements. The requirements applicable to head restraints installed in rear outboard designated seating positions will become effective September 1, 2010.

IV. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' Although this document amends the agency's December 2004 final rule, which was economically significant, NHTSA has determined that this document does not affect the costs and benefits analysis for that final rule. Readers who are interested in the overall costs and benefits of head restraints are referred to the agency's Final Economic Assessment for the December 2004 FMVSS No. 202 final rule (NHTSA Docket No. 04–19807). This notice has also been determined not to be significant under the Department's regulatory policies and procedures. The amendments made by this document provide some relief rather than impose additional costs on manufacturers or consumers. Their impacts are so minimal that a full regulatory evaluation is not merited.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This action will not have a significant economic impact on a substantial number of small businesses because it does not significantly change the requirements of the December 2004 final rule. Instead, this document delays the effective date of some of the requirements. Small organizations and small governmental units will not be significantly affected since the potential cost impacts associated with this rule will not affect the price of new motor vehicles.

C. National Environmental Policy Act

NHTSA has analyzed these amendments for the purposes of the National Environmental Policy Act and determined that they will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). While the December 2004 final rule is likely to result in over $100 million of annual expenditures by the private sector, today's final rule makes only small adjustments to the December 2004 rule. Accordingly, this final rule will not result in a significant increase in cost to the private sector.

F. Executive Order 12778 (Civil Justice Reform)

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

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information

[8] The H-point is defined by a test machine placed in the vehicle seat (Society of Automotive Engineers (SAE) J826, July 1995). From the side, the H-point represents the pivot point between the torso and upper leg portions of the test machine. It can be thought of, roughly, as the hip joint of a 50th percentile male occupant viewed laterally.

by a Federal agency unless the collection displays a valid OMB control number. This rule does not establish any new information collection requirements.

H. Regulation Identifier Number (RIN)

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

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. This final rule will not significantly impact the complexity of FMVSS 202.

J. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking does not involve decisions based on health risks that disproportionately affect children.

K. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [9] in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

The agency is not aware of any new voluntary consensus standards addressing the changes made to the December 2004 final rule as a result of this final rule.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of title 49 continues to read as follows:

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

■ 2. Section 571.202a is amended by revising S4.1 to read as follows:

§ 571.202a Standard No. 202a; Head restraints.

* * * * *

S4.1 *Performance levels.* In each vehicle other than a school bus, a head restraint that conforms to either S4.2 or S4.3 of this section must be provided at each front outboard designated seating position. In each vehicle manufactured after September 1, 2010 and equipped with rear outboard head restraints, the rear head restraint must conform to either S4.2 or S4.3 of this section. In each school bus, a head restraint that conforms to either S4.2 or S4.3 of this section must be provided for the driver's seating position. At each designated seating position incapable of seating a 50th percentile male Hybrid III test dummy specified in 49 CFR part 572, subpart E, the applicable head restraint must conform to S4.2 of this section.

* * * * *

Issued on: March 1, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 06–2108 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–59–P

[9] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NHTSA as ''a performance-based or design specific technical specifications and related management systems practices. They pertain to products and processes, such as size, strength, or technical performance of a product, process or material.''

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281-0369-02; I.D. 011106A]

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 6 a.m., local time, March 7, 2006, through 6 a.m., January 16, 2007.

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

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

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern

subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with run-around gillnets and hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(*2*)(*i*)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using run-around gillnet gear in the southern Florida west coast subzone has been reached. Accordingly, the commercial fishery for king mackerel for such vessels in the southern Florida west coast subzone is closed at 6 a.m., local time, March 7, 2006, through 6 a.m., January 16, 2007, the beginning of the next fishing season, i.e., the day after the 2007 Martin Luther King Jr. Federal holiday.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade County, FL, boundary). The Florida west coast subzone is further divided into northern and southern subzones. The southern subzone is that part of the Florida west coast subzone that from November 1 through March 31 extends south and west from 25°20.4′ N. lat. to 26°19.8′ N. lat.(a line directly west from the Lee/Collier County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that is between 26°19.8′ N. lat. and 25°48′ N. lat.(a line directly west from the Monroe/Collier County, FL, boundary), i.e., the area off Collier County.

Classification

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

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

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

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

Dated: March 6, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–2254 Filed 3–6–06; 3:18 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 46
Thursday, March 9, 2006

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23809; Directorate Identifier 2005–NE–52–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 2B Series Turboshaft Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Turbomeca Arriel 2B, 2B1, and 2B1A turboshaft engines. This proposed AD would require visually inspecting the splines of the high-pressure (HP) pump drive gear shaft and coupling shaft assembly for wear. This proposed AD results from reports of uncommanded in-flight shutdowns of engines. We are proposing this AD to detect wear on the splines of the HP pump drive gear shaft and coupling shaft assembly, which could interrupt the fuel flow and cause an uncommanded in-flight shutdown of the engine on a single-engine helicopter. The in-flight shutdown of the engine could result in a forced autorotation landing or accident.

DATES: We must receive any comments on this proposed AD by April 10, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- 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 Turbomeca, 40220 Tarnos—France; Tel (33) 05 59 74 40 00; Telex 570 042; Fax (33) 05 59 74 45 15 for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2006–23809; Directorate Identifier 2005–NE–52–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received, and any final disposition in person at the Docket Management Facility Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is 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 Docket Management Facility receives them.

Discussion

The Direction générale de l'aviation civile (DGAC), which is the airworthiness authority for France, recently notified us that an unsafe condition may exist on Turbomeca Arriel 2B, 2B1, and 2B1A turboshaft engines. The DGAC advises that they have received two reports of uncommanded in-flight engine shutdowns. Worn splines on the drive shaft of the HP pump assembly caused an interruption of the fuel flow to the engine and caused the engine to shutdown.

Relevant Service Information

We have reviewed and approved the technical contents of Turbomeca Mandatory Service Bulletin (MSB) No. 292 73 2812, Update No. 2, dated June 28, 2005. That MSB describes procedures for visually inspecting the splines of the coupling shaft assembly and the splines of the HP pump drive gear shaft for wear. The DGAC classified this MSB as mandatory and issued airworthiness directive F–2005–188, dated November 23, 2005, in order to ensure the airworthiness of these Turbomeca Arriel 2B series turboshaft engines in France.

FAA's Determination and Requirements of the Proposed AD

These engines, manufactured in France, are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. In keeping with this bilateral airworthiness agreement, the DGAC kept us informed of the situation described above. We have examined the DGAC's findings, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United

States. For this reason, we are proposing this AD, which would require:

- For hydromechanical units (HMUs) that have accumulated 450 hours or more on the effective date of the proposed AD, an initial visual inspection of the splines of the coupling shaft assembly and HP pump drive gear shaft for wear within 50 hours after the effective date of the proposed AD, and
- For HMUs that have fewer than 450 hours on the effective date of the proposed AD, an initial visual inspection of the splines of the coupling shaft assembly and HP pump drive gear shaft for wear after accumulating 450 hours, but before accumulating 500 hours, and
- A repetitive visual inspection of the splines of the coupling shaft assembly and HP pump drive gear shaft for wear every time you remove or install the HMU, and
- Replacing the HMU and coupling shaft assembly if worn beyond limits.

The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 107 engines installed on helicopters of U.S. registry. We also estimate that it would take about 1.0 work hours per engine to perform the proposed actions, and that the average labor rate is $65 per work hour. There are no required parts. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $6,955.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Turbomeca: Docket No. FAA–2006–23809; Directorate Identifier 2005–NE–52–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by April 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Arriel 2B, 2B1, and 2B1A turboshaft engines. These engines are installed on, but not limited to, Eurocopter AS350B3 and EC130B4 helicopters.

Unsafe Condition

(d) This AD results from reports of uncommanded in-flight shutdowns of engines. We are issuing this AD to detect wear on the splines of the high-pressure (HP) pump drive gear shaft and the coupling shaft assembly, which could interrupt the fuel flow and cause an uncommanded in-flight shutdown of the engine on a single-engine helicopter. The in-flight shutdown of the engine could result in a forced autorotation landing or accident.

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.

Initial Visual Inspection

(f) Perform an initial visual inspection of the splines of the coupling assembly and the HP pump drive gear shaft for wear. Use 2.A. through 2.C.(2) of the Instructions to be Incorporated of Turbomeca Mandatory Service Bulletin (MSB) No. 292 73 2812, Update No. 2, dated June 28, 2005, as follows:

(1) For hydraulic mechanical units (HMUs) that have accumulated 450 or more hours time-since-new (TSN) or time-since-overhaul (TSO) on the effective date of this AD, inspect within 50 hours after the effective date of this AD. Replace the HMU if worn beyond limits.

(2) For HMUs that have fewer than 450 hours TSN or TSO on the effective date of this AD, inspect after accumulating 450 hours TSN or TSO, but before accumulating 500 hours TSN or TSO. Replace the HMU if worn beyond limits.

Repetitive Visual Inspections

(g) Thereafter, perform a visual inspection of the splines of the coupling shaft assembly and the HP pump drive gear shaft for wear every time you remove or install the HMU. Use 2.A. through 2.C.(2) of the Instructions to be Incorporated of Turbomeca MSB No. 292 73 2812, Update No. 2, dated June 28, 2005. Replace the HMU and coupling shaft assembly if worn beyond limits.

Alternative Methods of Compliance

(h) The Manager, Engine 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

(i) DGAC airworthiness directive F–2005–188, dated November 23, 2005, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on March 2, 2006.

Thomas A. Boudreau,

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

[FR Doc. E6–3352 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24104; Directorate Identifier 2005–NM–231–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–200 and –300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A310–200 and –300 series airplanes. This proposed AD would require repetitive inspections for cracking of the flap transmission shafts, and replacing the transmission shafts if necessary. This proposed AD also would provide an optional terminating action for the repetitive inspections. This proposed AD results from reports of longitudinal cracks due to stress corrosion in the transmission shafts between the power control unit (PCU) and the torque limiters of the flap transmission system. We are proposing this AD to detect and correct cracking of the flap transmission shaft, which could compromise shaft structural integrity and lead to a disabled flap transmission shaft and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 10, 2006.

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

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

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

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425) 227–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24104; Directorate Identifier 2005–NM–231–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A310–200 and –300 series airplanes. The DGAC advises that reports have been received of longitudinal cracks due to stress corrosion in the transmission shafts between the power control unit and the torque limiters of the flap transmission system. This condition, if not corrected, could result in cracking of the flap transmission shafts, which could compromise shaft structural integrity and lead to a disabled flap transmission shaft and reduced controllability of the airplane.

Relevant Service Information

Airbus has issued Service Bulletin A310–27–2092, Revision 02, dated April 11, 2005. The service bulletin describes procedures for performing repetitive detailed inspections for stress corrosion cracking of the flap transmission shafts and replacing the transmission shafts with new or reconditioned shafts if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–174, dated October 26, 2005, to ensure the continued airworthiness of these airplanes in France.

Service Bulletin A310–27–2092, Revision 02, refers to Lucas Liebherr Service Bulletin 551A–27–624, Revision 1, dated August 18, 2000, as an additional source of service information for accomplishing the specified inspections.

Service Bulletin A310–27–2092, Revision 02, refers to Airbus Service Bulletin A310–27–2095, dated March 29, 2000, as a source of service information for replacing the flap transmission shafts. Accomplishing the actions specified by Service Bulletin A310–27–2095 would terminate the inspections required by this proposed AD.

Service Bulletin A310–27–2095 refers to Lucas Liebherr Service Bulletin 551A–27–M551–05, dated January 12, 2000, as an additional source of service information for replacing the flap transmission shafts.

FAA's Determination and Requirements of the Proposed AD

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

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

Difference Between French Airworthiness Directive and This Proposed AD

The applicability of French airworthiness directive F–2005–174 excludes airplanes on which Airbus Service Bulletin A310–27–2095 was accomplished in service. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD includes a requirement to accomplish the actions specified in that service bulletin. This requirement would ensure that the actions specified in the service bulletin and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved. This difference has been coordinated with the DGAC.

Clarification of Compliance Time

French airworthiness directive F–2005–174 states, ''If necessary, replace any defective shaft before the next flight * * *'' However, we have determined that the words ''if necessary'' could be taken to mean that, when discovered, some defects might not be considered severe enough to require replacing the transmission shaft before further flight. Therefore, this proposed AD does not use the words ''if necessary'', but would require any defective shaft to be replaced before further flight.

Costs of Compliance

This proposed AD would affect about 59 airplanes of U.S. registry. The proposed inspections would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $3,835 or $65 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2006–24104; Directorate Identifier 2005–NM–231–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category; except for airplanes on which Airbus Modification 12247 has been embodied in production.

Unsafe Condition

(d) This AD results from reports of longitudinal cracks due to stress corrosion in the transmission shafts between the power control unit (PCU) and the torque limiters of the flap transmission system. We are issuing this AD to detect and correct cracking of the flap transmission shaft, which could compromise shaft structural integrity and lead to a disabled flap transmission shaft and reduced controllability of the airplane.

Compliance

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

Inspection and Corrective Action

(f) At the earlier of the compliance times specified in paragraph (f)(1) or (f)(2) of this AD: Perform a detailed inspection for stress corrosion cracking of the flight transmission shafts located between the PCU and the torque limiters in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–27–2092, Revision 02, dated April 11, 2005. Thereafter, repeat the inspections as required by paragraph (g) of this AD. Before further flight, replace any cracked transmission shaft discovered during any inspection required by this AD with a new or reconditioned shaft in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–27–2095, dated March 29, 2000.

(1) Within 2,000 flight hours after the last flap asymmetry protection test performed in accordance with Maintenance Planning Document (MPD) task 275600–01–1.

(2) Within 8,000 flight cycles after the last flap asymmetry protection test performed in accordance with MPD task 275600–02–1 or 800 flight cycles after the effective date of this AD, whichever comes later.

Note 1: Airbus Service Bulletin A310–27–2092, Revision 02, dated April 11, 2005, refers to Lucas Liebherr Service Bulletin 551A–27–624, Revision 1, dated August 18, 2000, as an additional source of service information for accomplishing the inspections.

Note 2: Airbus Service Bulletin A310–27–2092, Revision 02, refers to Airbus Service Bulletin A310–27–2095, dated March 29, 2000, as a source of service information for replacing the flap transmission shafts.

Note 3: Airbus Service Bulletin A310–27–2095 refers to Lucas Liebherr Service Bulletin 551A–27–M551–05, dated January 12, 2000,

as an additional source of service information for replacing the flap transmission shafts.

Repetitive Inspections

(g) Repeat the inspection required by paragraph (f) of this AD at the applicable times specified in paragraph (g)(1), (g)(2), and (g)(3) of this AD.

(1) Before further flight after any occurrence of jamming of the flap transmission system.

(2) At intervals not to exceed 2,000 flight hours after each flap asymmetry protection test performed in accordance with MPD task 275600–01–1.

(3) At intervals not to exceed 8,000 flight cycles after each flap asymmetry protection test performed in accordance with MPD task 275600–02–1.

Optional Terminating Action

(h) Replacing any flap transmission shaft with a new or reconditioned transmission shaft in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–27–2095, dated March 29, 2000, ends the inspections required for that transmission shaft only.

Actions Performed Using Previously Issued Service Information

(i) Actions performed in accordance with Airbus Service Bulletin A310–27–2092, dated April 9, 1999, or Revision 01, dated December 11, 2001, are considered acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) French airworthiness directive F–2005–174, dated October 26, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on February 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3345 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM19

Medical: Informed Consent—Extension of Time Period and Modification of Witness Requirement for Signature Consent

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the U.S. Department of Veterans Affairs (VA) medical regulations on informed consent by making two substantive changes. We propose to extend the period of time during which a signed consent form remains valid from 30 to 60 days and eliminate the requirement that a third party witness the patient or surrogate and practitioner signing the consent form, except in those circumstances where the patient or surrogate signs with an ''X'' due to a debilitating illness or disability, i.e., significant physical impairment and/or difficulty in executing a signature due to an underlying health condition(s), or is unable to read or write.

DATES: Comments must be received on or before: May 8, 2006.

ADDRESSES: Written comments may be submitted by mail or hand delivery to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax comments to (202) 273–9026; or e-mail comments through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AM19.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Ruth Cecire, PhD., 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; 202–501–2012 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 7331 of title 38, United States Code (U.S.C.), directs the Secretary of Veterans Affairs to promulgate regulations to ensure that, to the maximum extent practicable, all patient care carried out under the authority of title 38 U.S.C. is accomplished with the informed consent of the patient or the patient's surrogate. These VA medical regulations, set forth at 38 CFR 17.32 and titled ''Informed Consent'', were published in the **Federal Register** as a final rule on October 2, 1997 (62 FR 53961).

The proposed rule would amend VA medical regulations on informed consent. Specifically, it would extend the time during which a signed consent form is valid from 30 to 60 days. Also, it would eliminate the requirement that a consent form be witnessed, except in those situations where the patient or surrogate signs with an ''X''. We are specifically interested in obtaining comments from non-VA providers, patients and other concerned community members with respect to both of these changes.

Often, the informed consent discussion takes place and the requisite forms are signed before a procedure is scheduled. Under the current rule, a signed consent form is valid for 30 days. If the procedure is later scheduled for a date beyond that 30 day window, the patient and practitioner must sign and date a new consent form. In our experience a number of treatments or procedures that require signature consent are scheduled more than 30 days in advance. Extending the period during which signed consent forms remain valid would enable patients to avoid having to return to the facility just to sign a new form or to re-sign when they come for the procedure.

Under current regulations, witnesses who sign the consent form only attest to the fact that they saw the patient and the practitioner sign the form. They do not attest to the content of the informed consent discussion, or that the process was voluntary, or that the patient was capable of giving informed consent. Nor do they attest to the identity of the individuals signing the form. Experience has shown that finding an appropriate witness is sometimes difficult and creates an impediment to the timely completion of the informed consent process. Given the above, it is not clear that the witness requirement benefits the veteran, especially since there are other means to verify the signatures if there is a dispute, e.g., by comparing the signature on the form against other documents signed by the patient. Therefore, we do not think it necessary to continue this practice for general signature consent. However, two witnesses would still be required to sign the consent form when the patient or surrogate signs with an ''X''.

In addition, we propose to make the following non-substantive changes to § 17.32: in paragraph (a), removing '',

e.g., a published numbered VA form (OF 522) or comparable form approved by the local VA facility''; and in paragraph (d)(2), removing ''OF522''. These references to OF522, *Request for Administration of Anesthesia and Performance of Operations and Other Procedures,* are obsolete. Use of the OF522, which is a general form, in VA health care facilities is being phased out. Facilities now have access to procedure-specific VA-authorized consent forms.

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

This rule contains no new collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The existing information collections associated with the informed consent procedures under § 17.32 have been approved by OMB under 2900–0853.

Executive Order 12866

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). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: Having an annual affect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this proposed rule and concluded that it is a significant regulatory action because it raises novel policy issues.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed 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

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; and 64.011, Veterans Dental Care.

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: November 29, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out above, VA proposes to amend 38 CFR part 17 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.

b. In paragraph (a), in the definition of *signature consent,* removing '', e.g., a published numbered VA form (OF 522) or comparable form approved by the local VA facility''.

c. Revising paragraph (d)(2).

d. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 17.32 Informed consent and advance care planning.

* * * * *

(d) * * *

(2) A patient or surrogate will sign with an ''X'' when the patient or surrogate has a debilitating illness or disability, i.e., significant physical impairment and/or difficulty in executing a signature due to an underlying health condition(s), or is unable to read or write. When the patient's or surrogate's signature is indicated by an ''X'', two adults must witness the act of signing. By signing, the witnesses are attesting only to the fact that they saw the patient or surrogate and the practitioner sign the form. The signed form must be filed in the patient's medical record. A properly executed VA-authorized consent form is valid for a period of 60 calendar days. If, however, the treatment plan involves multiple treatments or procedures, it will not be necessary to repeat the informed consent discussion and documentation so long as the course of treatment proceeds as planned, even if treatment extends beyond the 60-day period. If there is a change in the patient's condition that might alter the diagnostic or therapeutic decision, the consent is automatically rescinded.

* * * * *

(Authority: 38 U.S.C. 7331–7334)

[FR Doc. E6–3290 Filed 3–8–06; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2005–AL–0002–200528b; FRL–8043–1]

Approval and Promulgation of Implementation Plans; Alabama: State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving revisions to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM) on September 11, 2003. The revisions include modifications to Alabama's open burning rules found at Alabama Administrative Code (AAC) Chapter 335–3–3–.01. These revisions are part of Alabama's strategy to meet the national ambient air quality standards by reducing emissions of volatile organic compounds and nitrogen oxides. Open burning creates smoke that contains fine particles ($PM_{2.5}$) and precursors to ozone. ADEM has found that elevated levels of $PM_{2.5}$ mirror the months when ozone levels are highest (May–September). These rules are intended to help control levels of $PM_{2.5}$ and ozone precursors that contribute to high ozone

and $PM_{2.5}$ levels. Today's action is being taken pursuant to section 110 of the Clean Air Act. In its September 11, 2003, submittal, ADEM also proposed SIP revisions to include changes to AAC Chapter 335–3–4, concerning opacity. EPA is not acting on that part of the revision at this time.

In the Rules Section of this **Federal Register**, EPA is approving Alabama's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A rationale for the approval is set forth in the direct final rule, and incorporated herein by reference. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated with regard to this proposed action. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before April 10, 2006.

ADDRESSES: Comments may be submitted by mail to: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **ADDRESSES** section which is published in the Rules Section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. DiFrank can also be reached via electronic mail at *difrank.stacy@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: February 17, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 06–2183 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA–06–24109; Notice 1]

RIN 2127–AJ83

Civil Penalties

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to increase the maximum aggregate civil penalties for violations of the National Traffic and Motor Vehicle Safety Act, as amended. This action would be taken pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to review and, as warranted, adjust penalties based on inflation at least every four years. Additionally, this document proposes to codify statutory amendments to our penalty provisions and to make a technical correction to the text of the agency's penalty regulation.

DATES: Comments on the proposal are due April 10, 2006.

Proposed effective date: 30 days after date of publication of the final rule in the **Federal Register**.

ADDRESSES: You may submit comments by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- 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.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kido, Office of Chief Counsel, NHTSA, telephone (202) 366–5263, facsimile (202) 366–3820, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (28 U.S.C. 2461 Notes, Pub. L. No. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. No. 104–134) (referred to collectively as the ''Adjustment Act'' or, in context, the ''Act''), requires us and other Federal agencies to adjust civil penalties for inflation. Under the Adjustment Act, following an initial adjustment that was capped by the Act, these agencies must make further adjustments, as warranted, to the amounts of penalties in statutes they administer at least once every four years.

NHTSA's initial adjustment of civil penalties under the Adjustment Act was published on February 4, 1997. 62 FR 5167. At that time, we codified the penalties under statutes administered by NHTSA, as adjusted, in 49 CFR part 578, Civil Penalties. On July 14, 1999, we further adjusted certain penalties. 64 FR 37876. In 2000, the Transportation Recall Enhancement, Accountability, and Documentation (''TREAD'') Act increased the maximum penalties under the National Traffic and Motor Vehicle Safety Act as amended (sometimes referred to as the ''Motor Vehicle Safety Act''). We codified those amendments in part 578 on November 14, 2000. 65 FR 68108. On August 7, 2001, we also adjusted certain penalty amounts pertaining to odometer requirements

and disclosure and vehicle theft prevention. 66 FR 41149. On September 28, 2004, we adjusted the maximum penalty amounts for a related series of violations the agency's provisions governing vehicle safety, bumper standards, and consumer information. 69 FR 57864. Most recently, on September 8, 2005, the agency adjusted its penalty amounts for violations of its vehicle theft protection standards and those involving a related series of odometer fraud violations. 70 FR 53308.

We have reviewed the civil penalty amounts in 49 CFR part 578 and propose in this notice to adjust certain penalties under the Adjustment Act. Those civil penalties that we are proposing to adjust address violations pertaining to single and related series of violations of the Motor Vehicle Safety Act.

Method of Calculation—Proposed Adjustments

Under the Adjustment Act, we determine the inflation adjustment for each applicable civil penalty by increasing the maximum civil penalty amount per violation by a cost-of-living adjustment, and then applying a rounding factor. Section 5(b) of the Adjustment Act defines the ''cost-of-living'' adjustment as:

The percentage (if any) for each civil monetary penalty by which—

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) The Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Since the proposed adjustment is intended to be effective before December 31, 2006, the ''Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment'' would be the CPI for June 2005. This figure, based on the Adjustment Act's requirement of using the CPI ''for all-urban consumers published by the Department of Labor'' is 582.6.[1] The penalty amounts that NHTSA proposes to adjust based on the Adjustment Act's requirements were last set in 2000 for each violation of the Motor Vehicle Safety Act and adjusted in 2004 for a related series of violations of the Motor Vehicle Safety Act. The CPI figure for June 2000 is 516.5; the CPI figure for June 2004 is 568.2. Accordingly, the factors that we are using in calculating the proposed increases are 1.13 (582.6/516.5) for a single Motor Vehicle Safety Act violation and 1.02 (582.6/568.2) for a related series of Motor Vehicle Safety Act. Using these inflation factors, calculated increases under these adjustments are then subject to a specific rounding formula set forth in Section 5(a) of the Adjustment Act. 28 U.S.C. 2461, Notes. Under that formula:

Any increase shall be rounded to the nearest:

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

Change to Maximum Penalties Under the Motor Vehicle Safety Act, 49 U.S.C. Chapter 301 (49 CFR 578.6(a))

The maximum civil penalty for a violation of the Motor Vehicle Safety Act or a regulation thereunder is $5,000, as specified in 49 CFR 578.6(a)(1). Complementing this, the maximum penalty for a violation of 49 U.S.C. 30166 or a regulation thereunder is $5,000 per violation per day. See 49 CFR 578.6(a)(2). The underlying statutory civil penalty provision is 49 U.S.C. 30165(a). Applying the appropriate inflation factor (1.13) to the Adjustment Act calculation raises the $5,000 figure to $5,650, an increase of $650. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000. In this case, the increase would be $1,000. Accordingly, we propose that Section 578.6(a)(1) and (a)(2) be amended to increase the maximum civil penalty from $5,000 to $6,000 for a single violation and for each violation per day, respectively.

Similarly, we are proposing that the maximum civil penalty for a related series of violations covered in 49 CFR 578.6(a)(1) and (2) be raised. Specifically, applying the appropriate inflation factor of 1.02 to the current amount of $16,050,000 raises this figure to $16,371,000, which yields an increase of $321,000. Applying the rounding rules, which instruct that increases be rounded to the closest $25,000, produces an increase of $325,000. Accordingly, we are proposing to increase the maximum amounts in 49 CFR 578.6(a)(1) and (2) to $16,375,000.

We are also proposing to redesignate the current section 578.6(a)(2) as (a)(3) to parallel changes to 49 U.S.C. 30165 made in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Pub. L. No. 109–59, 119 Stat. 1144, 1942–43 (2005). The current section 578.6(a)(2) was based on 49 U.S.C. 30165(a)(2). SAFETEA-LU redesignated that paragraph to 49 U.S.C. 30165(a)(3). 119 Stat. at 1942. The new section 578.6(a)(2) is discussed immediately below.

Proposed Codification of School Bus Safety Penalty for a Violation of 49 U.S.C. § 30112(a) (As Amended by SAFETEA-LU)

In addition to the adjustments described above, the agency is proposing to codify penalty provisions added to the Motor Vehicle Safety Act by SAFETEA–LU. See 119 Stat. 1144, 1942–43. This is consistent with the agency's practice of codifying civil penalties available under statutes that it administers in part 578. More particularly, in SAFETEA–LU, Congress added a prohibition related to the acquisition of noncomplying 15-passenger vans for school use. 49 U.S.C. 30112(a)(2) (as amended by SAFETEA–LU). 119 Stat. at 1942. Congress also added associated penalties (49 U.S.C. 30165(a)(2), as amended by SAFETEA–LU). See 119 Stat. at 1942–43. The proposed rule incorporates the SAFETEA–LU penalty provision in terms that parallel the existing 49 CFR 578.6 regulation. Based on the SAFETEA–LU penalty provision, proposed section 578.6(a)(2) provides that a single violation may result in a maximum penalty amount of $10,000, while a related series of violations may result in a maximum penalty amount of $15,000,000. These penalties, like others under statutes NHTSA administers, would be subject to periodic adjustments under the Adjustment Act.

Technical Correction

Finally, the agency is proposing to amend the language in Section 578.6(a) to achieve consistency with the current statutory text. Specifically, Section 578.6(a) makes reference to violations of 49 U.S.C. 30123(d), which addresses the treatment of regrooved tires. On June 9,

[1] Individuals interested in deriving the CPI figures used by the agency may visit the Department of Labor's Consumer Price Index Home Page at *http://www.bls.gov/cpi/home.htm*. Scroll down to ''Most Requested Statistics'' and select the ''All Urban Consumers (Current Series)'' option, select the ''U.S. ALL ITEMS 1967 = 100 — CUUR0000AA0'' box, and click on the ''Retrieve Data'' button.

1998, this statutory provision was redesignated as subsection (a). See Pub. L. No. 105–178, 112 Stat. 107, 467. Accordingly, we are proposing to make corresponding changes in the regulation to reflect this redesignation.

Effective Date

The amendments would be effective 30 days after publication of the final rule in the **Federal Register**. The adjusted penalties would apply to violations occurring on and after the effective date.

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES.** You may also submit your comments electronically to the docket following the steps outlined under **ADDRESSES.**

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit the following to the Chief Counsel (NCC–110) at the address given at the beginning of this document under the heading **FOR FURTHER INFORMATION CONTACT**: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES.**

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES.** In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES.**

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were ''NHTSA–2006–1234,'' you would type ''1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' This action is limited to the proposed adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that a final rule based on this proposal will not have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b). The proposed amendments almost entirely potentially affect manufacturers of motor vehicles and motor vehicle equipment.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (''SIC'') Codes. SIC Code 336211 ''Motor Vehicle Body Manufacturing'' applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (''NAICS''), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 500 and 750 employees.[2]

[2] For example, according to the new SBA coding system, businesses that manufacture truck trailers, travel trailers/campers, carburetors, pistons, piston rings, valves, vehicular lighting equipment, motor vehicle seating/interior trim, and motor vehicle stamping qualify as small businesses if they employ

Many small businesses are subject to the penalty provisions of 49 U.S.C. Chapters 301 (Motor Vehicle Safety Act) and therefore may be affected by the adjustments that this NPRM proposes to make. For example, based on comprehensive reporting pursuant to the early warning reporting (EWR) rule under the Motor Vehicle Safety Act, 49 CFR part 579, of the more than 60 light vehicle manufacturers reporting, over half are small businesses. Also, there are other, relatively low production light vehicle manufacturers that are not subject to comprehensive EWR reporting. Furthermore, there are about 98 registered importers. Equipment manufacturers are also subject to penalties under 49 U.S.C. 30165.

As noted throughout this preamble, this proposed rule would only increase the maximum penalty amounts that the agency could obtain for a single violation and a related series of violations of the Motor Vehicle Safety Act. The proposed rule does not set the amount of penalties for any particular violation or series of violations. Under the Motor Vehicle Safety Act, the penalty provision requires the agency to take into account the size of a business when determining the appropriate penalty in an individual case. See 49 U.S.C. 30165(b). The agency would also consider the size of a business under its civil penalty policy when determining the appropriate civil penalty amount. See 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (''SBREFA'')). The penalty adjustments that are being proposed would not affect our civil penalty policy under SBREFA.

Since this regulation would not establish penalty amounts, this proposal will not have a significant economic impact on small businesses.

Small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles and equipment ought not change as the result of this proposed rule. As explained above, this action is limited to the proposed adoption of a statutory directive, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

500 or fewer employees. Similarly, businesses that manufacture gasoline engines, engine parts, electrical and electronic equipment (non-vehicle lighting), motor vehicle steering/suspension components (excluding springs), motor vehicle brake systems, transmissions/power train parts, motor vehicle air-conditioning, and all other motor vehicle parts qualify as small businesses if they employ 750 or fewer employees. See *http://www.sba.gov/size/sizetable.pdf* for further details.

Executive Order 13132 (Federalism)

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this final rule applies to motor vehicle manufacturers, and not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order do not apply.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12778 (Civil Justice Reform)

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, we state that there are no requirements for information collection associated with this rulemaking action.

Privacy Act

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

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber Products, Tires, Penalties.

In consideration of the foregoing, 49 CFR part 578 would be amended as set forth below.

PART 578—CIVIL AND CRIMINAL PENALTIES

1. The authority citation for 49 CFR part 578 would continue to read as follows:

Authority: Pub. L. No. 101–410, Pub. L. No. 104–134, Pub. L. No. 109–59, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

2. Section 578.6 would be amended by redesignating paragraph (a)(2) as (a)(3), adding a new paragraph (a)(2), and revising paragraph (a)(1) and the newly redesignated paragraph (a)(3) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor vehicle safety.* (1) *In general.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than $6,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act

required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is $16,375,000.

(2) *School buses.* (A) Notwithstanding paragraph (a)(1), a person who (i) violates section 30112(a)(1) of Title 49 United States Code by the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in 49 U.S.C. 30125(a)) or (ii) violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is $15,000,000.

(3) *Section 30166.* A person who violates section 30166 of Title 49 of the United States Code or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is $6,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is $16,375,000.

* * * * *

Issued on: March 2, 2006.

Stephen P. Wood,

Acting Chief Counsel.

[FR Doc. E6–3307 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 71, No. 46
Thursday, March 9, 2006

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 7, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Mink Survey.

OMB Control Number: 0535–0212.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Statistics on mink production are published for the 15 major states that account for 95 percent of the U.S. production. There is no other source for this type of information. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: NASS collects information on mink pelts produced by color, number of females bred to produce kits the following year, number of mink farms, average marketing price, and the value of pelts produced. The data is disseminated by NASS in the Mink Report and is used by the U.S. government and other groups.

Description of Respondents: Farms.

Number of Respondents: 337.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 54.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–3318 Filed 3–8–06; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 7, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR 1944–I, ''Self-Help Technical Assistance Grants''.

OMB Control Number: 0575–0043.

Summary of Collection: This regulation prescribes policies and responsibilities, including the collection and use of information, necessary to administer the Section 523 Mutual and Self-Help housing (MSH) program. The MSH program affords low-income families the opportunity for home ownership by providing funds to non-profit organizations for supervisory and technical assistance to the homebuilding families. Rural Housing Service (RHS) will collect information from non-profit organizations that want to develop a Self-Help program in their area to increase the availability of affordable housing. The information is collected at the local, district and state levels. The information requested by RHS includes financial and organizational information about the non-profit organization.

Need and Use of the Information: RHS needs this information to

determine if the organization is capable of successfully carrying out the requirements of the Self-Help program. The information is collected on an as requested or needed basis. RHS has reviewed the program's need for the collection of information versus the burden placed on the public.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 160.

Frequency of Responses: Recordkeeping; Reporting: Monthly, Annually.

Total Burden Hours: 4,372.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–3319 Filed 3–8–06; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Forest Service

Renewal of Special-Use Permits for Recreational Residences on the Safford Ranger District, Coronado National Forest, Graham County, AZ

AGENCY: Forest Service, USDA.

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

SUMMARY: In accordance with the President's Council on Environmental Quality (CEQ) Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) of 1969, the U.S. Department of Agriculture, Forest Service, Coronado National Forest, announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate a proposed action to renew individual special-use permits (SUPs) for occupancy and use of 88 existing recreational residences on the Safford Ranger District. If a decision is made to renew, term permits would be issued for a 20-year period beginning on January 1, 2009. No change in the use of the residences would occur upon issuance of a new permit.

DATES: Comments concerning the scope of the analysis must be received by April 10, 2006. Written and oral scoping comments will also be received at open-house public meetings scheduled to be held in Tucson, Arizona, on March 27, 2006, and Safford, Arizona, on March 28, 2006.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) in the fall of 2006. At that time, EPA will publish a Notice of Availability (NOA) of the Draft EIS in the **Federal Register**, which will begin a period of public review of the Draft EIS. The review period will comprise 45 days from the date of publication of the NOA in the **Federal Register**. The Final EIS is scheduled to be completed in the winter of 2006/2007.

ADDRESSES: Written comments on this notice may be mailed to the Bill Lewis, Recreation and Special-Uses Program Manager, Coronado National Forest, 300 West Congress Street, Tucson, Arizona 85701. You may also submit written comments by facsimile to Mr. Lewis at (520) 388–8305. Comments may be submitted by electronic mail to *comments-southwestern-coronado@fs.fed.us*. Envelopes and the subject line of electronic mail messages or faxes should be labeled ''Safford Recreational Residence EIS.''

Public meetings will be held during the scoping period at the following locations, dates, and times: Tucson-Pima County Main Library, Basement Meeting Room, 101 North Stone Avenue, Tucson, Arizona, March 27, 2006 (6 p.m. to 8 p.m.), The Manor House, Arizona Room, 415 East U.S. Highway 70, Safford, Arizona, March 28, 2006 (4 p.m. to 7 p.m.).

FOR FURTHER INFORMATION CONTACT: For information on the Special-Uses Program, please contact Mr. Bill Lewis, Recreation and Special-Uses Program Manager, Coronado National Forest, at the above address, and telephone (520) 388–8422. Questions on the Forest Service NEPA process or FOIA requirements may be directed to Ms. Andrea Wargo Campbell, Forest NEPA Coordinator, at the same address, and telephone (520) 388–8352.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Forest Service has offered a recreational residence program on National Forest System lands since the 1920's. The program was initiated with the objective of encouraging city-dwellers to enjoy the recently established national forests by permitting them to construct vacation homes on specified plots. It expanded through the 1960's to encompass a total of 19,000 cabins nationwide before the program was discontinued.

There are now about 15,000 Forest Service cabins nationwide, each of which is maintained under the terms and conditions of SUPs issued by the managing Forest. Though some cabins have been traded on the open market, many are still owned by the descendants of the individuals who built them.

Eighty-eight (88) recreational residences are located on the Safford Ranger District of the Coronado National Forest near Safford, Arizona: 14 at an area known as Columbine and 74 at Turkey Flat. The owners of these recreational residences hold Forest Service SUPs that allow each unit to be occupied under specific terms and conditions. Restrictions imposed on the use of recreational residences on National Forest System lands include, among other conditions, a prohibition on year-round residency and vacation rental, and constraints on proposed remodeling that would change the footprint or character of a residence.

Special-use permits issued for recreational residences on the Safford Ranger District are scheduled to expire on December 31, 2008. Forest Service Handbook (FSH) 2709.11, Chapter 41.23a(2), requires that special-uses program staff ''initiate the analysis and action to issue a new permit 2 years prior to expiration of the current term permit''. The Handbook further states that, because ''recreation residences have been in place for many years, and experience in administering this use has shown that continuing the use does not cause significant environmental impacts, issuance of a new permit can be made without further environmental documentation'' [2709.11, Chapter 41.23a(1)]. However, ''if the use has not been analyzed sufficiently as part of an EA or EIS completed within 5 years of permit expiration, (the program must) complete the appropriate environmental analysis and documentation'' [2709.11, Chapter 41.23a(1)(b)]. Because NEPA documentation for the SUPs issued for recreational residences on the Safford District was completed more than five years prior to the upcoming permit expiration, the Forest Service has decided to prepare an EIS for the proposed permit renewal action.

Proposed Action

The Forest Service's proposed action is to renew SUPs issued for recreational residences on the Safford Ranger District upon their expiration on December 31, 2008. The renewal period would extend 20 years, from January 1, 2009, through December 31, 2028. Permit holders would be required to abide by all terms and conditions expressed in their respective SUPs and in accordance with the annual Operation and Maintenance (O&M) Plan conveyed with each SUP. (Examples of an SUP and O&M Plan are available for public review on the Coronado National Forest Web site at *''http://www.fs.fed.us/r3/coronado''*.) Prior to the renewal of an SUP, each recreational

residence will be subject to inspection by Forest Service personnel to confirm that the permit holder is in compliance with the terms and conditions of his/her current permit [FSH 2709.11, 41.23a(3)].

Purpose of and Need for Action

The purpose of and need for Forest Service action is based upon the anticipated expiration of the SUPs for recreational residences on the Safford Ranger District. Under the Federal Land Policy and Management Act (FLPMA) of 1976, the Forest Service is directed to consider special uses of National Forest System lands requested by the public, and to permit such uses when (1) they are allowable under the FLMPA and (2) they are implemented in accordance with goals, objectives, standards, and guidelines expressed in a Forest's Land and Resource Management Plan (LRMP). Action is needed at this time because the permits on the Safford Ranger District are scheduled to expire. It is Forest Service policy to continue recreation residence use and to work in partnership with holders of these permits to maximize public recreational benefits [Forest Service Manual (FSM) 2347.1; LRMP, pp. 9, 41 and 59].

Preliminary Identification of Issues

Based on a preliminary assessment of the potential impacts of the proposed action, the following issues were identified:

1. Insect infestation and fire have affected the population and habitat of the Mt. Graham red squirrel in the area of the Columbine recreational residences.
2. When a wildfire occurs, the appropriate response in the area of the recreational residences is suppression, which disrupts the natural fire cycle and the ability of the ecosystem to restore itself to natural historic fire-adapted conditions.

Responsible Official

Mr. William A. Schuckert, Safford District Ranger, Coronado National Forest, will be the Responsible Official for this EIS process. The address for the Safford Ranger District is 711 14th Avenue, Suite D, Safford, Arizona 85546.

Nature of NEPA Decision To Be Made

The Safford District Ranger's decision will recommend implementation of one of the following alternatives: (1) The proposed action to renew the recreational residence SUPs for a 20-year period, (2) an alternative to the proposed action, if any exist, or (3) the no-action alternative. If the Ranger's decision is that no action should be taken, an SUP would be issued to each permit holder for a 10-year period, and during this period, each owner would be required to remove his/her residences from National Forest System lands at his/her expense.

National Forest Management Act Consistency Determination

A decision to issue new recreational residence permits, following expiration of the current permits, requires, in addition to a NEPA review, a determination of the consistency of the renewal action with the governing Land and Resource Management Plan for the Coronado National Forest (1986, as amended). According to policy, when a recreational residence use is consistent with the Land and Resource Management Plan, the use shall continue (FSM 2721.23e), and a new permit shall be issued to the current permit holder [FSM 2721.23e(1)], upon request. Consistency determinations are made by tract, not individual lots; therefore, on the Safford Ranger District, two consistency determinations will be made: one for residences at Columbine, the other for those at Turkey Flat.

Comments Requested

The Forest Service encourages citizens to express issues, concerns, and suggestions they may have about this proposed action. Comments should be directly related to the proposed action to best assist us in our environmental impacts analysis. Although comments are welcome at any time, they will be most useful to us if they are received by April 10, 2006. If you have any questions about this notice or the comment process, please contact Bill Lewis, Recreation and Special-Uses Program Manager, Coronado National Forest, at (520) 388–8422 prior to submitting your comments.

Written comments may be sent by U.S. mail to Bill Lewis (RE: Safford Recreation Residences EIS), Coronado National Forest, 300 West Congress Street, Tucson, Arizona 85701 or by facsimile to Mr. Lewis at (520) 388–8305. Alternatively, comments may be submitted by electronic mail to the following address: *''comments-southwestern-coronado@fs.fed.us''.* Please include ''Safford Recreation Residences EIS'' in the subject line of all e-mails.

Comments and personal information associated with them, such as names and addresses, will become part of the administrative project record for this NEPA review. As such, they may be made available to a third-party upon request pursuant to the Freedom of Information Act (FOIA). If you do not wish your personal information to be subject to release under FOIA, you may chose not to include it with your comments. Alternatively you may request an exemption from FOIA with your comment submittal. Should you choose the latter, you will be informed by the Forest Service as to whether or not your request qualifies for an exemption. If it does not, you will be afforded the opportunity to resubmit your comments without personal information or to withhold them.

Early Notice of the Importance of Public Participation in the NEPA Process

Following the 30-day scoping period announced in this notice, the Forest Service will prepare a draft environmental impact statement (DEIS). Upon completion, the DEIS will be made available for a 45-day public review and comment period that will begin on the date that the Environmental Protection Agency publishes a notice of Availability of the DEIS in the **Federal Register**. The Forest Service believes that, at this early stage, it is important to provide the public with notice about several court rulings related to public participation in the NEPA environmental review process.

First, reviewers of a DEIS must structure their participation in the NEPA review so that it is meaningful and alerts the 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 DEIS stage but are not raised until after completion of the final environmental impact statement (FEIS) 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.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wisc. 1980)]. Because of these court rulings, it is very important that those parties who are interested in this proposed action participate before the close of a public comment period so that substantive comments and objections are available to the Forest Service in a timely manner that will allow them to be meaningfully considered and subsequently addressed in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns about the proposed action, comments on a DEIS should be as specific as possible. It is also helpful if comments refer to specific line numbers, pages, and/or chapters of the DEIS. Comments may address the adequacy of the DEIS or the merits of the alternatives formulated and

discussed in it. For comments of this nature, reviewers may choose to refer to CEQ regulations at 40 CFR 1503.3.

Comments received, including the names and addresses of those who comment, will be considered part of the public record of this NEPA review and will be available or public inspection (Authority: 40 CFR 1501.7 and 1508.22; FSF 1909.15, Section 21).

Authorization: National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321–4346); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); U.S. Department of Agriculture NEPA Policies and Procedures (7 CFR part 1b).

Dated: March 1, 2006.

Jeanine A. Derby,

Forest Supervisor.

[FR Doc. 06–2202 Filed 3–8–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (CCPAC) will meet on March 29–30, 2006, in Ukiah, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan (NWFP).

DATES: The meeting will be held from 10 a.m. to 5 p.m. on March 29 and 8 a.m. to 1:45 p.m. on March 30, 2006.

ADDRESSES: The meeting will be held at the Discovery Inn (Landmark Conference Room), 1340 North State Street, Ukiah California.

FOR FURTHER INFORMATION CONTACT: Kathy Allen, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501; (707) 441–3557; *kmallen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: On March 29, the meeting agenda items to be covered include: (1) Survey and Manage Update; (2) Aquatic Conservation Committee Update; (3) NWFP 10-year Monitoring Report; (4) Douglas Timber Operations Settlement Agreement—Implications on NWFP and Northern Province Forests; (5) 5-Year Planning Process and Stewardship Fireshed Assessment Process; (6) Regional Interagency Ecosystem Committee (RIEC) Meeting Update; (7) Update on Critical Habitat; and (8) Public comment.

On March 30, the meeting agenda items to be covered include: (1) Viewing of the Forest Service ''Greatest Good'' Video; (2) Agency Updates; and (3) Public comment.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: March 1, 2006.

William D. Metz,

Acting Designated Federal Official.

[FR Doc. 06–2243 Filed 3–8–06; 8:45am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Environmental Assessment; Midlands Creek, Papillion Creek Watershed, NE

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability, Finding of No Significant Impact.

SUMMARY: The Natural Resources Conservation Service (NRCS) has prepared an Environmental Assessment in compliance with the National Environmental Policy Act (NEPA), as amended. Pursuant to the implementing regulations for NEPA (40 CFR parts 1500–1508); the USDA Departmental Policy for the NEPA (7 CFR part 1b); the Natural Resources Conservation Service Regulations (7 CFR part 650); and the Natural Resources Conservation Service policy (General Manual Title 190, Part 410); the Natural Resources Conservation Service gives notice that an environmental impact statement is not being prepared for the grade stabilization of Midlands Creek, Papillion Creek Watershed, Sarpy County Nebraska. The Environmental Assessment was developed in coordination with the Papio-Missouri River Natural Resources District for a federally assisted action authorized as a congressional earmark for a compacted earthen fill dam grade stabilization structure. Upon consideration of the affected environment, alternatives, environmental consequences, and comments and coordination with concerned public and agencies, the State Conservationist for NRCS, Nebraska found that based on the significance and context and intensity that the proposed action is not a major federal action significantly affecting the quality of the human environment. Thus, a Finding of No Significant Impact (FONSI) was made.

FOR FURTHER INFORMATION, CONTACT: Stephen K. Chick, State Conservationist, U.S. Department of Agriculture, Natural Resources Conservation Service, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, Nebraska 68508–3866; telephone (402) 437–5300.

SUPPLEMENTARY INFORMATION: The sponsoring local organization (Papio-Missouri River Natural Resources District) concurs with this determination and agrees with carrying forward the proposed project. The objective of the sponsoring local organization is to install a project that would reduce flood damage to urban areas; state, county and city roads and bridges; and other properties. The proposed action is to utilize an earthen dam on Midlands Creek at the identified S–30 site to provide grade stabilization as identified by the allocation of a congressional earmark.

Information regarding this finding may be obtained at the contact information listed above. No administrative action on implementation of the proposed funding action will be taken until 30 days after the date of this publication in the **Federal Register**.

Stephen K. Chick,

State Conservationist.

[FR Doc. E6–3311 Filed 3–8–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Dolphin International, Ltd., In the Matter of: Dolphin International, Ltd., 21 Commercial Complex, Gulboker Park Extension, New Delhi 110049, India; Respondent

Order

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Dolphin International, Ltd. (hereinafter referred to as ''Dolphin'') of its intention to initiate an administrative proceeding against Dolphin pursuant to § 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2005)) (''Regulations'')[1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–

[1] The violations charged occurred in 2000 through 2002. The Regulations governing the violations at issue at found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR Parts 730–774 (2000–2002)). The 2005 Regulations establish the procedures that apply to this matter.

2420 (2000))(''Act''),[2] by issuing a proposed charging letter to Dolphin that alleged that Dolphin committed two violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(d)–*Conspiracy to Export Toxins to North Korea Without the Required License:* Beginning in or about late 2000 and continuing into September 2002, Dolphin conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. The goal of the conspiracy was to obtain certain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. In furtherance of the conspiracy, Dolphin negotiated with individuals from North Korea end-user and to export those toxins to North Korea. In furtherance of the conspiracy, Dolphin negotiated with individuals from North Korea to acquire the toxins and developed a plan to deliver the toxins from the United States to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

2. *One Violation of 15 CFR 764.2(c)—Soliciting an Export of Toxins Without the Required License:* In or about late 2000 through in or about September 2002, Dolphin solicited a violation of the Regulations by enlisting others to acquire toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under ECCN 1C351, for export from the United States to North Korea without the required Department of Commerce license. Specifically, Dolphin asked a co-conspirator in the United States to acquire the toxins from the U.S. manufacturer and then ship the toxins to a co-conspirator in the Netherlands, who would forward the toxins to North Korea. Contrary to Seciton 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

Whereas, BIS and Dolphin have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved the terms of such Settlement Agreement;

It is therefore ordered:

First, that a civil penalty of $22,000 is assessed against Dolphin, which shall be paid to the U.S. Department of Commerce no later than 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3702E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Dolphin will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Dolphin. Accordingly, if Dolphin should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Dolphin's export privileges under the Regulations for a period of one year from the date of entry of this Order. The payment of the civil penalty is guaranteed by Mr. Vishwanath Kakade Rao (hereinafter referred to as ''K.V. Rao''), in his individual capacity, and K.V. Rao and Dolphin, are jointly and severally liable for the payment of the penalty.

Fourth, that for a period of four years from the date of entry of this Order, Dolphin International, Ltd., 21 Commercial Complex, Gulboker Park Extension, New Delhi 110049, India, its successors or assigns, and when acting for or on behalf of Dolphin, its officers, representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States.

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which has been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.

Sixth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Dolphin by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Seventh, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 2nd day of March, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–2242 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Erik Kyriacou; In the Matter of: Erik Kyriacou, 50 Park Drive, Rocky Point, NY 11778

Order Denying Export Privileges

A. Denial of Export Privileges of Erik Kyriacou

On July 19, 2004, in the U.S. District Court in the Eastern District of Pennsylvania, Erik Kyriacou (''Kyriacou'') pleaded guilty to four charges, including two violations of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). As to the IEEPA counts, Kyriacou pleaded guilty of knowingly and willfully having exported and caused to be exported from the United States to the Islamic Republic of Iran, four electrophysics astroscope lenses, Model 9300XL–3N, which were Commerce Control List items, without obtaining the required licenses from the Department of Commerce. These items were controlled for national security reasons for export to Iran. Kyriacou was sentenced to five years probation with the first four months to be spent in home confinement.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. §§ 2401–2420 (2000)) (''Act'') [1] and Section 766.25 of the Export Administration Regulations [2] (''Regulations'') provide, in pertinent part, that ''[t]he Director of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny export privileges of any person who has been convicted of a violation of * * * IEEPA,'' for a period not to exceed 10 years from the date of conviction. 15 CFR 766.25(a) and (d). In addition, § 750.8 of the Regulations states that BIS's Office of Exporter Services may revoke any BIS licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Kyriacou's indictment for violating the IEEPA, and have provided notice and an opportunity for Kyriacou to make a written submission to the Bureau of Industry and Security as provided in § 766.25 of the Regulations. Having received no submission from Kyriacou, I, following consultations with the Export Enforcement, including the Director, Office of Export Enforcement, have decided to deny Kyriacou's export privileges under the Regulations for a period of 10 years from the date of Kyriacou's conviction.

Accordingly, it is hereby ordered:

I. Until July 19, 2015, Erik Kyriacou, 50 Park Drive, Rocky Point, New York 11778, when acting in behalf of Kyriacou, all of his assigns or successors, and when acting for or on behalf of Kyriacou, his representatives, agents or employees, (collectively referred to hereinafter as the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, on ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulation, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, though Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273, August 5, 2005), has continued the Regulations in effect under the IEEPA.

[2] The Regulations are currently codified at 15 CFR parts 730–774 (2005).

III. After notice and opportunity for comment as provided in § 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Erik Kyriacou by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This order is effective immediately and shall remain in effect until July 19, 2015.

VI. In accordance with Part 756 of the Regulations, Kyriacou may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Kyriacou. This Order shall be published in the **Federal Register**.

Dated: March 1, 2006.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 06–2237 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Orcas International, Inc.; In the Matter of Orcas International, Inc., 230 U.S. Highway 206, Suite 3, Flanders, NJ 07836; Respondent

Order

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Orcas International, Inc. (hereinafter referred to as ''Orcas'' of its intention to initiate an administrative proceeding against Orcas pursuant to § 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2005)) (''Regulations'') [1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. § § 2401 2420 (2000)) (''Act''),[2] by issuing a proposed charging letter to Orcas that alleged that Orcas committed two violations of the Regulations. *Specifically, the charges are:*

1. One Violation of 15 CFR 764.2(d)—*Conspiracy to Export Toxins to North Korea Without the Required License:* Beginning in late 2000 and continuing into September 2002, Orcas conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. The goal of the conspiracy was to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. In furtherance of the conspiracy, Orcas acquired the toxins from a U.S. company and then attempted to export them from the United States to a co-conspirator in the Netherlands who was to complete the export to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

2. One Violation of 15 CFR 764.2(b)—*Attempting to Export Toxins Without the Required License:* On or about September 12, 2002, Orcas attempted to export toxins, Aflatoxin (M1, P1, Q1) and Straphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under ECCN 1C351, from the United States to North Korea without obtaining an export license from the Department of Commerce as required by Section 742.2 of the Regulations.

Whereas, BIS and Orcas have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved the terms of such Settlement Agreement;

It is therefore ordered:

First, that a civil penalty of $19,800 is assessed against Orcas, which shall be paid to the U.S. Department of Commerce no later than 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Orcas will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that, the timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Orcas. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all Orcas's export privileges under the Regulations for a period of one year from the date of imposition of the penalty. The payment of the civil penalty is guaranteed by Mr. Graneshawar K. Rao (hereinafter referred to as ''K.G. Rao''), in his individual capacity, and K.G. Rao and Orcas, are jointly and severally liable for the payment of the penalty.

Fourth, that for a period of four years from the date of entry of this Order, Orcas, its successors or assigns, and when, acting for or on behalf of Orcas, its officers, representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is specified on the Commerce Control List (''Control List'') [3] or in any other activity that is subject to the Regulations involving an item that is specified on the Control List, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document in connection with an item that is specified on the Control List;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering,

[1] The violations charged occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2000–2002)). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which has been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive presidential notice, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.

[3] The Commerce Control List is set forth in Supp. 1 to part 774 of the Regulations ''EAR99'' items are subject to the Regulations but not ''specified'' on the Control List. *See* 15 CFR 774.1.

storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is specified on the Control List, or in any other activity subject to the Regulations involving an item that is specified on the Control List; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is specified on the Control List, or in any other activity subject to the Regulations involving an item that is specified on the Control List.

Fifth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item specified on the Control List;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item specified on the Control List that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item specified on the Control List that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item specified on the Control List with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item specified on the Control List that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item specified on the Control List that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Orcas by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Seventh, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this manner, is effective immediately.

Entered this 2nd day of March 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–2239 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Graneshawar K. Rao; In the Matter of: Mr. Graneshawar K. Rao, Orcas International, Inc., 230 U.S. Highway 206, Suite 3, Flanders, NJ 07838; Respondent

Order

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Graneshawar K. Rao (hereinafter referred to as ''K.G. Rao'') of its intention to initiate an administrative proceeding against K.G. Rao pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2005)) (''Regulations'') [1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401 2420 (2000)) (''Act''),[2] by issuing a proposed charging letter to K.G. Rao that alleged that K.G. Rao committed two violations of the Regulations. *Specifically, the charges are:*

1. *One Violation of 15 CFR 764.2(d)—Conspiracy to Export Toxins to North Korea Without the Required License:* Beginning in or about late 2000 and continuing into or about September 2002, K.G. Rao conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. The goal of the conspiracy was to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. In furtherance of the conspiracy, K.G. Rao acquired the toxins from a U.S. company and then attempted to export them from the United States to a co-conspirator in the Netherlands who was to complete the export to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

2. *One Violation of 15 CFR 764.2(b)—Attempting to Export Toxins Without the Required License:* On or about September 12, 2002, K.G. Rao attempted to export toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under ECCN 1C351, from the United States to North Korea without obtaining an export license from the Department of Commerce as required by Section 742.2 of the Regulations.

Whereas, BIS and K.G. Rao have entered into a Settlement Agreement prusuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved the terms of such Settlement Agreement;

It is therefore ordered:

First, that for a period of four years from the date of entry of this Order, Mr. Graneshawar K. Rao, of Orcas International, Inc., 230 U.S. Highway 206, Suite 3, Flanders, NJ 07836, and when acting for or on behalf of him, his representatives, agents, assigns or

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[1] The violations charged occurred in 2000 through 2002. The regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2000–2002)). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which has been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783(2002)), which has been extended by successive presidential notices, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.

employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is specified on the Commerce Control List (''Control List'') [3], or in any other activity that is subject to the Regulations involving an item that is specified on the Control List, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document in connection with an item that is specified on the Control List;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is specified on the Control List, or in any other activity subject to the Regulations involving an item that is specified on the Control List; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is specified on the Control List, or in any other activity subject to the Regulations involving an item that is specified on the Control List.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item specified on the Control List;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item specified on the Control List that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item specified on the Control List that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item specified on the Control List with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item specified on the Control List that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item specified on the Control List that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to K.G. Rao by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Sixth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 2nd day of March 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–2238 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DT–M

[3] The Commerce Control List is set forth in Supp. 1 to Part 774 of the Regulations. ''EAR99'' items are subject to the Regulations but not ''specified'' on the Control List. *See* 15 CFR 774.1.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Vishwanath Kakade Rao; In the Matter of: Vishwanath Kakade Rao, Dolphin International, Ltd., 21 Commercial Complex, Gulboker Park Extension, New Delhi 110049, India; Respondent

Order

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Vishwanath Kakade Rao (hereinafter referred to as ''K.V. Rao'') of its intention to initiate an administrative proceeding against K.V. Rao pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2005)) (''Regulations'') [1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (''Act''),[2] by issuing a proposed charging letter to K.V. Rao that alleged that K.V. Rao committed two violations of the Regulations. *Specifically, the charges are:*

1. *One Violation of 15 CFR 764.2(d)—Conspiracy to Export Toxins to North Korea Without the Required License:* Beginning in or about late 2000 and continuing into September 2002, K.V. Rao conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. The goal of the conspiracy was to obtain certain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. In furtherance of the conspiracy, K.V. Rao negotiated with individuals from North Korea to acquire the toxins and developed a plan to deliver the toxins from the United States to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

2. *One Violation of 15 CFR 764.2(c)—Soliciting an Export of Toxins Without the Required License:* In or about late 2000 through in or about September 2002, K.V. Rao solicited a violation of the Regulations by enlisting others to acquire toxins, including Aflatoxin (M1,

[1] The violations charged occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2000–2002)). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which has been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.

P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under ECCN 1C351, for export from the United States to North Korea without the required Department of Commerce license. Specifically, K.V. Rao asked a co-conspirator in the United States to acquire the toxins from the U.S. manufacturer and then ship the toxins to a co-conspirator in the Netherlands, who would forward the toxins to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

Whereas, BIS and K.V. Rao have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved the terms of such Settlement Agreement;

It is therefore ordered:

First, that for a period of four years from the date of entry of this Order, Vishwanath Kakade Rao, of Dolphin International Ltd., 21 Commercial Complex, Gulboker Park Extension, New Delhi 110049, India, and when acting for or on behalf of him, his representatives, agents, assigns or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, sorting, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States.

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to K.V. Rao by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Sixth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register.**

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 2nd day of March, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–2240 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–412–801]

Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. The merchandise covered by these orders are ball bearings and parts thereof (ball bearings) from France, Germany, Italy, Japan, and the United Kingdom. The reviews cover 14 manufacturers/exporters. The period of review is May 1, 2004, through April 30, 2005.

We have preliminarily determined that sales have been made below normal value by various companies subject to these reviews. If these preliminary results are adopted in our final results of administrative reviews, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in these reviews are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Janis Kalnins or Richard Rimlinger , AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1392 and (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department published in the **Federal Register** (54

FR 20900) the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, and the United Kingdom. On June 30, 2005, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative reviews of these orders (70 FR 37749). On January 27, 2006, we extended the due date for the completion of these preliminary results of reviews from January 31, 2006, to March 2, 2006 (71 FR 4568). The list of companies for which we have conducted administrative reviews of the various orders on ball bearings are as follows:

France:
* SKF France S.A. or Sarma (SKF France)

* SNR Roulements or SNR Europe (SNR)

Germany:
* Gebrüder Reinfurt GmbH & Co., KG (GRW)
* INA–Schaeffler KG; INA Vermogensverwaltungsgesellschaft GmbH; INA Holding Schaeffler KG; FAG Kugelfischer Georg–Schaefer AG; FAG Automobiltechnik AG; FAG OEM und Handel AG; FAG Komponenten AG; FAG Aircraft/ Super Precision Bearings GmbH; FAG Industrial Bearings AG; FAG Sales Europe GmbH; FAG International Sales and Service GmbH (collectively INA/FAG)
* SKF GmbH (SKF Germany)

Italy:
* FAG Italia S.p.A.; FAG Automobiltechnik AG; FAG OEM und Handel AG (collectively FAG Italy)

* SKF Industrie S.p.A.; SKF RIV–SKF Officine di Villas Perosa S.p.A.; RFT S.p.A.; OMVP S.p.A. (collectively SKF Italy)

Japan:
* Koyo Seiko Co., Ltd. (Koyo)[1]
* NSK Ltd. (NSK)
* NTN Corporation (NTN)
* Nachi–Fujikoshi Corporation (Nachi)

* Nippon Pillow Block Co., Ltd. (NPB)
* Sapporo Precision Inc. (Sapporo)

United Kingdom:
* The Barden Corporation (UK) Limited; FAG (U.K.) Limited (collectively Barden/FAG)

Scope of Orders

The products covered by the orders are ball bearings (other than tapered roller bearings) and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written descriptions of the scope of these orders remain dispositive.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the orders. These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the these orders. For unfinished parts, such parts are included if they have been heat–treated or heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of these orders.

For a listing of scope determinations which pertain to the orders, see the Scope Determination Memorandum (Scope Memorandum) from the Antifriction Bearings Team to Laurie Parkhill, dated March 2, 2006. The Scope Memorandum is on file in the Central Records Unit (CRU), main commerce building, room B–099, in the General Issues record (A–100–001) for the 04/05 reviews.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we have verified information provided by certain respondents using standard verification procedures, including on–site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Specifically, we conducted verifications of NTN, Nachi, FAG Italy, SNR, NSK, SKF Germany, SKF Italy, SKF France, and Koyo. Our verification results are outlined in the public versions of the verification reports, which are on file in the CRU, room B–099.

Use of Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

[1] On February 3, 2006, Koyo filed a request for a changed-circumstances review of the order on ball bearings from Japan with the Department. As Koyo explained, the request for such a review is precipitated by the merger of Koyo and an affiliated company that has resulted in the creation of JTEKT Corporation. Koyo requests that JTEKT Corporation be recognized as its successor-in-interest for antidumping-duty purposes. The Department is considering the request for the review separately from the ongoing administrative review.

We found at verification that Nachi reported the physical characteristics for a number of models incorrectly. See Nachi Verification Report dated February 9, 2006, at pages 4–5. As explained in the verification report, we found that Nachi reported incorrect physical characteristics for 16 of the 40 models we examined at verification.

Each time we selected additional models for verification, we found additional models with incorrectly reported physical characteristics. Because of this, we must conclude that the errors were systemic in nature. Accordingly, we determine that it is appropriate to use the facts available to account for the fact that Nachi misreported its physical characteristics for a substantial proportion of its models. Because the correct physical characteristics appeared on Nachi's technical drawings and in its catalogs that we examined at verification, we find that Nachi's failure to report the critical information accurately indicates that the company did not act to the best of its ability in reporting the information. Moreover, because Nachi did not act to the best of its ability in reporting these characteristics, it is appropriate to use adverse inferences in addressing the errors in the characteristics Nachi reported in accordance with section 776(b) of the Act.

The matching of U.S. and home–market models is at the core of our antidumping analysis because it determines which sales we use as the basis for normal value. In order to conduct an accurate model match we must be satisfied that the physical characteristics the respondent reports for its sales are accurate. Because we found at verification that Nachi reported incorrect physical characteristics for a substantial proportion of its models, however, we are not satisfied that we can make accurate comparisons of similar merchandise using Nachi's reported physical characteristics. Moreover, we cannot be certain that, for any of the U.S. sales for which we would not find a match using Nachi's reported physical characteristics, we would not find a similar match had Nachi reported its physical characteristics correctly. Accordingly, we can have no confidence in the normal values we would identify (or, in the case of constructed value, do not identify) using Nachi's reported physical characteristics and, therefore, we cannot calculate accurate dumping margins for those U.S. sales.

Because we identify matches of identical U.S. and home–market models on the basis of control number rather than physical characteristics, the verification finding has no impact on the identical matches we found for Nachi. As a result, we can calculate margins for Nachi's U.S. sales for which we found an identical product sold in the home market. Therefore, we preliminarily determine that it is appropriate to limit the application of adverse facts available to non–identical (*i.e.*, similar and constructed–value) matches.

As adverse facts available, we have selected the highest margin we have determined for Nachi in any previous segment of this proceeding and applied this rate to all U.S. sales for which we found no identical match. This rate is 48.69 percent which we established for Nachi in *Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Japan*, 54 FR 19101 (May 3, 1989). Furthermore, as required by section 776(c) of the Act, we were able to corroborate this margin with respect to Nachi. For a detailed explanation of how we corroborated this margin with respect to Nachi, see the March 2, 2006, analysis memorandum for Nachi for the preliminary results.

Export Price and Constructed Export Price

For the price to the United States, we used export price (EP) or constructed export price (CEP) as defined in sections 772(a) and (b) of the Act, as appropriate. Due to the extremely large volume of transactions that occurred during the period of review and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled CEP sales in accordance with section 777A of the Act. When a firm made more than 10,000 CEP sales transactions to the United States of merchandise subject to a particular order, we reviewed CEP sales that occurred during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks are as follows: May 30 - June 5, 2004; August 22 - August 28, 2004; September 5 - September 11, 2004; October 31 - November 6, 2004; February 6 - February 12, 2005; February 27 - March 5, 2005. We reviewed all EP sales transactions the respondents made during the period of review.

We calculated EP and CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H. Doc. No. 103–316 at 823–824, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes commissions, direct selling expenses, and U.S. repacking expenses. In accordance with section 772(d)(1) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets. When appropriate, in accordance with section 772(d)(2) of the Act, we also deducted the cost of any further manufacture or assembly except where we applied the special rule provided in section 772(e) of the Act. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers, *e.g.*, parts of bearings that were imported by U.S. affiliates of foreign exporters and then further processed into other products which were then sold to unaffiliated parties, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act applied to all firms that added value in the United States except NPB.

Section 772(e) of the Act provides that, when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise sold by the exporter or producer to an unaffiliated customer if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the

use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser. Based on this analysis, we determined that the estimated value added in the United States by all further–manufacturing firms, except NPB, accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. *See* 19 CFR 351.402(c) for an explanation of our practice on this issue. Therefore, we preliminarily determine that for these firms the value added is likely to exceed substantially the value of the subject merchandise. Also, for these firms, we determine that there was a sufficient quantity of sales remaining to provide a reasonable basis for comparison and that the use of these sales is appropriate. See analysis memoranda for Barden/FAG, INA/FAG, Koyo, Nachi, NSK, NTN, SKF France, SKF Germany, and SKF Italy, dated March 2, 2006. Accordingly, for purposes of determining dumping margins for the sales subject to the special rule, we have used the weighted–average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons.

For NPB, we determined that the special rule did not apply because the value added in the United States did not exceed substantially the value of the subject merchandise. Consequently, this firm submitted complete responses to our further–manufacturing questionnaire which included the costs of the further processing performed by its U.S. affiliates. Because the majority of its products sold in the United States were further processed, we analyzed all sales. No other adjustments to EP or CEP were claimed or allowed.

Nachi reported certain sales to U.S. customers as EP sales. We treated the sales in question as CEP sales. Due to the business–proprietary nature of this matter see our preliminary analysis memorandum for Nachi dated March 2, 2006, for further details.

For NTN, we calculated a direct selling expense for NTN's EP sales, attributable to NTN's U.S. affiliate's provision of technical support and other selling–support functions to NTN's EP customer. We identified and extracted the value of these expenses, captured in NTN's calculation of indirect selling expenses for CEP sales, and allocated this value over NTN's EP sales to this customer. In addition, we revised NTN's calculation of inventory carrying costs incurred in the home market for NTN's EP and CEP sales by applying the inventory carrying cost factor calculated by NTN to the total cost of manufacture value it reported for each model instead of the gross unit price of each sale in the U.S. sales list.

For NTN we recalculated indirect selling expenses incurred in the home market for NTN's CEP sales because we found that certain expenses, such as welfare, the reserve for retirement, and the reserve for bonuses, were not captured by NTN in its calculation of indirect selling expenses. Also, NTN reported commissions in the home market but did not report indirect selling expenses for its EP sales. In order to apply the calculation of a commission offset, where applicable, we calculated indirect selling expenses incurred in the home market for NTN's EP sales using the information NTN provided with respect to its calculation of indirect selling expenses for NTN's CEP sales. In addition, we corrected certain product characteristics with respect to certain United States models which NTN had reported incorrectly in its sales databases.

Further, we corrected reported errors in the sales quantities and billing adjustments for a number of NTN's reported CEP sales. We deducted early payment discounts which NTN did not report with respect to NTN's CEP sales to certain U.S. customers. We corrected a rebate factor, which NTN misreported, with respect to NTN's CEP sales to a certain U.S. customer. We included unreported terminal charges associated with NTN's air shipments to the United States in the calculation of our deduction for ocean and air freight expenses. We recalculated NTN's re–packing expenses for NTN's reported CEP sales because we found the methodology used by NTN to allocate such expenses contained a number of distortions and did not distinguish between the packing requirement for different customer categories.

Finally, we have determined that NTN's allocation of international and inland freight expenses based on the value of the shipped product causes substantial distortions and could otherwise mask dumping. See the Memorandum to Laurie Parkhill entitled ''Administrative Review of the Antidumping Duty Order on Ball Bearings and Parts Thereof; Examination of Allocation Basis Used in the Calculation of Freight Expenses,'' dated March 2, 2006. We recalculated the expenses in question for NTN using a weight–based allocation for purposes of this administrative review. With respect to other respondents in these administrative reviews that used a value–based methodology to allocate freight expenses, we recognize that no longer accepting value–based freight–expense allocation methodologies is a significant change in practice. Moreover, we do not have all of the data (*e.g.*, the per–unit weight of the bearings) we would need to reallocate these respondents' freight expenses. Therefore, we have not reallocated other respondents' freight expenses in the current reviews. For future reviews of these orders, we will not accept value–based methodologies for the allocation of inland freight or international freight expenses except in situations where the freight charges are, in fact, incurred on a value, not weight or volume, basis (*e.g.*, marine insurance).

Home–Market Sales

Based on a comparison of the aggregate quantity of home–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by all respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Each company's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP or CEP sales.

Due to the extremely large number of transactions that occurred during the period of review and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate normal value in accordance with section 777A of the Act. When a firm had more than 10,000 home–market sales transactions on a country–specific basis, we used sales in sample months that corresponded to the sample weeks which we selected for U.S. CEP sales, sales in a month prior

to the period of review, and sales in the month following the period of review. The sample months were February, June, August, September, and November of 2004 and February, March, and May of 2005.

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's–length prices. See 19 CFR 351.403(c). We excluded sales to affiliated customers for consumption in the home market that we determined not to be at arm's–length prices from our analysis. To test whether these sales were made at arm's–length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's–length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculation of normal value those sales to affiliated parties that were made at arm's–length prices.

Cost of Production

We disregarded below–cost sales in accordance with section 773(b) of the Act in the last completed review with respect to ball bearings sold by Barden/FAG, FAG Italy, GRW, INA/FAG, Koyo, NSK, NPB, Nachi, NTN, SKF France, SKF Germany, SKF Italy, and SNR. See *Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results Of Antidumping Duty Administrative Reviews and accompanying Issues and Decision Memorandum*, 70 FR 54711 (September 16, 2005) (*AFBs 15*). Therefore, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in these reviews may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted COP investigations of sales by these firms in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general, and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the home–market sales and COP information provided by each respondent in its questionnaire responses.

After calculating the COP, in accordance with section 773(b)(1) of the Act, we tested whether home–market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model–specific COPs to the reported home–market prices less any applicable movement charges, discounts, and rebates. Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the period of review were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted–average COPs for the period of review, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. See the Department's analysis memoranda for Barden/FAG, FAG Italy, GRW, INA/FAG, Koyo, NSK, NPB, Nachi, NTN, SKF France, SKF Germany, SKF Italy, and SNR, dated March 2, 2006. Based on this test, we disregarded below–cost sales with respect to all of the above–mentioned companies.

Model–Match Methodology

We compared U.S. sales with sales of the foreign like product in the home market. Specifically, in making our comparisons, we used the following methodology. If an identical home–market model was reported, we made comparisons to weighted–average home–market prices that were based on all sales which passed the COP test of the identical product during the relevant month. We calculated the weighted–average home–market prices on a level of trade–specific basis. If there were no contemporaneous sales of an identical model, we identified the most similar home–market model. To determine the most similar model, we limited our examination to models sold in the home market that had the same bearing design, load direction, number of rows, and precision grade. Next, we calculated the sum of the deviations (expressed as a percentage of the value of the U.S. characteristics) of the inner diameter, outer diameter, width, and load rating for each potential home–market match and selected the bearing with the smallest sum of the deviations. If two or more bearings had the same sum of the deviations, we selected the model that was sold at the same level of trade as the U.S. sale and was the closest contemporaneous sale to the U.S. sale. If two or more models were sold at the same level of trade and were sold equally contemporaneously, we selected the model that had the smallest difference–in-merchandise adjustment. Finally, if no bearing sold in the home market had a sum of the deviations that was less than 40 percent, we concluded that no appropriate comparison existed in the home market and we used the constructed value of the U.S. model as normal value. For a full discussion of the model–match methodology for these reviews, see *AFBs 15*.

Normal Value

Home–market prices were based on the packed, ex–factory, or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance–of-sale adjustments by deducting home–market direct selling expenses from and adding U.S. direct selling expenses to normal value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting home–market direct selling expenses from normal value. We also made adjustments, when applicable, for home–market indirect selling expenses to offset U.S. commissions in EP and CEP calculations.

For NTN we did not accept its claim for an elimination of so–called sample

sales and high–profit sales in the home market from the calculation of normal value because NTN did not demonstrate that these sales were made outside the ordinary course of trade. We corrected certain product characteristics with respect to certain home–market models which NTN had reported incorrectly in its sales databases. We recalculated NTN's packing expenses for reported home–market sales because we found the methodology it used to allocate such expenses contained a number of distortions and did not distinguish between packing requirements for different customer categories.

Further, we revised NTN's calculation of inventory carrying costs incurred in the home market for its home–market sales by applying the inventory carrying cost factor it calculated to the total cost of manufacture value it reported for each model instead of the gross unit price of each sale in the home market. We revised the financial–expenses factor with respect to COP and constructed–value information NTN reported to capture foreign–exchange gains/losses on transactions and foreign–exchange gains/losses on translations of asset and liability accounts stated in foreign currencies into domestic currency as well as hedging expenses associated with the foreign–exchange and currency options contracts NTN used. Further, based on our findings at verification and consistent with *AFBs 15*, we denied NTN's claim for other discounts in the home market that NTN granted on a model–specific basis to certain customers for specific periods but allocated incorrectly over sales of all models to the same customers and a similar claim for which NTN had allocated its discounts over sales that had occurred outside the period of time for which NTN had granted the adjustment to such customers. Finally, as discussed above with respect to NTN's U.S. sales, we re–calculated NTN's inland–freight expenses to reflect the basis on which they were incurred (*i.e.*, weight basis).

For NPB, we recalculated credit expenses in the home market because NPB discounted some of the promissory notes it received for its home–market sales and reported the average discount rate the company paid with respect to these transactions.

For Koyo and consistent with *AFBs 15* at Comment 11, we denied certain negative home–market billing adjustments that Koyo granted on a model–specific basis but reported on a broad customer–specific basis because we found that the allocation of these adjustments resulted in its allocation over sales of models for which Koyo had not granted an adjustment and over sales that had occurred outside the period of time for which Koyo had granted the adjustment to the customer. For a more detailed discussion of the individual changes, please see the Department's company–specific analysis memorandum dated March 2, 2006.

We have also examined the business relationship between Koyo and one of its home- market affiliated suppliers and have determined that it is appropriate to collapse these companies as one entity. Our decision to collapse these companies was based on our conclusion that a potential exists for Koyo to manipulate prices and production. Due to the business–proprietary nature of this matter, see the decision memorandum to Laurie Parkhill regarding Koyo and its affiliated supplier, dated March 2, 2006, for further details. We will be obtaining additional information from Koyo to implement this decision fully prior to our final results of these administrative reviews.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value, to the extent practicable, on sales at the same level of trade as the EP or CEP. If normal value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7)(A) of the Act. See *Level of Trade* section below.

Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when there were no usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance–of-sale differences and level–of-trade differences. For comparisons to EP, we made circumstance–of-sale adjustments by deducting home–market direct selling expenses from and adding U.S. direct selling expenses to constructed value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting home–market direct selling expenses from constructed value. We also made adjustments, when applicable, for home–market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

When possible, we calculated constructed value at the same level of trade as the EP or CEP. If constructed value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act.

Level of Trade

To the extent practicable, we determined normal value for sales at the same level of trade as the U.S. sales (either EP or CEP). When there were no sales at the same level of trade, we compared U.S. sales to home–market sales at a different level of trade. The normal–value level of trade is that of the starting–price sales in the home market. When normal value is based on constructed value, the level of trade is that of the sales from which we derived SG&A and profit.To determine whether home–market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison–market sales were at a different level of trade from that of a U.S. sale and the difference affected price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and comparison–market sales at the level of trade of the export transaction, we made a level–of-trade adjustment under section 773(a)(7)(A) of the Act. See, *e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

Where the respondent reported no home–market levels of trade that were equivalent to the CEP level of trade and where the CEP level of trade was at a less advanced stage than any of the home–market levels of trade, we were unable to determine a level–of-trade adjustment based on the respondent's home–market sales of the foreign like product. Furthermore, we have no other information that provides an appropriate basis for determining a level–of-trade adjustment. For

respondents' CEP sales, to the extent possible, we determined normal value at the same level of trade as the U.S. sale to the unaffiliated customer and made a CEP–offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP–offset adjustment to normal value was subject to the offset cap, calculated as the sum of home–market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP (or, if there were no home–market commissions, the sum of U.S. indirect selling expenses and U.S. commissions).

For a company–specific description of our level–of-trade analyses for these preliminary results, see Memorandum to Laurie Parkhill from Antifriction Bearings Team Regarding Level of Trade, dated March 2, 2006, on file in the CRU, room B–099.

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine that the following percentage weighted–average dumping margins on ball bearings and parts thereof exist for the period May 1, 2004, through April 30, 2005:

FRANCE

Company	Margin (percent)
SKF France	12.56
SNR	12.79

GERMANY

Company	Margin
FAG/INA	4.03
GRW	1.21
SKF Germany	7.35

ITALY

Company	Margin
FAG Italy	2.52
SKF Italy	16.04

JAPAN

Company	Margin
Koyo	17.85
NSK	6.62
NTN	13.32
Nachi	28.33
NPB	25.91
Sapporo	9.01

UNITED KINGDOM

Company	Margin
Barden/FAG	0.23

Comments

We will disclose the calculations used in our analysis to parties to these reviews within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. A general–issues hearing, if requested, and any hearings regarding issues related solely to specific countries, if requested, will be held at the main Department building at times and locations to be determined.

Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than the dates shown below for general issues and the respective country–specific reviews. Parties who submit case briefs or rebuttal briefs in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Case	Briefs due	Rebuttals due
General Issues	April 3, 2006	April 10, 2006
Germany	April 4, 2006	April 11, 2006
Italy	April 5, 2006	April 12, 2006
United Kingdom	April 6, 2006	April 13, 2006
France	April 7, 2006	April 14, 2006
Japan	April 10, 2006	April 17, 2006

The Department will issue the final results of these administrative reviews, including the results of its analysis of issues raised in any such written briefs or at the hearings, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer (or customer)-specific assessment rate or value for merchandise subject to these reviews.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these preliminary results of reviews for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Export–Price Sales

With respect to EP sales, for these preliminary results, we divided the total dumping margins (calculated as the difference between normal value and EP) for each exporter's importer or customer by the total number of units the exporter sold to that importer or customer. We will direct CBP to assess the resulting per–unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the relevant order during the review period.

Constructed Export–Price Sales

For CEP sales (sampled and non–sampled), we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the

relevant order during the review period. See 19 CFR 351.212(b).

Cash–Deposit Requirements

In order to derive a single weighted–average margin for each respondent, we weight–averaged the EP and CEP weighted–average deposit rates (using the EP and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. Finally, we divided the combined total dumping margins for both EP and CEP sales by the combined total value for both EP and CEP sales to obtain the deposit rate.

Furthermore, the following deposit requirements will be effective upon publication of the notice of final results of administrative reviews for all shipments of ball bearings and parts thereof entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash–deposit rates for the reviewed companies will be the rates established in the final results of reviews; (2) for previously reviewed or investigated companies not listed above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the less–than-fair–value investigations but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash–deposit rate for all other manufacturers or exporters will continue to be the ''All Others'' rate for the relevant order made effective by the final results of review published on July 26, 1993. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729, 39730 (July 26, 1993). For ball bearings from Italy, see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 61 FR 66472, 66521 (December 17, 1996). These rates are the ''All Others'' rates from the relevant less–than-fair–value investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification to Importer

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. These preliminary results of administrative reviews are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3361 Filed 3–7–06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–533–809

Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review; Certain Forged Stainless Steel Flanges From India

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

SUMMARY: On January 4, 2006, the Department of Commerce (the Department) published a notice of initiation of changed circumstances review of the antidumping duty order on certain forged stainless steel flanges (flanges) from India to determine whether Hilton Metal Forging Ltd. (HMFL) is the successor–in-interest company to Hilton Forge. *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006). We have preliminarily determined that HMFL is the successor–in-interest to Hilton Forge for purposes of determining antidumping liability in this proceeding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone : (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2005, Hilton Forge requested that the Department conduct a changed circumstances review of the antidumping duty order on flanges from India pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 351.216. HMFL claims to be the successor–in-interest to Hilton Forge, and, as such, claims to be entitled to receive the same antidumping treatment as Hilton Forge. On January 18, 2006, and February 3, 2006, at the request of the Department, HMFL submitted additional information and documentation pertaining to its changed circumstances request.

Scope of the Order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld–neck, used for butt–weld line connection; threaded, used for threaded line connections; slip–on and lap joint, used with stub–ends/butt–weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above–described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Preliminary Results of Review

In antidumping duty changed circumstances reviews involving a successor–in-interest determination, the Department typically examines several

factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) and *Certain Cut–to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005) (*Plate from Romania*). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor company if the resulting operations are similar to those of the predecessor company. *See*, *e.g.*, *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994), and *Plate from Romania*, 70 FR 22847. Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See*, *e.g.*, *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

In its November 14, 2005, submission HMFL stated it is the successor company to Hilton Forge, the latter having converted itself from a partnership firm into a company limited by shares, and having changed its name to HMFL. Further, HMFL stated there is otherwise no difference between Hilton Forge and HMFL. The Department now has on the record various documents that support this claim, including: (1) A memorandum of association showing that the changeover to a company limited by shares and the name change were approved in a stockholders meeting of Hilton Forge on July 1, 2005; (2) A stock certificate showing the new name; (3) A list of partners and directors before and after the name change, showing that they are largely the same; (4) Documentation showing that the production facilities have been retitled into the name HMFL; (5) A list of suppliers and customers before and after the name change showing they are substantially the same; (6) Documentation demonstrating that HMFL maintains the same bank account as did Hilton Forge; (7) A certificate of importer and exporter codes for Hilton Forge and HMFL issued by the government of India showing that the codes are identical; (8) A certificate of incorporation issued by the government of India showing the new name.

In sum, HMFL has presented evidence to establish a *prima facie* case of its successorship status. Hilton Forge's name change to HMFL and its conversion from a limited partnership firm into a company limited by shares have not changed the operations of the company in a meaningful way. HMFL's management, production facilities, supplier relationships, and customer base are substantially unchanged from those of Hilton Forge. Therefore, the record evidence demonstrates that the new entity essentially operates in the same manner as the predecessor company. Consequently, we preliminarily determine that HMFL should be given the same antidumping duty treatment as Hilton Forge, *i.e.*, a 0.89 percent antidumping duty cash deposit rate.

The cash deposit determination from this changed circumstances review will apply to all entries 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 circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which HMFL is reviewed.

Public Comment

Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). Parties who submit arguments in these proceedings are requested to submit with their arguments: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting written comments should provide the Department an additional copy of the public version of any such comments on diskette. Any interested party may request a hearing within 30 days of publication of this notice. *See* CFR 351.310(c). Any hearing, if requested, will be held no later than two days after the scheduled due date for submission of rebuttal briefs, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

Consistent with section 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated.

The current requirements for cash deposits of estimated antidumping duties on all subject merchandise shall remain in effect unless and until they are modified pursuant to the final results of changed circumstances review.

We are issuing and publishing this notice in accordance with sections 751(b) and 777(i)(1) of the Tariff Act, and section 351.221(c)(3)(i) of the Department's regulations.

Dated: March 3, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3366 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–863

Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2004/2005 New Shipper Review

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

EFFECTIVE DATE: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Kristina Boughton or Bobby Wong; 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) 482–8173 or (202) 482–04709, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Department of Commerce (''the Department'') published in the **Federal Register** an antidumping duty order covering honey from the People's Republic of China (''PRC''). *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). The Department received timely requests from Shanghai Taiside Trading Co., Ltd.

(''Taiside'') and Wuhan Shino–Food Trade Co., Ltd. (''Shino–Food''), in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on honey from the PRC, which has a December annual anniversary month and a June semi–annual anniversary month. On August 5, 2005, the Department initiated a review with respect to Taiside and Shino–Food. *Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 70 FR 45367 (August 5, 2005).

On January 13, 2006, the Department extended the deadline for the preliminary results to March 31, 2006. *Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2004/2005 New Shipper Review*, 71 FR 2182 (January 13, 2006).

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. See Section 751(a)(2)(B)(iv) of the ACT, and 19 CFR 351.214(i)(2).

Pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department has determined that due to the extraordinarily complicated nature of this review, the Department requires additional time to analyze the supplemental questionnaire responses, issue additional questionnaires, and conduct verification of the responses. Accordingly, the Department is extending the time limit for the completion of the preliminary results until May 22, 2006, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results, in turn, will be due 90 days after the date of issuance of the preliminary results, unless extended.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 1, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–3368 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–846]

Certain Hot-Rolled Carbon Steel Flat Products From Japan: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from Japan in response to a request by Ispat Inland Inc. (Ispat), a petitioner in the original investigation, and Nucor Corporation (Nucor), a domestic producer of hot-rolled steel (collectively, petitioners). Petitioners requested administrative reviews of Kawasaki Steel Corporation (Kawasaki) and JFE Steel Corporation (JFE). This review covers exports of subject merchandise to the United States during the period June 1, 2004 through May 31, 2005.

We preliminarily determine that adverse facts available should be applied to JFE and Kawasaki during the period of review (POR) for declining to participate, and for not cooperating with the Department, in this administrative review. Interested parties are invited to comment on these preliminary results. *See* the *Preliminary Results of Review* section of this notice.

EFFECTIVE DATE: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Kimberley Hunt, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3148 or (202) 482–1272, respectively.

Background

On June 29, 1999, the Department published the antidumping duty order on hot-rolled steel from Japan in the **Federal Register**. *See Antidumping Duty Order: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 34778 (June 29, 1999). On June 1, 2005, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 70 FR 31422 (June 1, 2005). On June 30, 2005, the Department received a timely request for a review from petitioners covering JFE and Kawasaki. On July 21, 2005, the Department published its initiation notice for the administrative review of the antidumping order on hot-rolled steel from Japan. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 70 FR 42028 (July 21, 2005).

The Department issued Sections A, B and C of its original questionnaire to JFE and to Kawasaki on August 10, 2005.[1] On September 7, 2005, JFE submitted a letter to the Department claiming that JFE Steel is the successor to Kawasaki Steel Corporation as a result of a corporate reorganization that was completed in April 2003 and Kawasaki Steel Corporation, as a corporate entity, no longer exists. *See* the September 7, 2005, letter from JFE to the Department. On September 27, 2005, JFE informed the Department that it did not intend to participate in the administrative review and would not submit a response to the Department's questionnaire. *See Letter from JFE Steel Corporation* dated September 27, 2005.

Period of Review

This review covers the period June 1, 2004, through May 31, 2005.

Scope of the Order

The merchandise covered by this order consists of certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.012 percent of boron, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.*, ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Mo
0.10–0.16%	0.70–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max	0.21% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	V (wt.)	Cb
0.10–0.14%	1.30–1.80%	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max	0.10% Max	0.08% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Nb	Ca	Al
0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max	0.005% Min	Treated	0.01–0.07%

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses 0.148 inches and 65,000 psi minimum for thicknesses > 0.148 inches; Tensile Strength = 80,000 psi minimum.

- Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm2 and 640 N/mm2 and an elongation percentage 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm2 and 690 N/mm2 and an elongation percentage 25 percent for thicknesses of 2mm and above.
- Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per

ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

• Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20%.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered by this order, including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Analysis

Application of Facts Available

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act) provide that, if necessary information is not available on the record, or if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information in a timely matter or in the form or manner requested subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

As noted above, JFE submitted a letter to the Department claiming that JFE Steel is the successor to Kawasaki Steel Corporation as a result of a corporate reorganization that was completed in April 2003 and Kawasaki Steel Corporation, as a corporate entity, no longer exists. *See* the September 7, 2005, letter from JFE to the Department. Kawasaki did not respond to the Department's questionnaire. On September 27, 2005, JFE informed the Department that it would not participate in the administrative review and it did not respond to the Department's questionnaire.

JFE's refusal to participate makes it impossible for the Department to evaluate its successor-in-interest claim with regard to Kawasaki. As such, the record of this review shows that neither JFE nor Kawasaki have complied with the Department's request for information in this review. JFE's stated decision not to participate in this administrative review, and Kawasaki's failure to respond to the Department's questionnaire constitute a refusal to provide the Department with information necessary to conduct its antidumping analysis. (*See* section 776(a)(2)(A) of the Act). As JFE and Kawasaki have withheld necessary information that has been requested by the Department, and have, in fact, made no effort to participate in this proceeding, the Department shall, pursuant to section 776(a)(2)(A) of the Act, use facts otherwise available to reach the applicable determination. JFE and Kawasaki have not submitted any requested information regarding this review; therefore sections 782(d) and (e) of the Act are not applicable.

Because of the lack of any response to the questionnaire by JFE and Kawasaki, the Department finds that JFE and Kawasaki have failed to cooperate by not acting to the best of their ability to comply with the Department's request for information. Therefore, pursuant to section 776(b) of the Act, the Department may use an inference that is adverse to the interests of JFE and Kawasaki in selecting from among the facts otherwise available. Section 776(b) of the Act also provides that an adverse inference may include reliance on information derived from the petition, the final determination in the investigation segment of the proceeding, a previous review under section 751 of the Act or a determination under section 753 of the Act, or any other information placed on the record. Additionally, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. No. 103–316 at 870 (SAA) establishes that the Department may employ an adverse inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' Furthermore, in employing adverse inferences, the Department is instructed to consider ''the extent to which a party may benefit from its own lack of cooperation.'' *See* SAA at 870.

By refusing to respond to the Department's questionnaire, JFE and Kawasaki have failed to cooperate to the best of their ability. JFE and Kawasaki have not expressed concerns regarding the proposed deadlines, nor have JFE or Kawasaki requested additional time to respond to the questionnaire. By withholding the requested information, JFE and Kawasaki prevented the Department from conducting any company-specific analysis or calculating dumping margins for the POR. Because we find that JFE and Kawasaki have failed to cooperate by not complying with our request for information, and to ensure that JFE and Kawasaki will not benefit from their lack of cooperation, the Department, pursuant to section 776(b) of the Act, has determined an adverse inference is warranted with respect to JFE and Kawasaki.

The Department's practice, when selecting an adverse facts available (AFA) rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan,* 63 FR 8909, 8932 (February 23, 1998). Additionally, the Department's practice has been to assign the highest margin determined for any party in the less-than-fair-value (LTFV) investigation or in any administrative review of a specific order to respondents who have failed to cooperate with the Department. *See e.g., Sigma Corp.* v. *United States,* 117 F.3d 1401, 1411 (Fed. Cir. 1997).

In order to ensure that the margin is sufficiently adverse so as to induce JFE and Kawasaki's cooperation, the Department is assigning theses

companies an AFA rate of 40.26 percent *ad valorem,* the margin calculated in a section 129 redetermination of the original LTFV investigation using information provided by Kawasaki, and the highest rate determined for any party in this proceeding. *See, Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 67 FR 71936, 71939 (December 3, 2002) (*HR from Japan 129*).

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate ''secondary information'' used for facts available by reviewing independent sources reasonably at its disposal. Secondary information is information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. *See* SAA at 870. Information from a prior segment of the proceeding, such as that used here, constitutes secondary information. *See, e.g., Anhydrous Sodium Metasilicate from France: Preliminary Results of Antidumping Duty Administrative Review,* 68 FR 44283 (July 28, 2003) (*Anhydrous Sodium*).

The SAA provides that to ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To the extent practicable, the Department will examine the reliability and relevance of the information to be used. Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive calculated dumping margins. The only source for dumping margins is administrative determinations. In an administrative review, if the Department chooses as AFA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that period. *See Anhydrous Sodium* at 44284.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as ''best information available'' (the predecessor to ''facts available'') since the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co.* v. *United States*, 113 F.3d 1220, 1224 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances is present here, and there is no evidence indicating that the margin used as facts available in this review is not appropriate.

Moreover, in this case, the Department is using a calculated dumping margin from a prior segment of the proceeding, namely the investigation. Because this margin is being applied to the company for which it was originally calculated and to a company claiming to be that company's successor-in-interest, the Department finds that using this rate is appropriate. However, in an attempt to further corroborate the rate, the Department conducted research in an attempt to find price lists or other data that might help inform the Department's corroboration analysis. We were unable to find any useful information. *See* the Memorandum to the File from Kimberley Hunt through Scott Lindsay and Barbara E. Tillman, ''Research for Corroboration for Preliminary Results of the Administrative Review for Hot-Rolled Carbon Steel Flat Products from Japan'' (February 24, 2006). Absent any other information, we find the calculated rate from the investigation, which was modified by the 129 proceeding, to be appropriate in this case and the requirements of section 776(c) of the Act are satisfied.

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Margin (percent)
JFE Steel Corporation	40.26
Kawasaki Steel Corporation	40.26

Duty Assessment

The Department will issue appropriate assessment instructions directly to Customs and Border Protection (CBP) within 15 days of publication of the final results of this review. Upon issuance of the final results of this administrative review, the Department will instruct CBP to assess antidumping duties on appropriate entries by applying the margin to the entered value of the merchandise.

Cash Deposit Requirements

The following cash deposit rates will be effective with respect to all shipments of hot-rolled steel from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) For JFE and Kawasaki, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all others rate established in the section 129 redetermination of the LTFV investigation, which is 22.92 percent. *See HR from Japan 129*. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

Pursuant to § 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Unless the deadline is extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with § 351.303(f) of the Department's regulations.

Also, pursuant to § 351.310(c) of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Department specifies otherwise, the hearing, if requested, will be held two days after the date for

submission of rebuttal briefs. Parties will be notified of the time and location.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* § 351.213(h) of the Department's regulations.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3358 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A 351–840)

Antidumping Duty Order: Certain Orange Juice from Brazil

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

EFFECTIVE DATE: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Jill Pollack, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3874 or (202) 482–4593, respectively.

SUPPLEMENTARY INFORMATION:

Scope of Order

The scope of this order includes certain orange juice for transport and/or further manufacturing, produced in two different forms: (1) Frozen orange juice in a highly concentrated form, sometimes referred to as frozen concentrated orange juice for manufacture (FCOJM); and (2) pasteurized single–strength orange juice which has not been concentrated, referred to as not–from-concentrate (NFC). At the time of the filing of the petition, there was an existing antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil*, 52 FR 16426 (May 5, 1987). Therefore, the scope of this order with regard to FCOJM covers only FCOJM produced and/or exported by those companies which were excluded or revoked from the pre–existing antidumping order on FCOJ from Brazil as of December 27, 2004. Those companies are Cargill Citrus Limitada (Cargill), Coinbra–Frutesp S.A. (Coinbra–Frutesp), Sucocitrico Cutrale, S.A. (Cutrale), Fischer S/A - Agroindustria (Fischer), and Montecitrus Trading S.A. (Montecitrus).

Excluded from the scope of the order are reconstituted orange juice and frozen concentrated orange juice for retail (FCOJR). Reconstituted orange juice is produced through further manufacture of FCOJM, by adding water, oils and essences to the orange juice concentrate. FCOJR is concentrated orange juice, typically at 42° Brix, in a frozen state, packed in retail–sized containers ready for sale to consumers. FCOJR, a finished consumer product, is produced through further manufacture of FCOJM, a bulk manufacturer's product. The subject merchandise is currently classifiable under subheadings 2009.11.00, 2009.12.25, 2009.12.45, and 2009.19.00 of the Harmonized Tariff Schedule of the United States (HTSUS). These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive. Rather, the written description of the scope of this order is dispositive.

Antidumping Duty Order

On February 27, 2006, the International Trade Commission (the ITC) notified the Department of Commerce (the Department) of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that the industry in the United States producing certain orange juice is materially injured by reason of less–than-fair–value imports of subject merchandise from Brazil. In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from Brazil that are subject to the Department's partial affirmative critical circumstances finding. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the U.S. price of the merchandise for all relevant entries of certain orange juice from Brazil. These antidumping duties will be assessed on all unliquidated entries of certain orange juice from Brazil entered, or withdrawn from the warehouse, for consumption on or after August 24, 2005, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil*, 70 FR 49557 (Aug. 24, 2005). With regard to the ITC negative critical circumstances determination, we will instruct CBP to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after May 26, 2005 (*i.e.*, 90 days prior to the date of publication of the preliminary determination in the **Federal Register**), but before August 24, 2005.

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise extend that four-month period to not more than six months. In this investigation, the six-month period beginning on the date of the publication of the preliminary determination ended on February 19, 2006. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of certain orange juice from Brazil entered, or withdrawn from warehouse, for consumption on or after February 19, 2006, and before the date of publication of the ITC's final injury determination in the **Federal Register**. *See Antidumping Duty Order: Certain Color Television Receivers From the*

People's Republic of China, 69 FR 31347 (June 3, 2004). Suspension of liquidation will continue on or after this date.

On or after the date of publication of the ITC's notice of final determination in the **Federal Register**, CBP will require, at the same time as importers would normally deposit estimated duties on this merchandise, cash deposits for the subject merchandise equal to the estimated weighted–average antidumping duty margins listed below. We will also instruct CBP that, for NFC, the ''All Others'' rate applies to all companies not specifically named below. However, for FCOJM, the ''All Others'' rate only applies to FCOJM produced and/or exported by Cargill and Coinbra–Frutesp.

Manufacturer/Exporter	Weighted–Average Margin (percent)
Fischer S/A – Agroindustria	12.46
Montecitrus Trading S.A.	60.29
Sucocitrico Cutrale, S.A.	19.19
All Others	16.51

This notice constitutes the antidumping duty order with respect to certain orange juice from Brazil, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 28, 2006.

David M. Spooner,

Assistant Secretary.

[FR Doc. E6–3364 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 013006B]

International Whaling Commission; 58th Annual Meeting; Nominations

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

ACTION: Extension of request for nominations.

SUMMARY: This notice is to extend the call for nominees for the U.S. Delegation to the June 2006 International Whaling Commission (IWC) annual meeting. A request for nominations was previously published in the **Federal Register** on February 13, 2006.

DATES: All written nominations for the U.S. Delegation to the IWC annual meeting must be received by April 7, 2006.

ADDRESSES: All nominations for the U.S. Delegation to the IWC annual meeting should be addressed to Bill Hogarth, U.S. Commissioner to the IWC, and sent via post to: Cheri McCarty, National Marine Fisheries Service, Office of International Affairs, 1315 East West Highway, SSMC3 Room 12603, Silver Spring, MD 20910. Prospective Congressional advisors to the delegation should contact the Department of State directly.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, 301–713–9090, ext. 183.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. Commissioner has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other agencies. The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations. Generally, only one non-governmental position is selected for the U.S. Delegation.

The IWC is hosting its 58th annual meeting from June 16–20, 2006, in St. Kitts & Nevis.

Dated: March 6, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 06–2253 Filed 3–6–06; 3:18 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030306C]

Endangered Species; File No. 1506

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

ACTION: Notice; receipt of application for permit modification.

SUMMARY: Notice is hereby given that Dr. Blair E. Witherington, Florida Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute, Melbourne Beach Field Laboratory, 9700 South A1A, Melbourne Beach, Florida 32951, has requested a modification to scientific research Permit No. 1506.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 10, 2006.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone 301–713–2289; fax 301–427–2521; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone 727–824–5312; fax 727-824-5309.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at 301–427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1506.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Patrick Opay, 301–713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1506, issued on March 23, 2005 (70 FR 20530) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

Permit No. 1506 authorizes the permit holder to study neonate and juvenile

loggerhead (*Caretta caretta*), green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*) and leatherback (*Dermochelys coriacea*) sea turtles in the waters of the Gulf of Mexico and the Atlantic Ocean off the coast of Florida. The permit holder requests authorization to increase takes to study up to 100 green, 50 Kemp's ridley, 50 hawksbill and 10 leatherback sea turtles annually. A subset of green sea turtles would be examined with magnetic resonance interferometry (MRI), held for 3-4 days and released to determine their level of anthropogenic debris ingestion. Annually, four of each species of green, hawksbill, and Kemp's ridley sea turtles would have temporary transmitters attached to measure movements and dive patterns, would be recaptured after 24 hours to remove the transmitter, and released.

Dated: March 3, 2006.

Patrick Opay,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–3360 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030306E]

Marine Mammals; File No. 782-1812

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS, National Marine Mammal Laboratory (Principle Investigator: Dr. Robert DeLong), Alaska Fisheries Science Center, Seattle, WA has applied in due form for a permit to conduct research on California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and northern fur seals (*Callorhinus ursinus*) on the southern California Channel Islands, surrounding waters, and at haul-out sites along the coast of California, Oregon, and Washington.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 10, 2006.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206)526-6150; fax (206)526-6426; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

Written comments or requests for a public hearing on the application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments on the application may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

In addition, comments on the application may be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 782-1812.

FOR FURTHER INFORMATION CONTACT: Andrew Wright or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant, NMML, is requesting permission to conduct the following five research projects on four species of pinnipeds breeding in the California Channel Islands, and hauled-out along the coasts of California, Oregon and Washington: (1) Population and health assessment of California sea lions (CSL); (2) ecology of infectious diseases, environmental toxins, and contaminants in CSL; (3) age- and sex-specific partitioning of resources by CSL, harbor seals (HS), and northern elephant seals (NES); (4) evaluation of antihelminthic treatments on CSL and northern fur seals (NFS); and (5) evaluation of handling methods on CSL pups. The objectives are to: (1) Monitor trends in population parameters and health of CSL; (2) investigate the roles environmental toxins and contaminants play in the susceptibility to infectious diseases and the development of cancer in CSL; (3) investigate how the environmental factors that influence the foraging ecology of CSL, HS, and NES may affect their foraging distributions; (4) determine if antihelminthic treatments can increase survivorship in CSL and NFS pups; and (5) comparatively evaluate the effects of different combinations of handling techniques. Population assessment of CSL is a continuation of a long-term program designed to meet the needs of the NMFS mandate to monitor population health of pinnipeds. To achieve the objectives of the various research projects, the applicant has requested to harass, capture, sample (blood and various tissues), mark (by dye, flipper tag, neoprene patch, and hot brand), and attach instruments to individuals of all four species, and inject CSL and NFS pups with either an antihelminthic treatment or placebo. Please refer to the tables in the application for details of the numbers of marine mammals that would be affected by the various research activities. The applicant has also requested allowance for a limited number of mortalities of each species per year incidental to the research. The permit would expire 5 years after the date of issuance.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 6, 2006.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–3363 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120505C]

Large Coastal Shark 2005/2006 Review Workshop

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

ACTION: Notice; public workshop.

SUMMARY: NMFS announces the time and location for the large coastal shark (LCS) Review workshop, the last of

three workshops for the LCS stock assessment being conducted in 2005/2006.

DATES: The Review workshop will start at 1 p.m. on Monday, June 5, 2006, and will conclude at 1 p.m. on Friday, June 9, 2006.

ADDRESSES: The Review workshop will be held at the Bay Point Marriott Resort, 4200 Marriott Drive, Panama City Beach, FL 32408.

FOR FURTHER INFORMATION CONTACT: Julie Neer at (850) 234–6541; or Karyl Brewster-Geisz at (301) 713–2347, fax (301) 713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fishery Management Plan for Atlantic Highly Migratory Species (HMS FMP) is implemented by regulations at 50 CFR part 635.

Stock assessments are periodically conducted to determine stock status relative to current management criteria. Collecting the best available scientific data and conducting stock assessments are critical to determine appropriate management measures for rebuilding stocks. Based on the last LCS stock assessment in 2002, NMFS determined that the LCS complex is overfished and overfishing is occurring. LCS are currently under a 26-year rebuilding plan. Potential changes to existing management measures will be based, in large part, on the results of this 2005/2006 stock assessment.

This assessment will be conducted in a manner similar to the Southeast Data, Assessment, and Review (SEDAR) process. SEDAR is a cooperative process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. The first workshop is a Data workshop where datasets are documented, analyzed, reviewed, and compiled for conducting assessment analyses. This workshop was held from October 31 through November 4, 2005, in Panama City, FL. The second workshop is an Assessment workshop where quantitative population analyses are developed and refined and population parameters are estimated. This workshop was held from February 6 through February 10, 2006, in Miami, FL. The last workshop is a Review workshop where a panel of independent experts reviews the data and assessment and recommends the most appropriate values of critical population and management quantities. All workshops are open to the public. More information on the SEDAR process can be found at *http://www.sefsc.noaa.gov/sedar/*.

NMFS announces the Review workshop, the last of three workshops for the LCS 2005/2006 stock assessment, which will be held from June 5 through June 9, 2006, at the Bay Point Marriott Resort in Panama City Beach, FL (see **DATES** and **ADDRESSES**). Prospective participants and observers will be contacted with the Review workshop details. This workshop is open to the public. Persons interested in participating or observing the Review workshop should contact Julie Neer (see **FOR FURTHER INFORMATION CONTACT**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Neer at (850) 234–6541 by May 29, 2006.

Authority: 16 U.S.C. 971 *et seq.*

Dated: March 3, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–3359 Filed 3–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 10, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 3, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: PEQIS Survey on Educational Technology and Teacher Education Programs for Initial Licensure.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,500.

Burden Hours: 1,250.

Abstract: The Quick Response Information System consists of two survey system components—Fast Response Survey System for schools, districts, libraries and the Postsecondary Education Quick Information System for postsecondary institutions. This survey will go to 2,500 Title 4 degree-granting institutions. It is intended to collect information about how future teachers are being prepared to integrate educational technology into their classrooms. The survey will also collect information about barriers to the ability of programs to integrate educational technology into the teacher training.

Requests for copies of the information collection submission for OMB review may be accessed from *http://*

edicsweb.ed.gov, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2999. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *IC_DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address *IC_DocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–3330 Filed 3–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 10, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 3, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: An Impact Evaluation of a School-Based Violence Prevention Program.

Frequency: On Occasion.

Affected Public: State, local, or tribal gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 13,867.

Burden Hours: 15,599.

Abstract: The purpose of this study is to implement and test an intervention that combines a classroom-based curriculum with a whole-school approach. The evaluation will provide important and useful information by helping to determine if the intervention decreases problem behaviors and improves school climate and safety.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2945. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *IC DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address *IC DocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–3331 Filed 3–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Grants for the Integration of Schools and Mental Health Systems

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of proposed requirements.

SUMMARY: The Assistant Secretary for Safe and Drug-Free Schools proposes five requirements for the Grants for the Integration of Schools and Mental Health Systems program. We may use these requirements for competitions in fiscal year (FY) 2006 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the requirements to improve the linkages among local school systems, local mental health systems, and local juvenile justice systems.

DATES: We must receive your comments on or before April 10, 2006.

ADDRESSES: Address all comments about these proposed requirements to Dana Carr, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E100, Washington, DC 20202–6450. If you prefer to send your comments through the Internet, use the following address: *Dana.Carr@ed.gov.*

You must include the term ''Grants for the Integration of Schools and Mental Health Systems, 215M'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Dana Carr. Telephone: (202) 260–0823 or via Internet: *Dana.Carr@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these proposed requirements. To ensure that your comments have maximum effect in developing the

notice of final requirements, we urge you to identify clearly the specific proposed requirement that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed requirements. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed requirements in room 3E242, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed requirements. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The Grants for the Integration of Schools and Mental Health Systems program seeks to improve the linkages among school, mental health, and juvenile justice systems regarding the provision of mental health services to students. The program supports efforts to develop and strengthen the infrastructure in a State or local educational agency or Indian tribe to improve student access to mental health services by creating relationships and protocols, by providing training for teachers and other staff on a range of related issues, and by involving families in program design and implementation, in a manner that is complementary to and does not duplicate any previous or ongoing efforts.

Funds awarded under this program are intended to improve linkages, to create and enhance the infrastructure between State and local agencies and authorities, and ultimately to improve students' access to mental health services. We believe that improved collaboration and infrastructure development among these entities offers the best opportunity for the development of sustainable mental health services in communities. Program funds should not be used to hire or contract for the services of an outside direct mental health service provider because the cost of these services is significant and would restrict the available funding under the program to a very limited number of sites. Use of Federal funds to pay these costs also would do little to contribute to the program's overall goal of increasing coordinated activities among schools, law enforcement/juvenile justice agencies, and mental health systems that are focused on enhancing State and local sustainable capacity to improve students' access to mental health services.

To facilitate this improved collaboration and infrastructure, the Grants for the Integration of Schools and Mental Health Systems program requires an Interagency Agreement. The Agreement will delineate each entity's responsibilities and describe the interactions between the parties. In addition to the statutorily required components of the Agreement, we propose that recipients adopt procedures for obtaining parental consent before provision of services and for ensuring responsible communication with parents concerning their children's mental health needs and services. Many members of the public have been concerned about parents being excluded from a range of activities related to children's mental health, from screening to treatment. This requirement would help ensure that recipients address these concerns.

We have worked with the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration to develop these proposed requirements; this notice reflects the two agencies' common philosophy and approach.

We will announce the final requirements in a notice in the **Federal Register**. We will determine the final requirements after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional requirements, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these requirements, we invite applications through a notice in the **Federal Register**.

Requirements

Proposed Requirement 1: Coordination of Activities

We propose that recipients of a grant under the Grants for the Integration of Schools and Mental Health Systems program be required to coordinate project activities with projects funded under the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's Mental Health Transformation State Infrastructure Grants (MHTSIG) program (CFDA 93.243), if a grantee's State receives a MHTSIG award. If a recipient of a grant under the Grants for the Integration of Schools and Mental Health Systems program has received or receives a grant under the Department of Education's Emergency Response and Crisis Management (ERCM) program (CFDA 84.184E), the recipient must coordinate mental health service activities under this grant with those planned under its ERCM grant. Projects funded by this program must complement, rather than duplicate, existing or ongoing efforts.

Proposed Requirement 2: Safe Schools/Healthy Students Recipients Excluded From Receiving Awards

We propose that former or current recipients under the Safe Schools/Healthy Students program (CFDA 84.184L) will not be eligible to receive a Grant for the Integration of Schools and Mental Health Systems program. Recipients of Safe Schools/Healthy Students awards are responsible for completing a scope of work under that program that is very similar to the activities required under the Grants for the Integration of Schools and Mental Health Systems program. By restricting the applicant pool to eliminate former or current grantees under the Safe Schools/Healthy Students program, we will be able to focus Federal funds on entities that have not yet received Federal support to develop and implement strong linkages with other entities in their communities for the provision of mental health services to students.

Applicants may compete for both the Grants for the Integration of Schools and Mental Health Systems and Safe Schools/Healthy Students programs in the same year; if applicants are deemed eligible for funding in both grant competitions, the applicant will receive the larger and more comprehensive of the awards.

Proposed Requirement 3: Preliminary Interagency Agreement

We propose that applicants for an award under the Grants for the Integration of Schools and Mental Health Systems program develop and submit with their applications a preliminary interagency agreement (IAA). The IAA must contain the signatures of an authorized representative of at least (1) One or more State or local educational agencies or Indian tribes; (2) one or more juvenile justice authorities; and (3) one or more State or local public mental health agencies. This preliminary IAA would confirm the commitment of these partners to complete the work under the proposed project, if funded. If funded, recipients will complete a final IAA as required by section 5541(e) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The final IAA must be completed and submitted to us, signed by all parties, no later than 12 months after the award date.

Applications that do not include the proposed preliminary IAA with all of the required signatures would be rejected and not considered for funding.

Proposed Requirement 4: Inclusion of Parental Consent Considerations in Final IAA

We propose that the final Interagency Agreement (IAA) include a description of policies and procedures that would ensure appropriate parental or caregiver consent for any planned services, pursuant to State or local laws or other requirements.

Proposed Requirement 5: Provision of Direct Services

We propose that grant funds under this program not be used to provide direct services to students.

Executive Order 12866

This notice of proposed requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed requirements are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed requirements, we have determined that the benefits of the proposed requirements justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number: 84.215M)

Program Authority: 20 U.S.C. 7269.

Dated: March 6, 2006.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E6–3362 Filed 3–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Open Meeting of the National Advisory Council on Indian Education

AGENCY: National Advisory Council on Indian Education (NACIE), U.S. Department of Education.

ACTION: Notice of teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open teleconference meeting of the National Advisory Council on Indian Education (the Council) and is intended to notify the general public of their opportunity to listen as the Council conducts their meeting by teleconference. This notice also describes the functions of the Council.

Agenda: The Council will discuss their work activities, timelines and development of the Annual Report to Congress.

Date and Time: March 21, 2006; 11 a.m. to 2 p.m. Eastern time.

Location: The Department of Education, Room 1W112, 400 Maryland Avenue, SW., Washington, DC 20202.

Note: Attendees will be required to show picture identification to enter the building.

FOR FURTHER INFORMATION CONTACT: Bernard Garcia, Group Leader, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: 202–260–1454. Fax: 202–260–7779.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction and includes Indian children or adults as participants or programs that may benefit Indian children or adults, including any program established under Title VII, Part A of the ESEA. The Council submitted to the Congress June 30 a report on the activities of the Council submitted to the Congress June 30 a report on the activities of the Council that included recommendations the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

The general public is welcome to listen to the March 21, 2006 open meeting to be held form 11 a.m. to 2 p.m. Washington, DC. Individuals who need accommodations for a disability in order to participate (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Bernard Garcia at 202–260–1454 by March 15, 2006. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities. Records are kept of all Council proceedings and are available for public inspection at the Office of Indian Education, United States Department of Education, Room 5C141,

400 Maryland Avenue, SW., Washington, DC 20202.

Henry L. Johnson,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 06–2203 Filed 3–8–06; 8:45 am]

BILLING CODE 4000–01–M

ELECTION ASSISTANCE COMMISSION

Sunshine Act; Notice

AGENCY: Election Assistance Commission.

ACTION: Notice of public meeting for the Technical Guidelines Development Committee.

DATE AND TIME: Wednesday, March 29, 2006, 8:30 a.m. to 5:30 p.m.

PLACE: National Institute of Standards and Technology, 100 Bureau Drive, Building 101, Red Auditorium, Gaithersburg, Maryland 20899–8900.

STATUS: This meeting will be open to the public. There is no fee to attend, but, due to security requirements, advance registration is required. Registration information will be available at *http://www.vote.nist.gov* by March 6, 2006.

SUMMARY: The Technical Guidelines Development Committee (the ''Development Committee'') has scheduled a plenary meeting for March 29, 2006. The Committee was established to act in the public interest to assist the Executive Director of the U.S. Election Assistance Commission (EAC) in the development of voluntary voting system guidelines. The Development Committee held previous meetings on July 9, 2004; January 18 and 19, 2005; March 9, 2005; April 20 and 21, 2005; and September 29, 2005. The purpose of the sixth meeting of the Development Committee will be to review and approve draft documents that will form the bases for recommendations for future voluntary voting system guidelines to the EAC. The draft documents respond to tasks defined in resolutions passed at previous Technical Guideline Development Committee meetings.

SUPPLEMENTARY INFORMATION: The Technical Guidelines Development Committee (the ''Development Committee'') has scheduled a plenary meeting for March 29, 2006. The Committee was established pursuant to 42 U.S.C. 15361, to act in the public interest to assist the Executive Director of the Election Assistance Commission in the development of the voluntary voting system guidelines. The Technical Guidelines Development Committee held their first plenary meeting on July 9, 2004. At this meeting, the Development Committee agreed to a resolution forming three working groups: (1) Human Factors & Privacy; (2) Security & Transparency; and (3) Core Requirements & Testing to gather information and public input on relevant issues. The information gathered by the working groups was analyzed at the second meeting of the Development Committee January 18 and 19, 2005. Resolutions were debated and adopted by the TGDC at the January plenary session. The resolutions defined technical work tasks for NIST that will assist the TGDC in developing recommendations for voluntary voting system guidelines. At the March 9, 2005 meeting, NIST scientists presented preliminary reports on technical work tasks defined in resolutions adopted at the January plenary meeting and adopted one additional resolution. The Development Committee approved initial recommendations for voluntary voting system guidelines at the April 20th and 21st, 2005 meeting. The Development Committee began consideration of future recommendations for voluntary voting system guidelines at the September 29, 2005 meeting. At the March 29th, 2006 meeting, the Development Committee will review and approve draft technical guidance documents that will form the bases for recommendations for future voluntary voting system guidelines.

FOR FURTHER INFORMATION CONTACT: Allan Eustis (301) 975–5099. If a member of the public would like to submit written comments concerning the Committee's affairs at any time before or after the meeting, written comments should be addressed to the contact person indicated above, or to *voting@nist.gov.*

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–2340 Filed 3–7–06; 2:24 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 29, 2006, 2 p.m.–8:30 p.m.

ADDRESSES: Jemez Complex, Santa Fe Community College, 6401 Richards Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or e-mail: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

2 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Christina Houston.
- Establishment of a Quorum.
- Welcome and Introductions by Chair, J. D. Campbell.
- Approval of Agenda.
- Approval of Minutes of January 25, 2006 Board Meeting.

2:15 p.m. Board Business/Reports.
- A. Old Business, Chair, J. D. Campbell.
- B. Report from Chair, J. D. Campbell.
- C. Report from Department of Energy (DOE), Christina Houston.
- D. Report from Executive Director, Menice B. Santistevan.
- E. Other Issues, Board Members.
- New Business.
- A. Bi-annual Assessment, Christina Houston.
- B. Other Issues, Board Members.

2:45 p.m. Committee Business/Reports.
- A. Community Involvement Committee, Sammy Quintana.
- B. Environmental Monitoring, Surveillance and Remediation Committee, Chris Timm.
- C. Waste Management Committee, Matthew Deller.
- D. Ad Hoc Committee on Bylaws and Administrative Procedures, Donald Jordan.
- E. Reports from Ex-Officio Members. U.S. Environmental Protection Agency—Rich Mayer. DOE—Ed Wilmot or Gene Rodriguez. University of California/Los Alamos National Laboratory (UC/LANL)—Ken Hargis. New Mexico Environment Department (NMED)—James Bearzi.

3:45 p.m. Break.

4 p.m. DOE Los Alamos Site Office (DOE/LASO) and UC/LANL Business, Ed Wilmot.

A. LANL Five-Year Plan.
B. Fiscal Year 2007 Budget.
C. Critical Operations Issues at LANL.
D. Other Issues.

5 p.m. Dinner Break.
6 p.m. Public Comment.
6:15 p.m. Consideration and Action on Recommendations.
6:30 p.m. DOE/LASO and UC/LANL Presentation.
A. Progress and Alternatives for Closure of Material Disposal Areas L and G (MDA–L and MDA–G) in the Corrective Measures Evaluations for submittal to NMED, Jim Orban and Dave McIlroy.
B. Response to Northern New Mexico Citizens' Advisory Board (NNMCAB) Recommendations, Gene Rodriguez.
C. NNMCAB Participation on Management and Operating Contract Performance, Gene Rodriguez.
7:30 p.m. Comments from Ex-Officio Members—DOE/LASO, LANL, EPA, NMED.
8 p.m. Comments from Board Members.
8:15 p.m. Recap of Meeting: Issuance of Press Releases, Editorials, etc., J. D. Campbell.
8:30 p.m. Adjourn, Christina Houston.

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday.

Minutes will also be made available by writing or calling Menice Santistevan at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC, on March 3, 2006.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. E6–3356 Filed 3–8–06; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council; Notice of Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Coal Council. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 22, 2006, 9 a.m. to 12 noon.

ADDRESSES: Grand Hyatt Hotel, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Kane, Phone: (202) 586–4753, or Ms. Estelle W. Hebron, Phone (202) 586–6837, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The purpose of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues:

Tentative Agenda

- Call to Order by Mr. Thomas G. Kraemer, Chairman.
- Remarks by The Honorable Samuel W. Bodman, Secretary of Energy.
- Council Business.
  Communications Committee Report—Mr. David Surber, Chair.
  Finance Committee Report—Mr. Richard Eimer, Chair.
  Discussion re new Education Committee—Ms. Barbara Altizer.
  Status Report on New Study—Mr. Greg Boyce/Mr. Fred Palmer.
- Presentation of Guest Speaker re: Energy Legislation by The Honorable James Inhofe, United States Senate (R–OK).
- Presentation of Guest Speaker re: ''High Quality Offsets are Climate Solutions''—Mr. Bjorn Fischer, The Climate Trust.
- Presentation of Guest Speaker re: International Emission Trading—Mr. Dirk Forester, Natsource, LLC.
- Presentation of Guest Speaker re: Carbon Sequestration in the Lower Mississippi River Valley—Mr. Larry Seltzer, The Conservation Fund.
- Other Business.
- Adjourn.

Public Participation: The meeting is open to the public. The Chairman of the NCC will conduct the meeting to facility orderly business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Mr. Robert Kane or Ms. Estelle Hebron at the address and telephone numbers listed above. You must make your request for an oral statement at lease five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule. This notice is being published less than 15 days before the date of the meeting due to programmatic issues.

Minutes: The minutes will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 3, 2006.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. E6–3355 Filed 3–8–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–8]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical

scientific, and enforcement policy issues.

DATES: Open meeting notice; Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Thursday, April 6, 2006, from approximately 8:30 a.m. to 4:30 p.m. at the Sheraton Crystal City Hotel in Arlington, Virginia. Seating will be available on a first come, first served basis. The Air Quality Management subcommittee will meet on April 4, 2006 from approximately 8:30 a.m to 4:30 p.m. The Permits, New Source Review and Toxics subcommittee will meet on April 5 from approximately 9 a.m. to 11:30 a.m. followed by the Economic Incentives and Regulatory Innovations subcommittee which will meet from 12:30 pm to 3 p.m. The Mobile Source Technical Review subcommittee will not meet at this time. There will be a presentation of the 6th annual Clean Air Excellence Awards program following the subcommittee meetings on April 5 starting approximately at 5 p.m. and finishing at 7:30 p.m. All subcommittee meetings and the awards presentation will be held at the same location as the full Committee meeting. The agenda for the CAAAC full committee meeting will be posted on the CAAAC Web site: *http://www.epa.gov/oar/caaac/.*

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR–2004–0075. The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION CONTACT: Concerning the CAAAC, please contact Pat Childers, Office of Air and Radiation, U.S. EPA (202) 564–1082, FAX (202) 564–1352 or by mail at U.S. EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittees and Awards Program, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Debbie Stackhouse, (919) 541–5354; and (2) Air Quality Management—Jeff Whitlow, (919) 541–5523 (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, (202) 564–1667 (4) Mobile Source Technical Review—Joseph Bachman, (202) 343–9373. (5) Clean Air Excellence Award Program—Melissa Kirklewski at (202) 564–1314. Additional Information on these meetings, CAAAC, its Subcommittees and the awards program can be found on the CAAAC Web site: *http://www.epa.gov/oar/caaac/.*

For information on access or services for individuals with disabilities, please contact Mr. Pat Childers at (202) 564 –1082 or *childers.pat@epa.gov.* To request accommodation of a disability, please contact Mr. Childers, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated March 6, 2006.

Pat Childers,

Designated Federal Official, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. E6–3340 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–5]

Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; FACA Committee Meetings Announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency is announcing two separate two-day meetings of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act (CWA) Programs.

DATES: A meeting of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act (CWA) Programs will be held on Wednesday and Thursday, March 29, 2006, and March 30, 2006. Another meeting of this committee will be held on Thursday, July 13, 2006, and Friday, July 14, 2006. The meetings on March 29 and July 13 will be from 9 a.m. until 5 p.m. e.s.t., and on March 30 and July 14, from 8 a.m. to 4 p.m. e.s.t. All times are eastern time.

ADDRESSES: The meetings will be held at the L. William Seidman Center, 3501 North Fairfax Drive, Arlington, Virginia, across from the Virginia Square Metro stop on the Orange line. Members of the public may attend in person or via teleconference. The public may obtain the call-in number and access code for the teleconference lines from Marion Kelly, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Document Availability: The draft agenda for both meetings are provided in the General Information section of this notice or from Marion Kelly whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. The draft agenda may also be viewed through EDOCKET, as provided in section I.A. of the **SUPPLEMENTARY INFORMATION** section of this notice.

Any member of the public interested in making an oral presentation at these meetings may contact Richard Reding, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. Requests for making oral presentations will be accepted up to two business days prior to each meeting date. In general, each oral presentation will be limited to a total of three minutes.

Submitting Comments

Written comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in section I.B of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to two business days prior to each meeting date.

FOR FURTHER INFORMATION CONTACT: Marion Kelly, Engineering and Analysis Division, 4303T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566–1045; Fax number: (202) 566–1053; E-mail address: *Kelly.Marion@EPA.GOV;* Richard Reding, Designated Federal Officer, Environmental Protection Agency, Office of Water, 4303T, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566–2237; Fax number: (202) 566–1053; E-mail address: *Reding.Richard@EPA.GOV.*

SUPPLEMENTARY INFORMATION:

I. General Information

This notice announces two meetings of the Federal Advisory Committee on Detection and Quantitation Procedures and Uses in Clean Water Act (CWA) Programs. The purpose of these meetings is to continue to evaluate and recommend detection and quantitation procedures for use in EPA's analytical methods programs for compliance monitoring under 40 CFR part 136. The Committee will analyze and evaluate relevant scientific and statistical approaches, protocols, review data and interpretations of data using current and

recommended approaches. The major objectives are to provide advice and recommendations to the EPA Administrator on policy issues related to detection and quantitation, and scientific and technical aspects of procedures for detection and quantitation.

The draft agenda for March 29–30, 2006 includes a report and discussion of issues posed by the Policy Work Group on the uses of detection and quantitation procedures and their results. The Technical Work Group will report its results on designs for pilot testing by a single laboratory or by multiple laboratories. The advisory committee will provide direction to both the Policy and the Technical Work Groups on additional work to be carried out in advance of the committee's July 2006 meeting. The draft agenda for the July 2006 meeting includes a continuation of discussions about recommended uses of detection and quantitation limits in CWA programs, and approval of the design of a laboratory pilot of candidate procedures for calculation of these limits.

Information on Services for Individuals With Disabilities

For information on access or services for individuals with disabilities, please contact Marion Kelly at (202) 566–1045 or e-mail: *Kelly.Marion@EPA.GOV* to request accommodation of a disability, at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

A. How Can I Get Copies of Related Information?

1. *Docket.* EPA has established a docket for this committee under Docket ID No. EPA–HQ–OW–2004–0041 in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OW Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* An electronic version of the public docket is available through *http://www.regulations.gov.* You may use *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number (OW–2004–0041).

For those wishing to make public comments, it is important to note that EPA's policy is that comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks mailed or delivered to the docket will be transferred to EPA's electronic public docket. Written public comments mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number (OW–2004–0041) in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM.

This ensures that you can be identified as the submitter of the comment, and it allows EPA to contact you if further information on the substance of the comment is needed or if your comment cannot be read due to technical difficulties. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *http://www.regulations.gov.* 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 *http://www.regulations.gov* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, *http://www.epa.gov,* select ''Information Sources,'' ''Dockets,''. Once in the system, select ''search,'' and then key in Docket ID No. EPA–HQ–OW–2004–0041. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW-Docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2004–0041. In contrast to EPA's electronic public docket, EPA's e-mail system is not an anonymous access system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM mailed to the mailing address identified in section I.B.2 of this notice. These electronic submissions will be accepted in Word, WordPerfect or rich text files. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: U.S. Environmental Protection Agency, OW Docket, EPA Docket Center (EPA/DC), Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW–2004–0041.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW–2004–0041 (**Note:** this is not a mailing address). Such deliveries are only accepted during the docket's normal hours of operation as identified in section I.A.1 of this notice.

Dated: March 2, 2006.

Richard Reding,

Designated Federal Officer.

[FR Doc. E6–3343 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–6]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a public teleconference of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. The Council is a panel of experts who represent diverse interests from academia, industry, non-governmental organizations, and local, state, and tribal governments. The purpose of this teleconference is two-fold: To discuss and approve recommendations from the NACEPT Environmental Technology Subcommittee and to discuss and approve comments on the Draft 2006–2011 EPA Strategic Plan Architecture from a subset of the Council. A copy of the agenda for the meeting will be posted at *http://www.epa.gov/ocem/nacept/cal-nacept.htm.*

DATES: NACEPT will hold a public teleconference on Wednesday, March 22, 2006 from 10:30 a.m.–12:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held in the U.S. EPA Office of Cooperative Environmental Management at 655 15th Street, NW., Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Sonia Altieri, Designated Federal Officer, *altieri.sonia@epa.gov,* (202) 233–0061, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to the Council should be sent to Sonia Altieri, Designated Federal Officer, at the contact information above by March 17, 2006. The public is welcome to attend all portions of the meeting, but seating is limited and is allocated on a first-come, first-serve basis. Members of the public wishing to gain access to the conference room on the day of the meeting must contact Sonia Altieri at (202) 233–0061 or *altieri.sonia@epa.gov* by Tuesday, March 21, 2006.

Meeting Access: For information on access or services for individuals with disabilities, please contact Sonia Altieri at (202) 233–0061 or *altieri.sonia@epa.gov*. To request accommodation of a disability, please contact Sonia Altieri, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 28, 2006.

Sonia Altieri,

Designated Federal Officer.

[FR Doc. E6–3342 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0187; FRL–8042–6]

Human Studies Review Board; Notice of Public Meeting and Proposed Candidates for Membership to the Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA or Agency) Office of the Science Advisor (OSA) announces a public meeting of the Human Studies Review Board (HSRB) to advise the Agency on EPA's scientific and ethical reviews of human subjects research. In addition, OSA is soliciting public comment on its proposed list of candidates for membership to the HSRB.

DATES: The public meeting will be held April 4–6, 2006 from 8:30 a.m. to approximately 5 p.m., eastern time.

Location: Holiday Inn Rosslyn at Key Bridge, 1900 North Fort Myer Drive, Arlington, VA 22209. The telephone number for the Holiday Inn Rosslyn at Key Bridge is 703–807–2000.

Requests to Present Oral Comments and Special Accommodations: To submit requests for special accommodation arrangements or requests to present oral comments, notify the DFO listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, your request must identify docket ID number EPA–HQ–ORD–2006–0187 in the subject line on the first page of your response. Additional information concerning the submission of requests to present oral comments and submission of written comments is provided in Unit I.E.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes further information should contact Paul I. Lewis, Designated Federal Official (DFO), EPA, Office of the Science Advisor, (8105), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8381; fax: (202) 564 2070; e-mail addresses: *lewis.paul@epa.gov.*

ADDRESSES: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2006–018, by one of the following methods: *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

E-mail: *ORD.Docket@epa.gov.*

Mail: ORD Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Hand Delivery: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2006–0187. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0187. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

I. Public Meeting

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who conduct or assess human studies on substances regulated by EPA or to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 Access Electronic Copies of This Document and Other Related Information?

In addition to using regulations.gov, 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 the Code of Federal Regulations (CFR) is available at *http://www.gpoaccess.gov/ecfr/*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

EPA's position paper, charge/questions to the HSRB, HSRB composition and the meeting agenda will be available by mid March 2006. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the regulations.gov Web site and the HSRB Internet Home Page at *http://www.epa.gov/osa/hsrb/*.

C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. Provide specific examples to illustrate your concerns.
5. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

E. How May I Participate in This Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–ORD–2006–0187 in the subject line on the first page of your request.

1. *Oral comments.* Oral comments presented at the meetings should not be repetitive of previously submitted oral or written comments. Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time permits, interested persons may be permitted by the Chair of the HSRB to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the HSRB is strongly advised to submit their request (preferably via email) to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern time, March 29, 2006, in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (*e.g.*, overhead projector, 35 mm projector, chalkboard). Oral comments before the HSRB are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the HSRB at the meeting.

2. *Written comments.* Although written comments will be accepted until the date of the meeting (unless otherwise stated), the Agency strongly encourages that written comments be submitted, using the instructions in Unit 1.C. no later than noon, eastern time, March 29, 2006 to provide the HSRB the time necessary to consider and review the written comments. It is requested that persons submitting comments directly to the docket also notify the DFO listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the extent of written comments for consideration by the HSRB.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access and assistance for the hearing impaired, should contact the DFO at least 10 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

F. Background

At the inaugural meeting of the HSRB, EPA will provide a broad overview of the Agency's approach to the assessment of the potential risk to human health from the use of pesticides and how EPA uses data from human studies in such risk assessments. The Agency will then present to the HSRB its scientific and ethics reviews of approximately two dozen completed human studies concerning the following pesticide active ingredients: aldicarb, amitraz, azinphos-methyl, dichlorovos (DDVP), ethephon, methomyl, oxamyl, and sodium cyanide. The studies being reviewed at this meeting will include both studies on which the Agency proposes to rely in actions under the pesticide laws and studies that the Agency has decided not to use in its risk assessments, either for ethical or scientific reasons. The Agency will ask the HSRB to advise the Agency on a range of scientific issues and on how the studies should be assessed against the provisions in sections 26.1701–26.1704 of EPA's final human studies rule.

II. Proposed Candidates for Membership to the Board

On January 3, 2006, the EPA, OSA announced a request for nominations of qualified individuals to serve on the HSRB (**Federal Register** 71 116). Per the **Federal Register** notice, the OSA requested nominees who are nationally-

recognized experts in one or more of the following disciplines:

(a) Biostatistics. Expertise in statistical design and analysis of human subjects research studies.

(b) Human toxicology. Expertise in pharmacokinetic and toxicokinetic studies, clinical trials, and toxicology of cholinesterase inhibitors and other classes of environmental substances.

(c) Bioethics. Expertise in the ethics of research on human subjects; research ethics.

(d) Human health risk assessment.

EPA carefully considered the qualifications of nominees who agreed to be further considered and has identified candidates from whom EPA expects to select members to serve on the HSRB. EPA now invites comments from members of the public for relevant information or other documentation that the OSA should consider in the selection of HSRB members. The names of the candidates, together with a short biographical description of their qualifications, appear on the Agency's Web site at *http://www.epa.gov/osa/hsrb/*. Please e-mail your comments no later than noon, eastern time, March 14, 2006, listed under **FOR FURTHER INFORMATION CONTACT**.

Any information furnished by the public in response to this Web site posting will be combined with information already provided by the candidates, and gathered independently by the OSA. Prior to final selection of HSRB members, the combined information will be reviewed and evaluated for any possible financial conflict of interest or a possible appearance of a lack of impartiality. The information will also be used to ensure appropriate balance and breadth of expertise needed to address the charge to the Board. The EPA Science Advisor will make the final decision concerning who will serve on the HSRB.

Dated: March 2, 2006.

George Gray,

EPA Science Advisor.

[FR Doc. E6–3339 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–7]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC). The National and Governmental Advisory Committees advise the EPA Administrator in his capacity as the U.S. Representative to the CEC Council. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182, and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The NAC is composed of 12 members representing academia, environmental non-governmental organizations, and private industry. The GAC consists of 12 members representing state, local, and tribal governments. The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory, and economic issues related to implementation and further elaboration of the NAAEC. The purpose of the meeting is to continue the Committee's consideration of environment and trade issues in the CEC context. A copy of the agenda for the meeting will be posted at *http://www.epa.gov/ocem/nacgac-page.htm.*

DATES: The National and Governmental Advisory Committees will hold a two day open meeting on Thursday, April 6, from 9 a.m. to 5:30 p.m. and Friday, April 7, from 8:30 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the Hotel Washington, 515 15th St. NW., Washington, DC 20004. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Oscar Carrillo, Designated Federal Officer, *carrillo.oscar@epa.gov,* (202) 233–0072, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide written comments to the Committees should be sent to Oscar Carrillo, Designated Federal Officer, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Oscar Carrillo at (202) 233–0072 or *carrillo.oscar@epa.gov.* To request accommodation of a disability, please contact Oscar Carrillo, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 1, 2006.

Oscar Carrillo,

Designated Federal Officer.

[FR Doc. E6–3341 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–2]

Proposed CERCLA Agreement for Recovery of Response Costs, Intermountain Waste Oil Refinery NPL Site, Bountiful, Davis County, UT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice and request for public comment.

SUMMARY: In accordance with the requirements of section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), notice is hereby given of a proposed administrative settlement under section 122(h) of CERCLA, 42 U.S.C. 9622(h), between EPA and Intermountain Oil Company (''Settling Party'') regarding the Intermountain Oil Company facility (the ''Facility'') at the Intermountain Waste Oil Refinery NPL Site (''Site''). The property which is the subject of this proposed settlement is a parcel of land approximately two acres in size and is located at approximately 995 South and 500 West in Bountiful, Davis County, Utah. The settlement, embodied in the proposed Agreement for Recovery of Response Costs (''Agreement''), is intended to resolve the Settling Party's liability at the Site for all response costs incurred and paid, or to be incurred and paid, by EPA in connection with the work performed at the Site as provided for in the Agreement and is based on the Settling Party's inability to pay for a significant portion of the response costs incurred by EPA at the Site.

Intermountain Oil Company is the owner of a parcel of land which has been impacted by business operations at the Intermountain Oil Company Facility and is included within the defined boundaries of the Site. The proposed Agreement will resolve Settling Party's liability under section 107(a)(1) of CERCLA, 42 U.S.C. 9607(a)(1). Under the terms of the proposed Agreement,

the Settling Party agrees to pay to EPA the Net Sales Proceeds from the sale of Settling Party's property, *i.e.*, Settling Party's only asset. In exchange, the Settling Party will settle its liability for all response costs incurred and paid, or to be incurred and paid, at the Site in connection with the work performed at the Site as provided for in the Agreement.

Opportunity for Comment: For thirty (30) days following the date of publication of this notice, the Agency will consider all comments received on the Agreement and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations which indicate that the Agreement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Superfund Record Center, 999 18th Street, 5th Floor, in Denver, Colorado.

DATES: Comments must be submitted on or before April 10, 2006.

ADDRESSES: The proposed Agreement and additional background information relating to the Agreement are available for public inspection at the EPA Superfund Records Center, 999 18th Street, 5th Floor, in Denver, Colorado. Comments and requests for a copy of the proposed Agreement should be addressed to Carol Pokorny, Enforcement Specialist (8ENF–RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, and should reference the Intermountain Waste Oil Refinery NPL Site (IWOR), Bountiful, Davis County, Utah, and the IWOR Agreement.

FOR FURTHER INFORMATION CONTACT: Carol Pokorny, Enforcement Specialist (8ENF–RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, (303) 312–6970.

It is so agreed:

Dated: March 1, 2006.

Eddie A. Sierra,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8.

[FR Doc. E6–3349 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–4]

Proposed CERCLA Administrative Agreement for Recovery of Past Response Costs; Stringfellow Acid Pits Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed Agreement for Recovery of Past Response Costs (''Agreement,'' Region 9 Docket No. 9–2006–0004) pursuant to section 122(h) of CERCLA concerning the Stringfellow Acid Pits Superfund Site (the ''Site''), located near Glen Avon, California. The respondent to the Agreement is the state of California (the ''State'').

The issues resolved in the Agreement stem from the fact that, from 1983 to 1996, the Agency provided federal funds to the State through a State Superfund Contract as a cooperative means to further the remediation of the Site. Section 104(c)(3) of CERCLA requires that, in such a cooperative agreement, the State shall nonetheless be responsible for 10% of the remedial action costs, or 50–100% of the total response costs if the State was an ''operator'' of the Site. Because the State was involved in selecting the original location and management techniques for the Site as a hazardous waste disposal facility, in 1995, a federal district court ruled that the State's role at the facility made it a liable ''operator'' for the purpose section 107(a) of CERCLA. This court ruling potentially affected the share of response costs for which the State would be liable pursuant to section 104(c)(3) of CERCLA. In November 2004, the Agency's Office of Inspector General concluded an audit of the assistance accounts accessed by the State through the State Superfund Contract and made recommendations on the balance due to the State for its response work, but also recommended that the State was not entitled to reimbursement for substantial claims for interest accrued on its incurred costs. The Office of Inspector General did not consider in its recommendation the State's potential liability as an ''operator'' of the Site.

Through the proposed Agreement, the Agency will reimburse the State in an amount consistent with the recommendations of the Office of the Inspector General, and will not seek additional costs from the State for its potential liability as an ''operator'' of the Site. The State covenants to accept the settlement as a final determination of the amount of its reimbursement, precluding further claims for recovery of the interest accrued on the State's response costs. A portion of the payments from the Agency to the State will go specifically toward further investigation and response to the recently discovered perchlorate contamination at the Site.

For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed Agreement. The Agency's response to any comments will be available for public inspection at the Agency's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before April 10, 2006.

ADDRESSES: The proposed Agreement may be obtained from Judith Winchell, Docket Clerk, telephone (415) 972–3124. Comments regarding the proposed Agreement should be addressed to Judith Winchell (SFD–7) at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105, and should reference the Stringfellow Acid Pits Superfund Site, Glen Avon, California, and USEPA Docket No. 9–2006–0004.

FOR FURTHER INFORMATION CONTACT: Andrew Helmlinger, Office of Regional Counsel, telephone (415) 972–3904, USEPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

Dated: February 28, 2006.

Elizabeth Adams,

Acting Director, Superfund Division.

[FR Doc. 06–2245 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8043–3]

Program Requirement Revisions Related to the Public Water System Supervision Programs for the States of Connecticut, New Hampshire and Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the States of Connecticut, New

Hampshire and Rhode Island are in the process of revising their respective approved Public Water System Supervision (PWSS) programs to meet the requirements of the Safe Drinking Water Act (SDWA).

The State of Connecticut has adopted drinking water regulations for the Filter Backwash Recycling Rule (66 FR 31086–311054) promulgated on June 8, 2001. After review of the submitted documentation, EPA has determined that Connecticut's Filter Backwash Recycling Rule is no less stringent than federal regulations. Therefore, EPA intends to approve Connecticut's PWSS program revision for the Filter Backwash Rule.

The State of New Hampshire has adopted drinking water regulations for the new Public Water System definition (63 FR 23362, 23364) promulgated on April 28, 1998. After review of the submitted documentation, EPA has determined that New Hampshire's public water system definition is no less stringent than federal regulations. Therefore, EPA intends to approve New Hampshire's PWSS program revision for the Public Water System definition.

The State of Rhode Island has adopted drinking water regulations for the Variances and Exemptions Rule (63 FR 43834–43851) promulgated on August 14, 1998. After review of the submitted documentation, EPA has determined that Rhode Island's Variances and Exemptions Rule is no less stringent than federal regulations. Therefore, EPA intends to approve Rhode Island's PWSS program revision for the Variances and Exemptions Rule.

DATES: All interested parties may request a public hearing for any of the above EPA determinations. A request for a public hearing must be submitted within thirty (30) days of this **Federal Register** publication date to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator.

However, if a substantial request for a public hearing is made by this date, a public hearing will be held. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective 30 days after the publication of this **Federal Register** Notice.

Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person(s interest in the Regional Administrator(s determination; (3) information that the requesting person intends to submit at such hearing; and (4) the signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, at the following office(s): U.S. Environmental Protection Agency, Office of Ecosystem Protection, One Congress Street, 11th floor, Boston, MA 02114.

For documents specific to that State:

Connecticut Department of Public Health, Water Supply Section, 450 Capitol Avenue, P.O. Box 340308–51 WAT, Hartford, CT 06134–0308.

New Hampshire Department of Environmental Services, Water Supply Engineering Bureau, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

Rhode Island Department of Health, Office of Drinking Water Quality, 3 Capitol Hill, Cannon Building, Room 209, Providence, RI 02908–5097.

FOR FURTHER INFORMATION CONTACT: Barbara McGonagle, Office of Ecosystem Protection (telephone 617–918–1608).

Authority: Section 1401 (42 U.S.C. 300f) and section 1413 (42 U.S.C. 300g–2) of the Safe Drinking Water Act, as amended (1996), and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: February 28, 2006.

Robert W. Varney,

Regional Administrator, EPA—New England.

[FR Doc. E6–3348 Filed 3–8–06; 8:45 am]

BILLING CODE 6560–50–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 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

Network Shipping International, Inc., dba Pillar Trans California, 18726 S. Western Ave., Suite #317, Gardena, CA 90248. Officer: Nicole H. Kim President, (Qualifying Individual).

Union Pacific Logistics, Inc., 767 N. Hill Street, #303, Los Angeles, CA 90012. Officer: Ching Kwow Kam, President, (Qualifying Individual).

GAL (Bos) Inc., 88 Black Falcon Ave., Suite 235, So. Boston, MA 02210. Officers: Kirk Koylon, Treasurer, (Qualifying Individual), Kam L. Ng, President.

Fast Track/Everlast Shipping & Delivery, 5406 Park Heights Ave., Baltimore, MD 21215. Montgomery Davson, Sole Proprietor.

Velocity Freight Inc., 20283 State Road 7, Suite 300, Boca Raton, FL 33498. Officers: Estela De Los Santos, Vice President, (Qualifying Individual), Doug Pacht, President.

Kompas Line, Inc., 206 South Hoover Blvd., Suite 120, Tampa, FL 33609. Officers: Michael J. Batista, Vice President, (Qualifying Individual), George Mitchel, President.

Far-Go Express, Inc., 18725 E. Gale Ave., Bldg. 160, Suite 220, City of Industry, CA 91748. Officer: James Hung-Chieh, Chu, President, (Qualifying Individual).

Oceanic Export Inc., 147 Knollwood Terrace, Clifton, NJ 07012. Officer: Nance Gonzalez, President, (Qualifying Individual).

Direct Services Solutions, Inc., Giralda Farms, Madison Ave., P.O. Box 880, Madison, NJ 07940–0880. Officers: Timothy J. Nolan, Director, (Qualifying Individual), Michael White, Director.

FCL Marine USA, Ltd., 1204 Water Birch Court, Chesapeake, VA 23325. Officer: Sheila J. Worley, President, (Qualifying Individual).

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

ClearPoint International Group LLC, 2425 East 12th Street, Los Angeles, CA 90021. Officers: Arash Raminfar, President, (Qualifying Individual), Alex Raminfar, Vice President.

Chaker, Inc. dba Marina Line dba Folk Shipping Co., 683 E. Royal Ln, #1103, Irving, TX 75039. Officers: Tarek Abdallah, President, (Qualifying Individual), Ziad Abdallah, CFO.

Planes Moving & Storage, Inc., 9823 Cincinnati-Dayton Road, West

Chester, OH 45069. Officers: John J. Plnes, CEO, (Qualifying Individual).

Guaranteed International Freight and Trade, Inc., dba International Freight and Trading, 239–241 Kingston Ave., Brooklyn, NY 11213. Officers: Lawrence Medas, Sr., President, (Qualifying Individual), Cornelius Medas, CEO.

Florida Freight Forwarders, LLC, 2041 NW 12th Ave., Miami, FL 33127. Officer: Jose Maria Rivas, Vice President, (Qualifying Individual).

Sunset Transportation, Inc., 11406 Gravois Road, St. Louis, MO 63126. Officers: Deborah L. Kopeny, Director, (Qualifying Individual), James A. Williams.

D.M.C. Logistics Incorporated, 207 Meadow Road, Edison, NJ 08817. Officers: Julia Ertler, Vice President, (Qualifying Individual), Francis S. Molfetta, President.

Cargo Shipping Expedition International Inc., 6 Sandow Court, Fair Lawn, NJ 07410. Officers: Gerry Lysogorsky, Vice President, (Qualifying Individual), Alexander Zilberman, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Hal-Mari International Logistics, Inc., 935 Knotty Elmwood Trail, Houston, TX 77062. Officer: Ilkka Halmari, President, (Qualifying Individual).

Matt Global Freight Co. LLC, 3517 Langrehr Road, Suite 102, Baltimore, MD 21244. Officers: Mathew T. Chacko, President, (Qualifying Individual), Ann T. Mathews, Vice President.

Allfreight Worldwide Cargo, Inc., dba Allfreight, 4810 Beauregard Street, Suite 100, Alexandria, VA 22312. Officers: Demeke Meri, CEO/President, (Qualifying Individual), Abel Meri, Director.

Dated: March 3, 2006.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E6–3315 Filed 3–8–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice

TIME AND DATE: 9 a.m. (est); March 20, 2006.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the February 21, 2006, Board Member meeting.
2. Thrift Savings Plan activity report by the Executive Director.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: March 6, 2006.

Thomas K. Emswiler,

Acting General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 06–2325 Filed 3–7–06; 1:01 pm]

BILLING CODE 6760–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Publication of Volume II of GAO's Principles of Federal Appropriations

AGENCY: Government Accountability Office.

ACTION: Notice of publication.

SUMMARY: The third edition of Volume II of GAO's *Principles of Federal Appropriations Law* is being prepared for publication by the Government Printing Office (GPO). Government departments, agencies, and other federal organizations that normally require more than one copy have been given an opportunity to request them through their agencies' account representatives at pre-publication rate. This notice is intended for other parties who might be interested in purchasing the book.

SUPPLEMENTARY INFORMATION: The Government Accountability Office (GAO) will shortly publish Volume II of *Principles of Federal Appropriations Law*, third edition—also known as ''The Red Book'' This publication is part of a multi-volume set intended to present a basic reference covering those areas of law in which the Comptroller General renders decisions. Our approach is to lay a foundation with text discussion, using specific legal authorities to illustrate the principles discussed, their application, and exceptions. These authorities include GAO decisions and opinions, judicial decisions, statutory provisions, and other relevant sources.

GAO will provide copies of this volume to the heads of Federal agencies, and agencies have already been given an opportunity to place advance (rider) orders for additional copies of this volume with their account representatives at the Government Printing Office (GPO).

This notice is intended to tell the general public that they will be able to place pre-issue orders for this publication through GPO's new online bookstore, at *http://bookstore.gpo.gov/collections/gao_appropriation.jsp.* Otherwise, we expect this publication will be available for purchase from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954, by April 2006. The price is $69.

Orders for Volume II should specify GPO Stock No. 020–000–00287–5 or the ISBN 0–16–0075602–2. Through periodic training courses on federal appropriations law, GAO believes that this publication might be useful in particular to law offices, to accounting firms, to the financial, budget, or accounting officers of government contractors, to university and state law libraries, to corporate chief financial officers, and to people who follow Federal financial management, contracts, grants, and loans.

As with the second edition of Principles, we are publishing the third edition in loose-leaf format but will include a CD–ROM as well. Volume II covers chapters 6 through 11: *availability of appropriations, amount; obligation of appropriations; continuing resolutions; liability and relief of accountable officers; Federal assistance, grants and cooperative agreements; and Federal assistance, guaranteed and insured loans.* We plan three volumes with annual updates. The updates will only be published electronically. Users should retain copies of the remaining volumes of the second edition until each volume is revised. Volume III of the second edition addresses functions that the GAO Act of 1996 transferred to the Executive Branch and will not be updated. The first annual update of Volume I is currently available online at *http://www.gao.gov/legal.htm.*

Authority: 31 U.S.C. 712, 717, 719, 3511, 3526–29.

Susan Poling,

Managing Associate General Counsel, Government Accountability Office.

[FR Doc. 06–2235 Filed 3–8–06; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Liaison and Scientific Review Office; Meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Meeting announcement and request for comments.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee (TRR Subcommittee). The primary agenda topic is the peer review of the findings and conclusions presented in four draft NTP Technical Reports of rodent toxicology and carcinogenicity studies conducted by the NTP (see Preliminary Agenda below). The TRR Subcommittee meeting is open to the public with time scheduled for oral public comment. The NTP also invites written comments on any draft technical report discussed at the meeting. The TRR Subcommittee deliberations on the draft technical reports will be reported to the NTP Board of Scientific Counselors (NTP Board) at a future date.

DATES: The TRR Subcommittee meeting will be held on June 12, 2006. All individuals who plan to attend are encouraged to register online by May 30, 2006, at the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Advisory Boards & Committees''). In order to facilitate planning for this meeting, persons wishing to make an oral presentation are asked to notify Dr. Barbara Shane via online registration, phone, or e-mail (see **ADDRESSES** below) by May 30, 2006, and if possible, to send a copy of the statement or talking points at that time. Written comments on the draft reports are also welcome and should also be received by May 30, 2006, to enable review by the TRR Subcommittee and NIEHS/NTP staff prior to the meeting. Persons needing special assistance, such as sign language interpretation or other reasonable accommodation in order to attend, should contact 919–541–2475 (voice), 919–541–4644 TTY (text telephone), through the Federal TTY Relay System at 800–877–8339, or by e-mail to *niehsoeeo@niehs.nih.gov*. Requests should be made at least 7 days in advance of the event.

ADDRESSES: The TRR Subcommittee meeting will be held in the Rodbell Auditorium, Rall Building at the NIEHS, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709. A copy of the preliminary agenda, committee roster, and any additional information, when available, will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Advisory Boards and Committees'') and provided upon request. Public comments and any other correspondence should be submitted to Dr. Barbara Shane, Executive Secretary for the NTP Board (NTP Liaison and Scientific Review Office, NIEHS, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709; telephone: 919–541–4253, fax: 919–541–0295; or e-mail: *shane@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background

The primary agenda topic is the peer review of the findings and conclusions of four draft NTP Technical Reports of rodent toxicology and carcinogenicity studies conducted by the NTP (see Preliminary Agenda below) on studies with conventional strains of rats and mice.

Attendance and Registration

The meeting is scheduled for June 12, 2006, from 8:30 a.m. to adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to attend are encouraged to register online at the NTP Web site by May 30, 2006, at *http://ntp.niehs.nih.gov/* select ''Advisory Boards and Committees'' to facilitate access to the NIEHS campus. Please note that a photo ID is required to access the NIEHS campus. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/external/video.htm*.

Availability of Meeting Materials

A copy of the preliminary agenda, committee roster, and any additional information, when available, will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Advisory Boards and Committees'') or may be requested in hardcopy from the NTP (see **ADDRESSES** above). Following the meeting, summary minutes will be prepared and made available on the NTP Web site.

Request for Comments

Public input at this meeting is invited and time is set aside for the presentation of public comments on any draft technical report. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to send a copy of their statement to Dr. Shane (see **ADDRESSES** above) by May 30, 2006, to enable review by the TRR Subcommittee and NIEHS/NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the TRR Subcommittee and NIEHS/NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document.

Background Information on the NTP Board of Scientific Counselors

The NTP Board is a technical advisory body comprised of scientists from the public and private sectors who provide primary scientific oversight to the overall program and its centers. Specifically, the NTP Board advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purposes of determining and advising on the scientific merit of its activities and their overall scientific quality. The TRR Subcommittee is a standing subcommittee of the NTP Board. NTP Board members are selected from recognized authorities knowledgeable in fields, such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Its members are invited to serve overlapping terms of up to four years. NTP Board meetings are held annually or biannually.

Dated: February 27, 2006.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and the National Toxicology Program.

Preliminary Agenda

National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review Subcommittee Meeting

June 12, 2006

Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences, 111 TW Alexander Drive, Research Triangle Park, NC

NTP Technical Reports (TR) Scheduled for Review

- TR 539 Genistein (CASNR 446–72–0)—Multigenerational Study.

Naturally occurring phytoestrogen, found in soy products.

- TR 545: Genistein (CASNR 446–72–0)—2-year Bioassay.
  Naturally occurring phytoestrogen, found in soy products.
- TR 543: α-Methylstyrene (CASNR 98–83–9).
  - Used in the production of resins and polymers.
- TR 540: Methylene blue trihydrate (CAS No. 7220–79–3).
  - Dye used to stain tissues and bacteriological samples for microscopy and an antidote for methemoglobinemia; previously used as a hair colorant.

[FR Doc. E6–3317 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: National Institute for Occupational Safety and Health (NIOSH) Support for Conferences and Scientific Meetings, Request for Applications PAR 06–014

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): NIOSH Support for Conferences and Scientific Meetings, Request for Applications PAR 06–014.

Time and Date: 1 p.m.–4 p.m., March 29, 2006 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to NIOSH Support for Conferences and Scientific Meetings, Request for Applications PAR 06–014.

For More Information Contact: George Bockosh, MS, Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 626 Cochran Mill Road, MS PO–5, Pittsburgh, PA 15236, Telephone 412–386–6465. The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 3, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3354 Filed 3–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting:

Name: National Center for Injury Prevention and Control (NCIPC) Initial Review Group (IRG).

Times and Dates: 6:30 p.m.–10 p.m., April 10, 2006. 8:30 a.m.–6 p.m., April 11, 2006. 8 a.m.–5:30 p.m., April 12, 2006.

Place: Hilton Atlanta Airport and Towers, 1031 Virginia Avenue, Atlanta, Georgia 30354.

Status: Open: 6:30 p.m.–7:15 p.m., April 10, 2006.

Closed: 7:15 p.m. to 10 p.m., April 10, 2006. 8:30 a.m. to 6 p.m., April 11, 2006. 8 a.m. to 5:30 p.m., April 12, 2006.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS) and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including state and local government agencies, to conduct specific injury research that focuses on injury prevention and control.

Matters to be Discussed: Agenda items include an overview of the injury program, discussion of the review process and panelists responsibilities, and the review of, and vote on, applications. Beginning at 7:15 p.m., April 10, through 5:30 p.m., April 12, the Group will review individual research grant and cooperative agreement applications submitted in response to six Fiscal Year 2006 Requests for Applications (RFAs) related to the following individual research announcements: #06001, Research Grants to Prevent Unintentional Injuries; #06002, Dissertation Grant Awards for Violence-Related Injury Prevention Research in Minority Communities; #06003, Research Grants to Describe Traumatic Brain Injury Consequences; #06004, Grants for Violence-Related Injury Prevention Research: Youth Violence, Suicidal Behavior, Child Maltreatment, Intimate Partner Violence, and Sexual Violence; #06005, Research Grants for the Care of the Acutely Injured; #06007, Evaluation of Community-based Approaches to Increasing Seat Belt Use Among Adolescent Drivers and Their Passengers.

This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to section 10(d) of Public Law 92–463.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Executive Secretary, NCIPC IRG, CDC, 4770 Buford Highway, NE, M/S K02, Atlanta, Georgia 30341–3724, telephone 770/488–4655.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 3, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3346 Filed 3–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health Advisory Board on Radiation and Worker Health

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH).

Time and Date: 10 a.m.–4 p.m., EST, Tuesday, March 14, 2006.

Place: Audio Conference Call via FTS Conferencing. The USA toll free dial in number is 1–866–643–6504, pass code of 9448550.

Status: Open to the public, but without a public comment period.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President, delegated to the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose

estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2007.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: The agenda for the conference call includes board comments on SEC rule rewrite; reports of working groups on Y–12 Site Profile, Rocky Flats Site Profile, individual dose reconstruction reviews—Sets 2 and 3, Procedures Review (Task 3), and Sanford Cohen & Associates (SC&A) progress on the SEC task; NIOSH update on Bethlehem Steel Site Profile; board correspondence; agenda for the April 25–27, 2006 meeting; and future board/work group schedules and meetings.

The agenda is subject to change as priorities dictate.

Due to administrative issues that had to be resolved the **Federal Register** notice is being published on short notice.

Contact Person for More Information: Dr. Lewis V. Wade, Executive Secretary, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/533–6825, fax 513/533–6826.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 3, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3347 Filed 3–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: March 24, 2006.

Time: 10 a.m. to 2 p.m.

Agenda: To review proposed 2007 Clinical Center budget.

Place: National Institutes of Health, Building 10, 10 Center Drive, 4–2551, CRC Medical Board Room, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, 301/496–2897.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2209 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee D—Clinical Studies.

Date: April 9–10, 2006.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Peter J. Wirth, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328. 301–496–7565. *pw2q@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2229 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Research Centers In Minority Institutions Review Committee.

Date: March 16, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mahadev Murthy, PhD, MBA, Scientific Review Administrator, National Institutes of Health, National Center for Research Resources, Ofc of Review, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1070, Bethesda, MD 20892 (301) 435–0813, *mmurthy@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2216 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel; Primate Resource Applications (P).

Date: March 23, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Linda C. Duffy, PhD; Scientific Review Administrator, Office of Review, NCRR, National Institutes of Health, 6701 Democracy Blvd., Room 1082, Bethesda, MD 20892, (301) 435–0810, *duffyl@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clincial Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2222 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel; Mouse Resource Applications (M).

Date: March 21, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Linda C. Duffy, Ph.D., Scientific Review Administrator, Office of Review, NCRR, National Institutes of Health, 6701 Democracy Blvd, Room 1082, Bethesda, MD 20892. (301) 435–0810. *duffyl@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2231 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Review Panel for Epidemiological and Genetics Applications.

Date: March 20, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Houmam H Araj, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892–9602, 301–451–2020, *haraj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2212 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Establishment and Maintenance of the Mammalian Extragonadal Germ Stem Cell Niche.

Date: March 27, 2006.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD, 20892, (301) 435–6884, *ranhandj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2210 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, NIDDK Digestive Disease Fellowship Grant Application Review.

Date: March 17, 2006.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 910, 6707 Democracy Boulevard, Bethesda, MD, 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, R03–Acute Renal Failure.

Date: March 20, 2006.

Time: 12:30 p.m. to 1:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 949, 6707 Democracy Boulevard, Bethesda, MD, 20892–5452, (301) 594–8894, *matsumotod@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, The Ancillary Studies to Major Ongoing NIDDK Liver Disease Clinical Trials.

Date: March 23, 2006.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 910, 6707 Democracy Boulevard, Bethesda, MD, 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Mouse Phenotyping Centers.

Date: March 28, 2006.

Time: 7 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Michael W. Edwards, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD, 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov.*

(Catalogue of Federal domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic research; 94.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2211 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 30, 2006.

Open: 7:30 a.m. to 7:50 a.m.
Agenda: Reports from Institute staff.
Place: National Institutes of Health, 5 Research Court, Room 2A07, Rockville, MD 20850.
Closed: 8 a.m. to 3:40 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, 5 Research Court, Room 2A07, Rockville, MD 20850.
Contact Person: Robert J. Wenthold, PhD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852, 301–402–2829.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2214 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Pathogen Functional Genomics Resource Center.
Date: March 24, 2006.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Rm 3200, Bethesda, MD 20817, (Telephone Conference Call).
Contact Person: Darren D. Sledjeski, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 3253, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–2638, *sledjeskid@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2217 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Udall Centers Review.
Date: March 9, 2006.
Time: 10 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Beacon Hotel, 1615 Rhode Island Avenue, Washington, DC 20036.
Contact Person: JoAnn McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2218 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 522b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Mental Health Research Education I.
Date: March 13, 2006.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Sofitel Hotel, 806 15th Street, NW., Washington, DC 20005.
Contact Person: Agu Pert, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9608, Bethesda, MD 20892–9608, 301–443–0811, *apert@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Mental Health Research Education II.
Date: March 13, 2006.
Time: 5 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Sofitel Hotel, 806 15th Street, NW., Washington, DC 20005.
Contact Person: Agu Pert, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9608, 301–443–0811, *apert@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Silvio O. Conte Center for Neuroscience Research.

Date: March 15–16, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: City Center Hotel—Washington, DC, 1143 New Hampshire Avenue, NW., Monticello, Washington, DC.

Contact Person: A. Roger Little, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6157, MSC 9609, Rockville, MD 20852–9609, 301–402–5844, *alittle@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2219 Filed 3–8–06; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, March 14, 2006, 8 a.m. to March 15, 2006, 5 p.m., The Radisson Governor's Inn, I–40 at Davis Drive, Exit 280, Research Triangle Park, NC, 27709 which was published in the **Federal Register** on February 15, 2006, FR 71 31.

The meeting will be held in the Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713. The meeting is closed to the public.

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2220 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Neuro Aids Imaging.

Date: March 28–30, 2006.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: The New Otani Kaimana Beach Hotel, 2863 Kalakaua Ave., Honolulu, HI 96815.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529. (301) 496–5388. *wiethorp@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2221 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Rehabilitation Medicine Scientist Training (RMST) program.

Date: March 28, 2006.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2223 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 06–64, Review R13.
Date: March 28, 2006.
Time: 12 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Bldg., Rm 4AN38J, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 06–45, Review R21s.
Date: April 5, 2006.
Time: 1:30 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Drive, Rm 4AN–32F, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006, *lynn.king@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 06–67, Review R03.
Date: April 10, 2006.
Time: 1:30 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–32F, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006, *lynn.king@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 06–64, Review R21s.
Date: April 18, 2006.
Time: 1:30 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–32F, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006, *lynn.king@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 06–60, Review of RFA DE06–008, Tooth Demineralization—Caries.
Date: May 22, 2006.
Time: 7 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892, (301) 594–3169, *yujing_liu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2224 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Large Scale Collaborative Project.
Date: March 27, 2006.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Brian R. Pike, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892. 301–594–3907. *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2225 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Emphasis Panel; Perioperative Injury.
Date: March 29–30, 2006.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Buffalo, 2 Fountain Plaza, Buffalo, NY 14202.
Contact Person: Brian R. Pike, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892. (301) 594–3907. *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2226 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Nutrient Restriction: Placental and Fetal Brain and Renal Outcomes and Mechanisms.

Date: March 21, 2006.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg 5B01, Rockville, MD 20852. (301) 435–6889. *bhatnagg@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2227 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEAL AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Reproductive Health Choices of Women.

Date: March 24, 2006.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. (301) 435–6898. *wallsc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2228 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; ZEB1 OSR–A M1 S 2006 Image Neural Activity.

Date: April 3, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David George, PhD, Director, Office of Scientific Review, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892. 301–496–8633. *georged1@mail.nih.gov*

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2230 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities, Office of Science Policy, Office of the Director; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a National Science Advisory Board for Biosecurity (NSABB) meeting.

Under authority 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established NSABB to provide advice, guidance and leadership regarding federal oversight of dual-use research, defined as biological research with legitimate scientific purposes that could be misused to pose a biological threat to public health and/or national security.

The meeting will be open to the public, however pre-registration is strongly recommended due to space limitations. Persons planning to attend

should register online at *http://www.biosecurityboard.gov/meetings.asp* or by calling The Hill Group (Contact: Jenny Chun) at 301–897–2789, ext. 115. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should indicate these requirements upon registration.

Name of Committee: National Science Advisory Board for Biosecurity.

Date: March 30, 2006.

Time: 8 a.m. to 6:15 p.m.

Agenda: Presentations and discussions regarding: (1) Criteria for identifying dual use research; (2) a code of conduct for the life sciences; (3) principles and tools for the responsible communication of dual use research; (4) international perspectives on dual use research; (5) synthetic genomics; (6) public comments; and (7) other business of the Board.

Place: The National Institutes of Health, Building 31, 6C–Room 10, Bethesda, Maryland.

Contact Person: Allison Chamberlain, NSABB Program Assistant, 6705 Rockledge Drive, Bethesda, MD 20892, (301) 402–3090.

This meeting will also be Webcast. The draft meeting agenda and other information about NSABB, including information about access to the Webcast and pre-registration, will be available at *http://www.biosecurityboard.gov/meetings.asp.*

Any member of the public interested in presenting oral comments at the meeting may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of an organization may submit a letter of intent, a brief description of the organization represented and a short description of the oral presentation Only one representative of an organization may be allowed to present oral comments. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee. All written comments must be received by March 17, 2005 and should be sent via email to *nsabb@od.nih.gov* with ''NSABB Public Comment'' as the subject line or by regular mail to 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, Attention Allison Chamberlain. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2215 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 6, 2006, 8:30 a.m. to March 7, 2006, 1 p.m., One Washington Circle, One Washington Circle, NW., Washington, DC, 20037 which was published in the **Federal Register** on February 15, 2006, 71 FR 7985–7987.

The meeting will be held one day only on March 6, 2006, from 8:30 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2207 Filed 3–8–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 7, 2006, 11 a.m. to March 7, 2006, 12 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on February 23, 2006, 71 FR 9363–9367.

The meeting will be held on March 21, 2006, from 4 p.m. to 5 p.m. The meeting location remains the same. The meeting is public.

Dated: February 28, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2208 Filed 3–8–06; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 22, 2006, 3 p.m. to March 22, 2006, 5 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 23, 2006, 71 FR 9362–9363.

The starting time of the meeting on March 22, 2006 has been changed to 2 p.m. until adjournment. The meeting date and location remain the same. The meeting is closed to the public.

Dated: March 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2213 Filed 3–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–19621]

Dry Cargo Residue Discharges in the Great Lakes; Preparation of Environmental Impact Statement

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent; notice of availability; request for comments.

SUMMARY: The Coast Guard announces its intent to prepare an environmental impact statement (EIS) in connection with the development of proposed new regulations on the incidental discharge of dry cargo residue in the Great Lakes. Publication of this notice begins a public scoping process that will help determine the scope of issues to be addressed in the EIS and identify the significant environmental issues related to this EIS (40 CFR 1506.6). This notice also solicits public participation in the scoping process, and announces the availability of a study on current dry cargo residue discharge practices in the Great Lakes.

DATES: Comments and related material must reach the Docket Management Facility on or before July 31, 2006.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2004–19621 to the Docket Management Facility at the U.S. Department of Transportation.

Address docket submissions for USCG–2004–19621 to: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

The Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying at this address, in room PL–401, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility's telephone is 202–366–9329, its fax is 202–493–2251, and its Web site for electronic submissions or for electronic access to docket contents is *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, contact LCDR Mary Sohlberg, U.S. Coast Guard, fax 202–267–4690 or e-mail *msohlberg@comdt.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Request for Comments

We request public comments or other relevant information on environmental issues related to all aspects of incidental dry cargo residue discharges on the Great Lakes. You can submit comments to the Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the comment period.

Submissions should include:

- Docket number USCG–2004–19621.
- Your name and address.
- Your reasons for making each comment or for bringing information to our attention.

Submit comments or material using only one of the following methods:

- Electronic submission to DMS, *http://dms.dot.gov.*
- Fax, mail, or hand delivery to the Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to know when it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the DMS Web site (*http://dms.dot.gov*), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the DMS Web site, or the Department of Transportation Privacy Act Statement that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477).

You may view docket submissions at the Docket Management Facility (see **ADDRESSES**), or electronically on the DMS Web site.

Background

The Coast Guard has previously published **Federal Register** documents concerning regulation of incidental dry cargo residue on the Great Lakes: 69 FR 1994 (January 13, 2004), 69 FR 57711 (September 27, 2004), 69 FR 77147 (December 27, 2004; corrected at 70 FR 1400, January 7, 2005).

The historical practice of bulk dry cargo vessels on the Great Lakes is to wash non-hazardous and non-toxic cargo residues (''dry cargo residue'' or ''cargo sweepings'') overboard. These non-hazardous non-toxic discharges eliminate unsafe conditions onboard the vessel, without requiring alternatives that could involve time delays or added cost. Current environmental statutes, if strictly enforced, would prohibit these incidental discharges. However, under an ''interim enforcement policy'' (IEP) first adopted by the Coast Guard's Ninth District in 1993, incidental discharges of dry cargo residue are permitted in defined portions of the Great Lakes. Congress has authorized continuation of the IEP until September 30, 2008, unless the Coast Guard acts sooner to replace the IEP with new regulations.

Dry cargo residue on the Great Lakes generally includes, but is not limited to, limestone and other clean stone, iron ore such as taconite, coal and salt, and cement. The IEP applies only to such cargo residues, and does not alter the strict prohibition of any discharge of oily waste, untreated sewage, plastics, dunnage, or other things commonly understood to be ''garbage,'' from vessels on the Great Lakes. Nor does the IEP permit the discharge of any substance known to be toxic or hazardous, such as nickel, copper, zinc, or lead. The IEP permits incidental dry cargo residue discharges only in areas that are relatively far from shore, and that meet depth restrictions and other restrictions near special protection areas.

Our December 27, 2004 **Federal Register** document (69 FR 77147; corrected at 70 FR 1400, January 7, 2005) announced that we would conduct a study of current dry cargo residue discharge practices in the Great Lakes, and requested information from the public that could help us conduct that study. The study is now complete and is available for public review either electronically or at the Docket Management Facility (see **ADDRESSES** and *Request for Comments*).

Proposed Action and Alternatives

The proposed action is to adopt the IEP as the basis for permanent regulations, adding new requirements for standardized record-keeping by vessels that discharge dry cargo residue. The discharges that require logging, the format for log entries, the retention time of the logs, and the physical location of the log would be specified. The alternatives to the proposed action include:

- Allowing the IEP to terminate on September 30, 2008, after which the Coast Guard would enforce all laws applicable to the discharge of dry cargo residues into the Great Lakes. For the purposes of our environmental review this represents the ''no-action'' alternative;
- Adopting the IEP as the basis for permanent regulations, without significant change;
- Adopting the IEP as the basis for permanent regulations, possibly with significant changes (other than record-keeping) designed to reduce the environmental impact. Possible changes would be specified and could include adoption of best management practices, quantity limits, cargo type limits, or additional restrictions on discharge locations;
- Developing a Coast Guard permit system for vessels discharging incidental dry cargo residue; and
- Regulating shoreside facilities to control or eliminate dry cargo spillage during vessel loading or unloading.

Scoping Process

The scoping process (40 CFR 1501.7) is an early and open process for determining the scope of issues to be addressed in an EIS and for identifying the significant issues related to the proposed action. The scoping process begins with publication of this notice and ends when the Coast Guard has completed the following actions:

- Invites the participation of Federal, State, and local agencies, any affected Indian tribe, the applicant, and other interested persons;
- Determines the actions, alternatives, and impacts described in 40 CFR 1508.25;
- Identifies and eliminates from detailed study those issues that are not significant or that are previously documented and can be incorporated by reference;
- Allocates responsibility for preparing EIS components;

• Indicates any related environmental assessments or environmental impact statements that are not part of the EIS;

• Identifies other relevant environmental review and consultation requirements;

• Indicates the relationship between timing of the environmental review and other aspects of the application process; and

• At its discretion, exercises the options provided in 40 CFR 1501.7(b).

The Coast Guard will publish a **Federal Register** Notice to announce a public meeting and will include the time, location, and venue for the meeting as part of the scoping process under NEPA for this action. The Coast Guard intends to announce these details after gauging the level of public interest in response to the current notice. Once the scoping process is complete, the Coast Guard will prepare a draft EIS, and we will publish a **Federal Register** notice announcing its public availability. If you wish to be mailed or e-mailed the public meeting notice or the draft EIS notice of availability, please contact the person named in **FOR FURTHER INFORMATION CONTACT**. We will provide the public with an opportunity to review and comment on the draft EIS. After the Coast Guard considers those comments, we will prepare the final EIS and similarly announce its availability and issue a Record of Decision 30 days later.

Dated: March 6, 2006.

Howard L. Hime,

Acting Director of Standards, Assistant Commandant for Prevention.

[FR Doc. 06–2258 Filed 3–6–06; 4:25 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24105]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces a teleconference of the Chemical Transportation Advisory Committee (CTAC). The purpose of the teleconference is for CTAC to approve comments to be submitted on the Coast Guard's Notification of Arrival in U.S. Ports and Certain Dangerous Cargo interim rule. Less than 15 days notice of this teleconference is given in order to complete timely input on critical issues being studied by the Coast Guard before the end of the interim rule's comment period on March 16, 2006.

DATES: The CTAC teleconference will take place on Monday, March 13, 2006, from 10 a.m. to 12 noon, EST. The teleconference may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 10, 2006. Requests to have a copy of your material distributed to each member of the Committee should reach the Coast Guard on or before March 10, 2006.

ADDRESSES: Members of the public may participate in this teleconference by dialing 1–202–366–3920, passcode: 5543. Public participation is welcomed; however, the number of teleconference lines is limited and available on a first come, first-served basis. Members of the public may also participate by coming to Room 3319, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. We request that members of the public who plan to attend this meeting, notify LT Barker or LT Stockwell at 202–267–1217 so proper security arrangements may be made. Send written material and requests to make oral presentations to Commander Robert J. Hennessy, Executive Director of CTAC, Commandant (G–PSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or e-mail: *CTAC@comdt.uscg.mil.* This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Commander Robert J. Hennessy, Executive Director of CTAC, or Ms. Sara Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. The purpose of the teleconference is for CTAC to approve comments to be submitted on the Coast Guard's Notification of Arrival in U.S. Ports and Certain Dangerous Cargo interim rule (70 FR 74663, December 16, 2005). Less than 15 days notice of this teleconference is given in order to complete timely input on critical issues being studied by the Coast Guard before the end of the interim rule's comment period on March 16, 2006.

Agenda for Teleconference

(1) Introductions and opening remarks.

(2) Discussion and vote on comments drafted by Hazardous Cargo Transportation Security Subcommittee for submission to the U.S. Coast Guard concerning the Notification of Arrival in U.S. Ports and Certain Dangerous Cargo **Federal Register** document (70 FR 74663, December 16, 2005).

(3) Discussion and vote on Best Practices developed by the Outreach Subcommittee concerning the vapor emissions from chemical barges.

(4) Public comment period.

Procedural

The teleconference is open to the public. Please note that the teleconference may close early if all business is finished. The Chair of CTAC shall conduct the teleconference in a way that will, in their judgment, facilitate the orderly conduct of business. Members of the public will be heard during the public comment period. The Chair will make every effort to hear the views of all interested parties. Written comments must be submitted to the Executive Director (see **ADDRESSES**) on or before March 10, 2006.

The teleconference will be recorded and a summary will be available for public review upon request approximately 30 days following the teleconference meeting.

Dated: March 3, 2006.

Howard L. Hime,

Acting Director of Standards, Assistant Commandant for Prevention.

[FR Doc. 06–2259 Filed 3–6–06; 4:25 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Petition for Amerasian, Widow(er), or Special Immigrant, Form I–360.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on December 14, 2005, at 70 FR 74028. The notice allowed for a 60-day public comment period. No comments

were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 10, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0020 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–360. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used to determine eligibility or to classify an alien as an Amerasian, widow or widower, battered or abused spouse or child and special immigrant, including religious worker, juvenile court dependent and armed forces member.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,397 responses at (2) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,794 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529, (202) 272–8377.

Dated: March 2, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 06–2233 Filed 3–8–06; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities; Reinstatement of a Previously Approved Information Collection; Comment Request

ACTION: Notice of 60-day information collection under review: Request for Premium Processing Service; Form I–907

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The USCIS has determined that it cannot comply with the normal clearance procedures under this part because normal clearance procedures are likely to prevent or disrupt the collection of information. If granted, the emergency approval is only valid for 180 days.

During the first 60 days of this period, a regular review of this information collection is also being undertaken. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add Form Number I–907 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* Reinstatement of a previously approved collection.

(2) *Title of the Form/Collection:* Application for Premium Processing Service.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–907. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Business or other for profit.* The data collected on this form will be used by USCIS to process the petitioner's/applicant's request for premium processing. The form serves the purpose of standardizing requests for premium processing, and will ensure that basic information required to assess

eligibility is provided by petitioners/applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 80,000 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40,000 burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529, (202) 272–8377.

Dated: March 6, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 06–2262 Filed 3–8–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Final Comprehensive Conservation Plan for Sand Lake National Wildlife Refuge, Columbia, SD

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service announces that a Comprehensive Conservation Plan (CCP) and Summary for Sand Lake National Wildlife Refuge is available. This CCP, prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act of 1969, describes how the U.S. Fish and Wildlife Service intends to manage this refuge for the next 15 years.

ADDRESSES: A copy of the CCP or Summary may be obtained by writing to U.S. Fish and Wildlife Service, Sand Lake National Wildlife Refuge, 39650 Sand Lake Drive, Columbia, SD 57433; or downloaded from *http://mountain-prairie.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Gene Williams, Project Leader, U.S. Fish and Wildlife Service, Sand Lake National Wildlife Refuge, 39650 Sand Lake Drive, Columbia, South Dakota, 57433; telephone 605–885–6320; fax 605–885–6333; or e-mail: *gene_williams@fws.gov.*

SUPPLEMENTARY INFORMATION: Sand Lake National Wildlife Refuge (NWR) was established in the mid-1930s as a refuge and breeding ground for migratory birds and other wildlife. The 21,498-acre refuge lies in the James River basin within Brown County, South Dakota. This northeastern area of South Dakota is the heart of the prairie-pothole region of the northern Great Plains and plays a major role for migratory birds.

Sand Lake NWR was established by Executive Order 7169 (September 4, 1935) ''* * * as a refuge and breeding ground for migratory birds and other wildlife * * *'' Four other sets of authorities and purposes follow: The Migratory Bird Conservation Act, ''* * * for uses as an inviolate sanctuary, or for any other management purpose, for migratory birds * * *''; the Fish and Wildlife Act, ''* * * for the development, advancement, management, conservation, and protection of fish and wildlife resources * * *''; the National Wildlife Refuge System Administration Act, for ''* * * conservation, management, and protection of fish and wildlife resources * * *''; and the Refuge Recreation Act, ''* * * for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, and (3) the conservation of endangered species or threatened species * * *''

The availability of the Draft CCP and Environmental Assessment (EA) for 30-day public review and comment was announced in the **Federal Register** on June 20, 2005, (FO FR 35449). The Draft CCP/EA identified and evaluated three alternatives for managing Sand Lake NWR for the next 15 years. Alternative 1, the No Action Alternative, would have continued current management of the refuge. Alternative 3 (Preferred Alternative) takes an integrated approach with management practices that would serve to improve bird populations. This alternative balances the best management practices for producing migratory birds and finds a balance with reducing cropland, while ensuring depredation is minimized. Alternative 2 would maximize the biological potential of the refuge for species of grassland-nesting birds. Based on this assessment and comments received, the Preferred Alternative 3 was selected for implementation. The preferred alternative was selected because it best meets the purposes and goals of the refuge, as well as the goals of the National Wildlife Refuge System. The preferred alternative will also maximize the biological potential for migratory birds, and the vegetative diversity of grasslands would be greatly enhanced by reseeding for native plants or rejuvenated dense nesting cover. Environmental education and partnerships will result in improved wildlife-dependent recreational opportunities that will be expanded and improved on- and off-refuge. Cultural and historical resources will be protected.

Dated: October 17, 2005.

Sharon R. Rose,

Acting Deputy Regional Director, Region 6, Denver, CO.

Note: This document was received at the Office of the Federal Register on March 6, 2006.

[FR Doc. E6–3344 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the

Endangered Species Act of 1973, as amended.

Endangered Species

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
096680	David B. Landers	70 FR 1455; January 7, 2005	February 7, 2005.
100443	David W. Hanna	70 FR 15117; March 24, 2005	April 25, 2005.
103818	Mark C. Borchard	70 FR 41782; July 20, 2005	August 23, 2005.
107719	Timothy L. Nolan	70 FR 54958; September 19, 2005	October 12, 2005.
108707	George Lloyd	70 FR 58234; October 5, 2005	November 14, 2005.
109615	Furman R. Cullum	70 FR 58736; October 7, 2005	November 14, 2005.
113771	Steven E. Payne West	70 FR 75213; December 19, 2005	January 25, 2006.
114470	Patricia K. Kehler	70 FR 75213; December 19, 2005	January 25, 2006.
114513	William R. Norris	70 FR 75213; December 19, 2005	January 25, 2006.
114550	Bradley S. Foster	70 FR 75213; December 19, 2005	January 25, 2006.
114761	James W. Wolf	70 FR 75213; December 19, 2005	January 25, 2006.

Endangered Marine Mammals and Marine Mammals

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
791721	USGS Biological Resources Division, Sirenia Project.	69 FR 68968; November 26, 2004	February 16, 2006.
837923	New College of Florida	69 FR 54150; September 7, 2004	January 24, 2005.
097151	Merle S. Barnaby	70 FR 5203; February 1, 2005	March 29, 2005.
097152	John A. Kemhadjian	70 FR 5203; February 1, 2005	March 16, 2005.
103098	Donald L. Shaum	70 FR 32645; June 3, 2005	July 14, 2005.
105539	John D. Smythe	70 FR 46183; August 9, 2005	October 18, 2005.
105806	James C. Newton	70 FR 46183; August 9, 2005	October 3, 2005.
105857	Woodward S. Smith	70 FR 46183; August 9, 2005	October 3, 2005.
107364	Larry D. Schroeder	70 FR 58234; October 5, 2005	November 18, 2005.
108384	James F. Hascup	70 FR 58736; October 7, 2005	November 23, 2005.
108607	William B. Dunavant III	70 FR 58234; October 5, 2005	November 23, 2005.
110609	William S. Havens	70 FR 71554; November 29, 2005	January 18, 2006.
112760	Tom R. Waits	70 FR 72645; December 6, 2005	January 17, 2006.
113481	Pete A. Haman	70 FR 72645; December 6, 2005	January 23, 2006.
113776	Scott E. Behnken	70 FR 75472; December 20, 2005	February 14, 2006.

Dated: February 24, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–3321 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by April 10, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of this complete application should be submitted to the Director (address above).

PRT–117385

Applicant: St. Louis Zoo, St. Louis, MO.

The applicant requests a permit to import two captive-born horned guans (*Oreophasis derbianus*) from the Africam Safari, Puebla, Mexico for the purpose of enhancement of the species through captive breeding and conservation education.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–119904

Applicant: The Alaska Zoo, Anchorage, AK.

The applicant requests a permit to import one male captive-born polar bear (*Ursus maritimus*) from Sea World of Australia, Gold Coast, Australia for the purpose of public display.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: February 24, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–3322 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the East Valley Centre, City of Highland, San Bernardino County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: National Equity Engineering (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The Service is considering issuing a 3-year permit to the Applicant that would authorize take of the federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus;* ''SBKR''). The proposed permit would authorize the take of individual members of SBKR. The permit is needed by the Applicant because take of SBKR could occur during the proposed construction of a commercial development on a 15.6-acre site in the City of Highland, San Bernardino County, California.

The permit application includes the proposed Habitat Conservation Plan (Plan), which describes the proposed action and the measures that the Applicant will undertake to minimize and mitigate take of the SBKR.

DATES: Written comments on or before May 8, 2006.

ADDRESSES: Send written comments to Mr. Jim Bartel, Field Supervisor, Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011. You also may send comments by facsimile to (760) 918–0638.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor [See **ADDRESSES**] or call (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address and at the San Bernardino County Libraries. Addresses for the San Bernardino County Libraries are: (1) 27167 Base Line, Highland, CA 92346; (2) 25581 Barton Road, Loma Linda, CA 92354; (3) 251 West 1st Street, Rialto, CA 92376; and, (4) 104 West Fourth Street, San Bernardino, CA 92415.

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of fish and wildlife species listed as endangered or threatened. Take of federally listed fish and wildlife is defined under the Act to include ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The Service may, under limited circumstances, issue permits to authorize incidental take (i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22.

The Applicant is proposing development of commercial facilities on 15.6 acres of land in the City of Highland, San Bernardino County, California. The project site is bordered on the west by the northbound off-ramp of the I–210 Freeway for Fifth Street and on the north by Fifth Street. A vacant lot and public storage facility border the project site to the east, and a berm separates the project site from the Plunge Creek flood control basins, aggregate operations and the Santa Ana Wash to the south. The site is currently disked on an annual basis for weed control.

Approximately one acre of SBKR habitat on site is considered occupied as live-in habitat along the southern and eastern periphery and a dirt road in the middle of the project site. The Service has determined that the proposed development would result in incidental take of the SBKR. No other federally listed species are known to utilize the site.

To mitigate take of SBKR on the project site, the Applicant proposes to purchase credits towards conservation in-perpetuity of three acres of Riversidean alluvial fan sage scrub from the Cajon Creek Conservation Bank in eastern San Bernardino Valley. The conservation bank collects fees that fund a management endowment to ensure the permanent management and monitoring of sensitive species and habitats, including the SBKR.

The Service's Environmental Assessment considers the environmental consequences of four alternatives, including: (1) The Proposed Project Alternative, which consists of issuance of the incidental take permit and implementation of the Plan; (2) the Alternative Site Layout, which would avoid direct effects resulting in take of SBKR during project construction and provide no offsite conservation; and (3) the No Action Alternative, which would result in no impacts to SBKR and no conservation.

National Environmental Policy Act

Proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA). Accordingly, a draft NEPA document has been prepared. The Service is the Lead Agency responsible for compliance under NEPA. As NEPA lead agency, the Service is providing notice of the availability and is making available for public review the Environmental Assessment.

Public Review

The Service invites the public to review the Plan and Environmental Assessment during a 60-day public comment period [see **DATES**]. Any comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

This notice is provided pursuant to section 10(a) of the Act and the regulations for implementing NEPA, as amended (40 CFR 1506.6). We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the Applicant for the incidental take of the SBKR. We will make our final permit decision no

sooner than 60 days from the date of this notice.

Dated: March 3, 2006.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. E6–3351 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Migratory Bird Hunting; Notice of Intent To Prepare a Supplemental Environmental Impact Statement on the Sport Hunting of Migratory Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is issuing this notice to invite public participation in the scoping process for preparing a Supplemental Environmental Impact Statement (EIS) for the Sport Hunting of Migratory Birds under the authority of the Migratory Bird Treaty Act. The SEIS will consider a range of management alternatives for addressing sport hunting of migratory birds under the authority of the Migratory Bird Treaty Act. The Service seeks suggestions and comments on the scope and substance of this supplemental EIS, options or alternatives to be considered, and important management issues. Federal and State agencies and the public are invited to present their views on the subject to the Service. This notice invites further public participation in the scoping process, identifies the location, date, and time of public scoping meetings, and identifies to whom you may direct questions and comments.

DATES: You must submit written comments regarding EIS scoping by May 30, 2006, to the address below. All comments received from the initiation of this process on September 8, 2005, until May 30, 2006, will be considered. Dates for twelve public scoping meetings are identified in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You should send written comments to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. Alternately, you may fax comments to (703) 358–2217 or e-mail comments to *huntingseis@fws.gov*. You may inspect comments during normal business hours in room 4107, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On September 8, 2005, we published a Notice of Intent to prepare a supplemental EIS on the sport hunting of migratory birds (70 FR 53376). For more detailed background information, we refer the reader to this document.

Background and Overview

Migratory game birds are those bird species so designated in bilateral conventions between the United States and Canada, Mexico, Japan, and Russia for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 7421), the Secretary of the Interior is authorized to determine when ''hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any * * * bird, or any part, nest or egg'' of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are issued with due regard to ''the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds'' and compatibility with the conventions between the United States and Canada, Mexico, Japan, and Russia for the protection and management of migratory birds. This responsibility has been delegated to the U.S. Fish and Wildlife Service of the Department of the Interior as the lead Federal agency for managing and conserving migratory birds in the United States.

The Service currently promulgates regulations allowing and governing the hunting of migratory game birds in the families Anatidae (waterfowl), Gruidae (cranes), Rallidae (rails), Scolopacidae (snipe and woodcock), and Columbidae (doves and pigeons). Regulations governing seasons and limits are promulgated annually, in part due to considerations such as the abundance of birds, which can change from year to year, and are developed by establishing the frameworks, or outside limits, for earliest opening and latest closing dates, season lengths, limits (daily bag and possession), and areas for migratory game bird hunting. These ''annual'' regulations have been promulgated by the Service each year since 1918. Other regulations, termed ''basic'' regulations (for example, those governing hunting methods), are promulgated once and changed only when a need to do so arises. All hunting regulations are contained in 50 CFR Parts 20 and 92.

In the September 8, 2005, **Federal Register**, we provided information on the current process for establishing sport hunting regulations, the tribal regulations process, the Alaska subsistence process, and past NEPA considerations (a 1975 EIS and a 1988 supplemental EIS).

Issue Resolution and Environmental Review

We intend to develop a supplemental EIS on the ''Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds,'' beginning the process with our September 8, 2005, announcement. Federal and State agencies, private conservation organizations, and all other interested parties and individuals are invited to participate in the process by presenting their views on the subject. We seek suggestions and comments regarding the scope and substance of this supplemental EIS, particular issues to be addressed and why, and options or alternatives to be considered. In particular, in regard to the scope and substance of this supplemental EIS, we seek comments on the following:

(1) Harvest management alternatives for migratory game birds to be considered,

(2) Limiting the scope of the assessment to sport hunting (i.e., exclusion of the Alaska migratory bird subsistence process), and

(3) Inclusion of basic regulations (methods and means).

We will conduct the development of this supplemental EIS in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4371 *et seq.*), other appropriate Federal regulations, and Service procedures for compliance with those regulations. We are furnishing this Notice in accordance with 40 CFR 1501.7, to obtain suggestions and information from other agencies, tribes, and the public on the scope of issues to be addressed in the supplemental EIS.

Public Scoping Meetings

Twelve public scoping meetings will be held on the following dates at the indicated locations and times:

1. March 24, 2006: Columbus, Ohio, at the Hyatt Regency Columbus, 350 North High Street; 1 p.m.

2. March 28, 2006: Memphis, Tennessee, at the Holiday Inn Select Downtown, 160 Union Avenue; 7 p.m.

3. March 30, 2006: Rosenburg, Texas, at the Texas Agricultural Extension Service Education Center, 1402 Band Road, Suite 100, Highway 36; 7 p.m.

4. April 5, 2006: Anchorage, Alaska, at the Howard Johnson Motel, 239 North 4th Avenue; 7 p.m.

5. April 6, 2006: Denver, Colorado, at the Colorado Department of Wildlife, Northeast Region Service Center, Hunter Education Building, 6060 Broadway; 7 p.m.

6. April 10, 2006: Hadley, Massachusetts, at the Northeast Regional Office of the U.S. Fish and Wildlife Service, 300 Westgate Center Drive; 7 p.m.

7. April 12, 2006: Charleston, South Carolina, at the Fort Johnson Marine Laboratory, 217 Fort Johnson Road, James Island; 7 p.m.

8. April 19, 2006: Fargo, North Dakota, at the Best Western Doublewood Inn, 3333 13th Avenue South; 7 p.m.

9. April 20, 2006: Bloomington, Minnesota, at the Minnesota Valley National Wildlife Refuge Visitors Center, 3815 American Boulevard East; 7 p.m.

10. April 24, 2006: Salt Lake City, Utah, at the Utah Division of Wildlife Resources, 1594 West North Temple; 7 p.m.

11. April 26, 2006: Arlington, Virginia, at the U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 200; 1 p.m.

12. April 26, 2006: Sacramento, California, at the California Department of Fish and Game, Auditorium, Resource Building, 1416 Ninth Street; 7 p.m.

At the scoping meetings, you may choose to submit oral and/or written comments. To facilitate planning, we request that if you want to submit oral comments at meetings, send us your name and the meeting location you plan to attend. You should send this information to the location indicated under **ADDRESSES.** However, you are not required to submit your name prior to any particular meeting in order to present oral comments.

Public Comments Solicited

You may also submit written comments using one of the methods provided under **ADDRESSES.** All comments must be submitted by the date listed under **DATES**.

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

All comments received, including names and addresses, will become part of the public record. Further, all written comments must be submitted on 8.5-by-11-inch paper.

Dated: March 3, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E6–3350 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council Meeting Announcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The meeting is open to the public.

DATES: March 14, 2006, 1–4 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, Interstate I–80, 7838 South Highway #281, Grand Island, NE 68803. The Council Coordinator is located at the U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop: MBSP 4501–4075, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission. Proposal due dates, application instructions, and eligibility requirements are available through the NAWCA Web site at *http://birdhabitat.fws.gov.* Proposals require a minimum of 50 percent non-Federal matching funds. Canadian and U.S. Small grant proposals will be considered at the Council meeting. The tentative date for the Commission meeting is June 14, 2006.

Dated: February 6, 2006.

Paul Schmidt,

Assistant Director—Migratory Birds.

[FR Doc. E6–3320 Filed 3–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act and the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on February 28, 2006, a proposed decree in *United States, the State of West Virginia, and the State of Ohio* v. *Elkem Metals Company L.P., Ferro Invest III Inc., Ferro Invest II LLC, and Erament Marietta Inc.,* Civil Action No. 2:03–CV–529, was lodged with the United States District Court for the Southern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under Section 309(b) and (d) of the Clean Water Act (''CWA''), 33 U.S.C. 1319(b) and (d), against Elkem Metals Company L.P., its two general partners, and Eramet Marietta Inc. for violations of Section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of the National Pollutant Discharge Elimination System (''NPDES'') permit for the Marietta, Ohio, ferro-alloy manufacturing facility formerly owned by Elkem Metals and now owned by Eramet Marietta. In addition, the United States, the State of West Virginia, and the State of Ohio, as trustees for natural resources, sought damages from the Defendants for injury to natural resources resulting from wastewater discharges from the Marietta, Ohio, facility, under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a).

Under the proposed Consent Decree, Defendants would pay a total of $3.25 million to resolve the various claims: $2,040,000 will be paid into the Department of the Interior's Natural Resources Damage Assessment and

Restoration Fund to pay for restoration projects; $427,500 will be paid to DOI for past assessment costs; $32,500 will be paid to the State of Ohio for past assessment costs; $225,000 will be paid by Elkeem Metals as a civil penalty for its CWA violations; and $525,000 will be paid by Eramet Marietta as a civil penalty for its CWA violations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.,* v. *Elkem Metals, et al.,* DOJ Ref. # 90–5–1–07310.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Ohio, 303 Marconi Blvd., Suite 200, Columbus, OH 43215, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. During the public comment period, the consent decrees may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–2200 Filed 3–8–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 21, 2006, a proposed Consent Decree in *United States* v. *Quanex Corporation,* Civil Action No. 3:05–cv–50102, was lodged with the United States District Court for the Northern District of Illinois.

In this action the United States sought, under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, to recover response costs incurred or to be incurred by the United States in connection with the Jepscor Metals Superfund Site (the ''Site''), located southeast of the City of Dixon, in Lee County, Illinois. Under the proposed settlement, Quanex Corporation (''Settling Defendant'') will pay one million dollars of U.S. EPA's past costs incurred at the Site. In return, the Settling Defendant will receive contribution protection and a covenant not to sue from the United States for past response costs, as defined in the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Quanex Corporation,* D.J. Ref. 90–11–2–08317.

The Consent Decree may be examined at the Office of the United States Attorney, 308 West State Street, Suite 300, Rockford, Illinois 61101, and at U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–2199 Filed 3–8–06; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance for this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than three years.

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 on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information of respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by May 8, 2006, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Writen comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov*.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpton@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 9 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: New Project Data Form.

OMB Control No.: 3145—New.

Expiration Date of Approval: Not applicable.

Abstract: The New Project Data Form is a component of all grant proposals submitted to NSF's Division of Undergraduate Education. This form collects information needed to direct proposals to appropriate reviewers and to report the estimated collective impact

of proposed projects on institutions, students, and faculty members. Requested information includes the discipline of the proposed project, collaborating organizations involved in the project, the academic level on which the project focuses (*e.g.*, lower-level undergraduate courses, upper-level undergraduate courses), characteristics of the organization submiting the proposal, special audiences (if any) that the project would target (*e.g.*, women, minorities, persons with disabilities), strategic foci (if any) of the project (*e.g.*, research on teaching and learning, international activities, integration of research and education), and the number of students and faculty at different educational levels who would benefit from the project.

Respondents: Investigators who submit proposals to NSF's Division of Undergraduate Education.

Estimated Number of Annual Respondents: 2,500.

Burden on the Public: 20 minutes (per response) for an annual total of 833 hours.

Dated: March 6, 2006.

Suzanne Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 06–2250 Filed 3–8–06; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–348]

Southern Nuclear Operating Company; Joseph M. Farley Nuclear Power Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix R, ''Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' Section III.G.2, for Facility Operating License No. NPF–2, issued to Southern Nuclear Operating Company (SNC or the licensee), for operation of the Joseph M. Farley Nuclear Power Plant (FNP), Unit 1, located in Houston County, Alabama. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the use of fire-rated electrical cable produced by Meggitt Safety System, Inc. (previously known as Whittaker Electronic Resources Unit of Whittaker Electronic Systems), for several cables in Fire Areas 1–013 and 1–042 associated with safe shutdown (SSD) control circuits. The licensee proposes the use of these fire-rated electrical cables in lieu of the alternatives specified in Section III.G.2 of Appendix R. In summary, SNC has requested a permanent exemption from 10 CFR Appendix R, Section III.G.2 to use 1-hour fire-rated cable in lieu of a 1-hour rated fire barrier as required by 10 CFR Part 50, Appendix R, Section III.G.2 for protection of safe shutdown control circuits located in Fire Areas 1–013 and 1–042. Section III.G.2 of 10 CFR Part 50, Appendix R, provides fire protection requirements for electrical cables located within the same fire areas whose failure could cause the maloperation of redundant trains of systems necessary to achieve and maintain hot shutdown conditions. These areas are required to have protection features such that one of the redundant trains will be free of fire damage in the event of a fire. One method, described in Section III.G.2, for ensuring compliance with this requirement is to enclose the cable and equipment and associated non-safety circuits of one redundant train in a 1-hour rated fire barrier. In addition, an area-wide automatic fire suppression and detection system shall be installed in the fire area.

A postulated fire in Fire Area 1–013 or 1–042 could cause loss of offsite power since both fire areas contain cable bus ducts from the startup transformers to both redundant trains of the 4 kilovolt (kV) Appendix R SSD buses. A postulated fire in either of these fire areas could also potentially impact the function of the Train B of the 4 kV Emergency Diesel Generator 1B control circuitry. The majority of the Train A onsite electrical power system components required for Appendix R SSD are not located in Fire Area 1–013 or 1–042. Certain Train A onsite power system related SSD circuits located in Fire Areas 1–013 and 1–042 will be protected by a 1-hour fire-rated electrical cable along with area-wide automatic fire suppression and detection.

Thus, the licensee's request for an exemption addresses the situation wherein a 1-hour rated fire barrier as described in Section III.G.2 of 10 CFR Part 50, Appendix R is not provided for certain components. Instead, these credited Train A components will utilize fire-rated electrical cables (Mineral Insulated (MI) cables). This fire-rated electrical cable has been tested in accordance with American Society for Testing Materials E–119, ''Standard Test Methods for Fire Tests of Building Construction Materials.'' Further details of the NRC staff's review of this issue, with respect to determining that the fire-rated electrical cables would be capable of providing an equivalent level of protection as would be provided by a 1-hour rated fire barrier, are provided in a related safety evaluation.

The proposed action is in accordance with the licensee's application dated January 19, 2005, as supplemented by letters dated June 9 (two letters) and November 18, 2005.

The Need for the Proposed Action

The exemption is needed to enable the licensee to utilize fire-rated electrical cables (MI cables) for certain components in lieu of a 1-hour rated fire barrier, as described in Section III.G.2 of 10 CFR Part 50, Appendix R, for FNP, Unit 1 Fire Areas 1–013 and 1–042.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that the proposed exemption will not present an undue risk to the public health and safety. The details of the NRC staff's safety evaluation will be provided in an exemption that will be issued in a letter to the licensee. The action relates to revising the bases for the adequacy of the fire protection program at FNP, Unit 1.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action''

alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement related to the operation of the FNP, Units 1 and 2, dated December 1974, and the Final Supplemental Environmental Impact Statement (NUREG–1437, Supplement 18), dated March 2005.

Agencies and Persons Consulted

In accordance with its stated policy, on February 14, 2006, the NRC staff consulted with the Alabama State official, Kirk Whatley, of the Office of Radiation Control, Alabama Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated January 19, June 9, and November 18, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 2nd day of March 2006.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–3337 Filed 3–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–029]

Environmental Assessment and Finding of No Significant Impact for Proposed Disposal Procedures for the Yankee Atomic Electric Company in Accordance With 10 CFR 20.2002, License DPR–003, Rowe, MA

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop: T7E18, Washington, DC 20555–00001. Telephone: (301) 415–3017; e-mail: *jbh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering a request dated June 6, 2005, as supplemented by a letter dated October 31, 2005, by the Yankee Atomic Electric Company (YAEC or the Licensee), to approve disposal procedures pursuant to Section 20.2002 of Title 10 of the Code of Federal Regulations (10 CFR part 20.2002), ''Method of Obtaining Approval of Proposed Disposal Procedures.'' The licensee's proposed disposal is to allow the continued use of concrete blocks containing radioactive materials as a retaining wall at an off-site location in Vermont. The proposed disposal would exempt the disposal site from Atomic Energy Act (AEA) and NRC licensing requirements for possession of the radioactive materials contained in the retaining wall.

II. Environmental Assessment

Background

Yankee Nuclear Power Station (YNPS) is a deactivated pressurized-water nuclear reactor situated on a small portion of a 2,200-acre site. The site is located in northwestern Massachusetts in Franklin County, near the southern Vermont border. The plant and most of the 2,200-acre site are owned by the YAEC. A small portion on the west side of the site (along the east bank of the Sherman Reservoir) is owned by USGen New England, Inc. The YNPS plant was constructed between 1958 and 1960 and operated commercially at 185 megawatts electric (after a 1963 upgrade) until 1992. In 1992, YAEC determined that closing of the plant would be in the best economic interest of its customers. In December 1993, NRC amended the YNPS operating license to retain a ''possession-only'' status. YAEC began dismantling and decommissioning activities at that time.

The waste material intended for disposal consists of concrete shield blocks from within the reactor support structure (RSS) that were removed, sand blasted, surveyed, and released from licensee radiological controls in 1999. At the time of the shield block release, analyses of the radionuclide content of concrete within the reactor support structure indicated values less than the minimum detectable activity. Based on these results and surface contamination surveys, the shield blocks were determined to be free of detectable licensed radioactive material. These analyses were performed to the specified levels for 10 CFR Part 61 waste classification requirements.

Forty of the shield blocks from the steam generator cubicles were removed from the site under an approved Massachusetts Department of Environmental Protection (MADEP) Beneficial Use Determination (BUD) and used to construct a retaining wall at a private residence in Readsboro, Vermont. In 2004, as part of preparation for demolition and plans to retain RSS concrete on-site, the licensee performed further volumetric sampling and analysis of radionuclides. A lower limit of detection of 10 pCi/g for H–3 was established for the additional volumetric sampling, based upon the concrete derived concentration guideline limits and the requirements of the License Termination Plan (LTP). This analysis identified the presence of H–3 in essentially all concrete within the RSS. Levels of H–3 from samples taken in the proximity of the former location of the steam generator shield blocks indicated H–3 levels averaging approximately 200 pCi/g. Based upon the results of samples of RSS concrete, the licensee subsequently had samples from the released shield blocks in Vermont analyzed for the suite of radionuclides listed in the LTP, using detection limits consistent with the requirements of the LTP. The results

indicated detectable levels of only H–3 and C–14. Subsequent to the discovery of radioactive contamination in the concrete blocks, the MADEP has stated that the BUD should be viewed as providing inadequate legal authority for the removal of the shield blocks from YNPS. Therefore, the licensee submitted the subject request for disposal pursuant to 10 CFR 20.2002.

The retaining wall was built by the property owner atop a previous poured concrete retaining wall approximately 8 feet high along a stream. It consists of 35 interlocking blocks stacked 2 high with a nominal length of 250 feet. Gravel and soil has been back filled to the top of the new retaining wall. To preclude a fall hazard, the property owner added a chain link fence along the top of the wall. Thus the majority of the surface areas of the blocks (to all but a small 1.5′ wide strip at the top) in the wall are inaccessible.

Five (5) other blocks were used for general retaining walls, two at the far end of the retaining wall, two on one side of the property's building structure and one on the opposite side of the structure. The blocks near the building structure have the greatest accessibility.

The 40 blocks used at the off-site location varied from approximately 5 feet to over 10 feet in length, 2 feet to 3 feet thick, and 3 feet high. The total weight of the blocks is 259 tons or 2.35E+8 grams. In addition, there were four smaller blocks which were used as weights for crane testing and one concrete block from the turbine building, which were released and also sent to this off-site location. However, these five concrete blocks are not included in this request for alternate disposal because of the lack of detectable contamination in these blocks.

This Environmental Assessment (EA) has been developed in accordance with the requirements of 10 CFR 51.21.

Proposed Action

The proposed action is to allow the 40 concrete blocks to remain in place at the off-site location in Vermont which will be exempted from licensing requirements. The proposed action is in accordance with the licensee's application dated June 6, 2005, as revised on October 31, 2005, requesting approval.

Need for Proposed Action

Based upon the non-radiological risks associated with removing and returning the shield blocks back to the Yankee Rowe site, the preference of the property owner to keep the wall intact, and a small estimated dose to the public, the licensee has requested to allow the shield blocks to remain in place. This proposed action would require the NRC to exempt the site containing the low-contaminated material authorized for disposal from further AEA and NRC licensing requirements.

Alternatives to the Proposed Action

Alternatives to the proposed action include denying the request which would necessitate the removal of the shield blocks and returning them to the Yankee Rowe site. YAEC has determined that allowing the blocks to remain in place is less costly and less radiologically hazardous than the alternative. Disposal of the demolition debris in the manner proposed is protective of public health and safety, is the most cost-effective alternative and safe alternative, and is most satisfying to the affected parties.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes there are no significant radiological environmental impacts associated with allowing the shield blocks to remain in place on private property in Readsboro, Vermont.

The licensee performed a dose analysis for the blocks using approved derived concentration guideline levels (DCGLs) for subsurface partial structures from the LTP. For this calculation, the licensee assumed:

(1) The contaminants move out of the concrete into the groundwater, and the dose is incurred by subsequent use of this groundwater although due to the height of the wall in relation to the stream, water flow would be towards the adjacent stream and no wells currently exist on the property where the blocks are located and none can be drilled between the blocks and the stream;

(2) A form of concrete (monoliths) and contamination similar to that found in the area in question;

(3) A quantity of contaminated concrete that bounded the amount contained in the blocks in Vermont;

(4) A DCGL based on an assumption that the subject person's entire diet (fruits, vegetables, grains, meat, fish, and milk) has been grown in the affected area, an activity which cannot be accomplished on the available area in question;

(5) And the maximum average concentration of H–3 and C–14 in the blocks was the higher measured value either from the RSS sample or the Readsboro sample.

The analyses conservatively estimated the exposure to less than 1.0 mrem total dose per year. The proposed action will not significantly increase the probability or consequences of accidents and there is no significant increase in occupational or public radiation exposures.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. The retention of the blocks in their existing location does not affect non-radiological plant effluents, air quality, or noise.

The proposed action and attendant exemption of the site from further AEA and NRC licensing requirements will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC considered denial of the proposed action. The implications from the denial alternative is that the blocks currently being used as a retaining wall would have to be removed and disposed of at an appropriate disposal facility. This alternative would require a significant industrial activity with an associated risk of injury. Although the contamination level is low, this alternative would also result in an increase in occupational exposure as a result of the removal and relocation process. Additionally, the transportation of the blocks from their present location to a disposal facility would add an air quality and transportation risk impact. Finally, the property owner has indicated his desire to retain the blocks for the retaining wall. The removal of the blocks would necessitate a change to property usage or construction of an alternative wall, either of which would pose a significant financial impact to the property owner. The NRC has determined that the impacts of the alternative are greater than that of the proposed action.

Agencies and Persons Consulted

This EA was prepared by John B. Hickman, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection (DWMEP). NRC staff determined that the proposed action is not a major decommissioning activity and will not affect listed or proposed endangered species, nor critical habitat. Therefore, no further

consultation is required under Section 7 of the Endangered Species Act. Likewise, NRC determined that the proposed action is not the type of activity that has the potential to cause previously unconsidered effects on historic properties, as consultation for site decommissioning has been conducted previously. There are no additional impacts to historic properties associated with the disposal method and location for demolition debris. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act. The NRC provided a draft of its EA to the following individuals:

Mr. Dave Howland, Massachusetts Department of Environmental Protection, Western Regional Office, 436 Dwight Street, Springfield, MA 01103.

Mr. Michael Whalen, Radiation Control Program, Massachusetts Department of Public Health, 90 Washington Street, Dorchester, MA 02121.

Ms. Carla A. White, Vermont Department of Health, 108 Cherry St., P.O. Box 70 Burlington, VT 05402.

The owner of the property where the blocks are currently located.
Name and address withheld from public disclosure.

Both the MADEP and the MA Department of Public Health noted that the BUD previously issued by the MADEP is not appropriate for the removal, transport, or disposal of low-level radioactive waste. Therefore, based on the subsequently identified radioactive materials in the concrete blocks, the MADEP does not consider the BUD as providing adequate legal authority for the removal of the shield blocks from the site. Otherwise neither the MADEP or MADPH had any issue with the proposed NRC action.

Neither the Vermont Department of Health or the property owner had any comments on the proposed NRC action.

III. Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Sources Used

—US NRC Power Reactor License: Yankee Atomic Electric Company Docket Number 050–00029, License Number DPR–03.

—Yankee Atomic Electric Company, June 6, 2005, Request for Approval of Proposed Procedures in Accordance with 10 CFR part 20.2002, (ML051650291) as supplemented on October 31, 2005. (ML053120275)

—NRC 10 CFR 20.2002, ''Method of Obtaining Approval of Proposed Disposal Procedures.''

—NUREG–1640, ''Radiological Assessment for Clearance of Materials from Nuclear Facilities.''

—NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.''

—NUREG–0586, Supplement 1, Generic Environmental Impact Statement of Decommissioning of Nuclear Facilities, November 2002.

IV. Further Information

For further details with respect to the proposed action, see the licensee's letter dated June 6, 2005, (ADAMS Accession No. ML051650291) as supplemented on October 31, 2005. (ADAMS Accession No. ML053120275) The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 1st day of March, 2006.

For the Nuclear Regulatory Commission

Andrew Persinko,

Acting Deputy Director, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–3338 Filed 3–8–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 6e–2; SEC File No. 270–177; OMB Control No. 3235–0177.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 6e–2 (17 CFR 270.6e–2) under the Investment Company Act of 1940 (''Act'') is an exemptive rule that permits separate accounts, formed by life insurance companies, to fund certain variable life insurance products. The rule exempts such separate accounts from the registration requirements under the Act, among others, on condition that they comply with all but certain designated provisions of the Act and meet the other requirements of the rule. The rule sets forth several information collection requirements.

Rule 6e–2 provides a separate account with an exemption from the registration provisions of section 8(a) of the Act if the account files with the Commission Form N–6EI–1, a notification of claim of exemption.

The rule also exempts a separate account from a number of other sections of the Act, provided that the separate account makes certain disclosure in its registration statements, reports to contractholders, proxy solicitations, and submissions to state regulatory authorities, as prescribed by the rule.

Paragraph (b)(9) of rule 6e–2 provides an exemption from the requirements of section 17(f) of the Act and imposes a reporting burden and certain other conditions. Section 17(f) requires that every registered management company meet various custody requirements for its securities and similar investments. Paragraph (b)(9) applies only to management accounts that offer life insurance contracts subject to rule 6e–2.

Since 2003, there have been no filings under paragraph (b)(9) of rule 6e–2 by management accounts. Therefore, since 2003, there has been no cost or burden to the industry regarding the information collection requirements of paragraph (b)(9) of rule 6e–2. In addition, there have been no filings of Form N–6EI–1 by separate accounts since 2003. Therefore, there has been no cost or burden to the industry since that time.

Written 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. The Commission request authorization to maintain an inventory of one burden hour for administrative purposes.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE Washington, DC 20549.

Dated: March 2, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–3328 Filed 3–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17f–1; File No. 270–236; OMB Control No. 3235–0222.

Form N–17f–1; File No. 270–316; OMB Control No. 3235–0359.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–1 under the Investment Company Act of 1940 (the ''Act'') [17 CFR 270.17f–1] is entitled: ''Custody of Securities with Members of National Securities Exchanges.'' Rule 17f–1 provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange member may do so only under a written contract that must be ratified initially and approved annually by a majority of the fund's board of directors. The written contract also must contain certain specified provisions. In addition, the rule requires an independent public accountant to examine the fund's assets in the custody of the exchange member at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The purpose of the rule is to ensure the safekeeping of fund assets.

Commission staff estimates that each fund makes 1 response and spends an average of 3.5 hours annually in complying with the rule's requirements.[1] Commission staff estimates that on an annual basis it takes: (i) 0.5 hours for the board of directors at a total cost of approximately $1000 to review and ratify the custodial contracts;[2] and (ii) 3 hours for the fund's controller at a total cost of approximately $445 to assist the fund's independent public auditors in verifying the fund's assets.[3] Approximately 60 funds rely on the rule annually.[4] Thus, the total annual burden for rule 17f–1 is estimated to be approximately 210 hours.[5] Based on the total costs per fund listed above, the total cost of the rule 17f–1's collection of information requirements is estimated to be $86,700.[6]

Form N–17f–1 is entitled: ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' Form N–17f–1 (17 CFR 274.219) is the cover sheet for accountant examination certificates filed under rule 17f–1 of the Act. Rule 17f–1 requires the accountant's certificate of each examination be attached to Form N–17f–1 and transmitted to the Commission promptly after each examination. The form facilitates the filing of the accountant's certificate, and increases the accessibility of the certificate to both Commission's staff and interested investors.

Commission staff estimates that on an annual basis it takes: (i) On average 1 hour of clerical time at a total cost of $28 to prepare and file the Form N–17f–1; and (ii) 1 hour for the fund's chief compliance officer at a total cost of $137 to review the Form N–17f–1 prior to filing with the Commission. As noted above, approximately 60 funds currently file Form N–17f–1 with the Commission, and each fund is required to make three filings annually for a total annual burden per fund of approximately 6 hours. The total annual hour burden for Form N–17f–1 is therefore estimated to be approximately 360 hours. Based on the total costs per fund listed above, the total cost of Form N–17f–1's collection of information requirements is estimated to be approximately $59,400.[7]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by rule 17f–1 and Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. 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 control number.

The Commission requests written comments on: (a) Whether the collections of information are necessary for the proper performance of the

[1] The 1 response is the board's approval of the custodial contract.

[2] Estimates of the number of hours are based on conversations with individuals in the mutual fund industry. In preparing this submission, Commission staff randomly selected 9 funds from the pool of Form N–17f–1 filers. The actual number of hours may vary significantly depending on individual fund assets. The hour burden for rule 17f–1 does not include preparing the custody contract because that would be part of customary and usual business practice.

[3] This estimate is based on the following calculation: 3 × $148.38 (fund controller hourly rate) = $445. This estimate is based on the following calculation: 3 × $148.38 (fund controller hourly rate) = $445. The estimated costs for all fund professional and support staff time are based on the average annual salaries reported for employees in New York City in Securities Industry Association, *Management and Professional Earnings in the Securities Industry* (2003) and Securities Industry Association, *Office Salaries in the Securities Industry* (2003), which are adjusted to reflect additional overhead costs and employee benefits.

[4] Based on a review of Form N–17f–1 filings in 2004, the Commission staff estimates that 60 funds relied on rule 17f–1 in 2005.

[5] This estimate is based on the following calculation: 60 (respondents) × 3.5 (total annual hourly burden per respondent) = 210 hours. The annual burden for rule 17f–1 does not include time spent preparing Form N–17f–1. The burden for Form N–17f–1 is included in a separate collection of information.

[6] This estimate is based on the following calculation: 60 hours × $1445 (total annual cost per fund) = $86,700.

[7] This estimate is based on the following calculation: 360 hours × $165 (total annual cost per fund) = $59,400.

functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: March 2, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–3329 Filed 3–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34–53406; IA–2492]

Notice of Broker-Dealer/Investment Adviser Study

On March 3, 2006, Chairman Christopher Cox announced that a study will be commenced to compare the levels of protection afforded retail customers of financial service providers under the Securities Exchange Act and the Investment Advisers Act and to address any investor protection concerns arising from material differences between the two regulatory regimes.

This study is part of the Commission's ''commit[ment] to pursuing the most effective solutions to * * * vital issues'' [1] raised in the course of the promulgation in April 2005 of Rule 202(a)(11)–1 (the ''IA/BD rule''). *Certain Broker-Dealers Deemed Not To Be Investment Advisers,* Investment Advisers Act Release No. 2376 (Apr. 12, 2005), 70 FR 20424 (Apr. 19, 2005). The IA/BD rule provides an exception from the Investment Advisers Act for broker-dealers receiving compensation other than commissions—such as fees that are fixed dollar amounts—for full-service brokerage programs that include advice about securities. Under the rule, when a broker-dealer charges an asset-based or fixed fee, it is excepted from the Advisers Act so long as its advice is solely incidental to brokerage and it makes certain disclosures. The rule also provides guidance about the sort of advice that will not be considered solely incidental to brokerage—such as when a broker-dealer exercises investment discretion over an account.

The IA/BD rule was the subject of a large number of comments, but, as the Commission noted in the release adopting the rule, many of the concerns voiced by commenters went ''well beyond the scope of the rulemaking'' [2] and implicated matters that might ''more appropriately fall under broker-dealer regulation.'' [3] Accordingly, the staff was directed to report on recommendations for a study to look into these issues.[4] After considering the staff's recommendations and consulting with the other Commissioners, Chairman Cox determined that a study will be conducted to address the issues specified in the IA/BD release.

Dated: March 3, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3332 Filed 3–8–06; 8:45 am]

BILLING CODE 8010–01–P

[1] *Certain Broker-Dealers Deemed Not To Be Investment Advisers,* Investment Advisers Act Release No. 2376 (Apr. 12, 2005), 70 FR 20424, 20442 (Apr. 19, 2005).

[2] *Id.* at 20442.

[3] *Id.* at 20424.

[4] *Id.* at 20442.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53405; File No. SR–FICC–2005–22]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Provide for the Payment of Interest on Cash Clearing Fund Collateral Posted by Members of the Government Securities Division and to Provide for the Payment of Interest on the Basic Deposit Portion of the Participants' Fund Posted by Members of the Mortgage-Backed Securities Division

March 3, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 23, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on February 17, 2006, and February 27, 2006, amended [2] the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(4) thereunder [4] whereby the proposal became effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FICC is amending (i) the rules of its Government Securities Division (''GSD'') to provide for payment of interest on cash clearing fund collateral posted by members and (ii) the rules of its Mortgage-Backed Securities Division (''MBSD'') to provide for the payment of interest on the Basic Deposit component of participants' fund collateral posted by members. FICC is also proposing technical changes to the provisions in the GSD's and MBSD's rules regarding the payment of interest on members' cash deposits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of these statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change provides for the payment of interest on cash clearing fund collateral posted by GSD members and payment of interest on the Basic Deposit component of participants' fund collateral posted by MBSD members.

The GSD requires that all netting members maintain a portion of their clearing fund deposit in cash.[6] FICC

[1] 15 U.S.C. 78s(b)(1).

[2] The amendments clarified the type of securities in which cash contained in the participants' fund may be invested.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4).

[5] The Commission has modified the text of the summaries prepared by FICC.

[6] *See* GSD Rule 4, Section 4.

currently retains the interest earned on those balances and effectively pays the interest income to GSD members through its rebate process.[7] Among all the subsidiary clearing agencies of The Depository Trust and Clearing Corporation (DTCC), only FICC's GSD does not pay the interest earned on clearing fund cash balances directly to its members.[8]

In order to more fairly distribute interest earned on the GSD cash portion of the clearing fund and to implement a uniform policy across DTCC, FICC is proposing to begin crediting interest earned on clearing fund cash balances to GSD members on a periodic basis. FICC will begin accruing the interest in this regard on January 1, 2006.[9]

While the MBSD currently pays interest on participants' fund cash directly to its participants, it retains the interest on a small portion of the participants' fund called the Basic Deposit.[10] FICC believes that to be consistent with the GSD rule change and the practice observed for all other cash deposits, the MBSD rule should be amended to also provide for the payment of interest earned on the Basic Deposits to be paid to participants. FICC is proposing to begin accruing the interest in this regard on January 1, 2006.[11]

FICC is also proposing technical changes to the provision in the MBSD's rules regarding the investment of participants' fund cash and to the provision in the GSD's rules regarding the investment of clearing fund cash to make the rules on investing cash deposits uniform with that of its affiliate, The Depository Trust Company. Specifically, FICC is clarifying that cash contained in the clearing fund or participants' fund may be partially or wholly invested by FICC for its account in securities issued or guaranteed as to principal and interest by the United States or agencies or instrumentalities of the United States or repurchase agreements relating to securities issued or guaranteed as to principal and interest by the United States or agencies and instrumentalities of the United States.

FICC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[12] and the rules and regulations thereunder applicable to FICC because it will enable FICC to more fairly distribute the payment of interest on cash collateral to its members. As such, the proposed rule change effects a change in an existing service that does not adversely affect the safeguarding of securities or funds in the custody or control of FICC and does not significantly affect the respective rights or obligations of FICC or persons using its service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have an impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b–4(f)(4)[14] thereunder because the rule effects a change in an existing service that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change,[15] 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–FICC–2005–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–FICC–2005–22. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com*. 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

[7] The GSD's rebate policy is detailed in the GSD Fee Schedule, Section XII (''Capital Base, Pricing, and Rebate Policy''). It reads, in pertinent part, that FICC ''will rebate excess net income to members, pro rata, at periodic intervals deemed appropriate by, and at the discretion of, the Corporation based upon their gross fees paid to the Corporation within the applicable rebate period.''

[8] While FICC's MBSD pays interest on participants' fund cash to its participants, it currently retains interest on a small portion of the participants' fund. This is discussed further below.

[9] FICC will announce by Important Notice the date of the first payment of interest to members and the frequency of the payments of interest going forward.

[10] The Basic Deposit is a relatively small amount that is required to be paid in cash by each clearing participant and is meant to protect FICC against a participant's failure to pay its MBSD fees.

[11] FICC will announce by Important Notice the date of the first payment of interest to members and the frequency of the payments of interest going forward.

[12] 15 U.S.C. 78q–1.

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(4).

[15] For purposes of calculating the sixty day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on the date on which the last amendment to the proposed rule change was filed with the Commission. 15 U.S.C. 78s(b)(3)(C).

should refer to File Number SR–FICC–2005–22 and should be submitted on or before March 30, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–3327 Filed 3–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53400; File No. SR–OCC–2006–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise Option Adjustment Methodology

March 2, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 12, 2006, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC is seeking to amend Article VI (Clearance of Exchange Transactions), Section 11A of OCC's By-Laws to (1) eliminate the need to round strike prices and/or units of trading in the event of certain stock dividends, stock distributions, and stock splits and (2) provide for the adjustment of outstanding options for special dividends (*i.e.*, cash distributions not declared pursuant to a policy or practice of paying such distributions on a quarterly or other regular basis). The proposed rule change would also add a $12.50 per contract threshold amount for cash dividends and distributions to trigger application of OCC's adjustment rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Changes Relating to Adjustments for Certain Stock Dividends, Stock Distributions, and Stock Splits

OCC's By-Laws currently specify two alternative methods of adjusting for stock dividends, stock distributions, and stock splits. In cases where one or more whole shares are issued with respect to each outstanding share, the number of outstanding option contracts is correspondingly increased and strike prices are proportionally reduced.[3] In all other cases, the number of shares to be delivered under the option contract is increased and the strike price is reduced proportionately.[4]

Although these two methods have been used since the inception of options trading, in certain circumstances either method can produce a windfall profit for one side and a corresponding loss for the other due to rounding of adjusted strike prices. These profits and losses, while small on a per-contract basis, can be significant for large positions. Because equity option strike prices are currently stated in eighths, OCC's By-Laws require adjusted strike prices to be rounded to the nearest eighth. For example, if an XYZ $50 option for 100 shares were to be adjusted for a 3-for-2 split, the deliverable would be increased to 150 shares and the strike price would be adjusted to $33.33, which would then be rounded up to $33⅜. Prior to the adjustment, a call holder would have had to pay $5,000 to exercise ($50 × 100 shares). After the adjustment, the caller has to pay $5,006.25 for the equivalent stock position ($33.375 × 150 shares). Conversely, an exercising put holder would receive $5,006.25 instead of $5,000. The $6.25 difference represents a loss for call holders and put writers and a windfall for put holders and call writers.

A loss/windfall can also occur when the split results in a fractional deliverable (*e.g.*, when a 4-for-3 split produces a deliverable of 133.3333 shares). In those cases, OCC's By-Laws currently require that the deliverable be rounded down to eliminate the fraction, and if appropriate, the strike price be further adjusted to the nearest eighth to compensate for the diminution in the value of the contract resulting from the elimination of the fractional share. However, even if these steps are taken, small rounding inequities may remain.

The windfall profits and correspondent losses resulting from the rounding process have historically been accepted as immaterial. Due to recent substantial increases in trading volume and position size, however, they have become a source of concern to exchanges and market participants. In addition, OCC has been informed that some traders may be exploiting announcements of splits and similar events by quickly establishing positions designed to capture rounding windfalls at the expense of other market participants.

The inequity that results from the need to round strike prices can be eliminated by using a different adjustment method: Namely, adjusting the deliverable but not the strike prices or the values used to calculate aggregate exercise prices and premiums. As an illustration of the proposed adjustment methodology, in the XYZ $50 option 3-for-2 split example described above, the resulting adjustment would be a deliverable of 150 shares of XYZ stock while the strike price would remain at $50. In this case, the presplit multiplier of 100, used to extend aggregate strike price and premium amounts, is unchanged. For example, a premium of 1.50 would equal $150 ($1.5 × 100) both before and after the adjustment. An exercising call holder would continue to pay $50 times 100 (for a total of $5,000) but would receive 150 shares of XYZ stock instead of 100.[5] This is the method currently used for property distributions such as spin-offs and special dividends large enough to require adjustments under OCC's By-Laws.

The inequity that results from the need to eliminate fractional shares from

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] For example, in the event of a 2-for-1 split, an XYZ $60 option calling for the delivery of 100 shares of XYZ stock would be subdivided into two XYZ $30 options, each calling for the delivery of 100 shares of XYZ stock.

[4] For example, in a 3-for-2 split, an XYZ $60 option calling for the delivery of 100 shares would be adjusted to call for the delivery of 150 shares and the strike price would be reduced to $40.

[5] The same adjustment methodology would apply to reverse stock splits or combination of shares. For example, in a 3-for-4 reverse stock split on a XYZ $50 option calling for the delivery of 100 shares, the resulting adjustment would be a deliverable of 75 shares of XYZ stock while the strike price would remain at $50.

the deliverable and to compensate by further reducing the strike price to the nearest eighth can be eliminated by adjusting the deliverable to include cash in lieu of the fractional share. As an illustration, consider a 4-for-3 split of the stock underlying an XYZ $80 option with a 100 share deliverable. Employing the proposed adjustment method, the deliverable would be adjusted to 133.3333 shares, which would be rounded down to 133 shares, and the strike price would remain $80. However, instead of compensating for the elimination of the .3333 share by reducing the strike prices, the strike prices would be left unchanged, and the deliverable would be adjusted to 133 shares plus the cash value of the eliminated fractional share (.3333 × the post-split value of a share of XYZ stock as determined by OCC). The adjusted option would also continue to use 100 as the multiplier to calculate aggregate strike and premium amounts.

The proposed revised adjustment methodology would not generally be used for 2-for-1 or 4-for-1 stock distributions or splits (since such distributions or splits normally result in strike prices that do not require rounding to the nearest eighth). In addition, the revised adjustment methodology would not generally be used for stock dividends, stock distributions, or stock splits with respect to any series of options having exercise prices stated in decimals.[6] For those options, the existing adjustment rules would continue to apply. The reason for this is that once the market has converted to decimal strikes, the rounding errors created by rounding to the nearest cent would be immaterial even given the larger positions taken in today's markets and the other factors discussed above. Because conversion to decimal strikes might be phased in rather than applied to all series of equity options simultaneously, the rule has been drafted to cover both methods of expressing exercise prices, applying the appropriate rule to each.

The proposed changes in adjustment methodology would not be implemented until the exchanges have conducted appropriate educational efforts and definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options*, were available for distribution.[7]

B. Changes to the Definition of ''Ordinary Dividends and Distributions''

Article VI, Section 11A(c) of OCC's By-Laws currently provides that as a general rule, outstanding options will not be adjusted to compensate for ordinary cash dividends. Interpretation and Policy .01 under Section 11A of Article VI provides that a cash dividend will generally be deemed to be ''ordinary'' if the amount does not exceed 10% of the value of the underlying stock on the declaration date (''10% Rule''). The OCC Securities Committee is authorized to decide on a case-by-case basis whether to adjust for dividends exceeding that amount. As a result, OCC historically has not adjusted for special cash dividends unless the amount of the dividend was greater than 10% of the stock price at the close of trading on the declaration day.

The 10% Rule predated a number of significant developments, including, the introduction of Long-term Equity AnticiPation Security (''LEAPS'') options, the sizeable open interest seen today, the large contract volume associated with trading and spreading strategies, and modern option pricing models that take dividends into account. When open interest and individual positions were smaller, not adjusting for dividends of less than 10% did not have the pronounced impact it does today. Additionally, changes to the tax code which now tax dividends more favorably have provided an incentive for companies to pay more dividends, including special dividends. In light of these considerations, it is appropriate that the 10% Rule now be revised.

Under the revision proposed by OCC, a cash dividend or distribution would be considered ordinary (regardless of size) if the OCC Securities Committee determines that such dividend or distribution was declared pursuant to a policy or practice of paying such dividends or distributions on a quarterly or other regular basis. In addition, as a general rule, a cash dividend or distribution that is less than $12.50 per contract would not trigger the adjustment provisions of Article VI, Section 11A.

1. No Adjustment for Regularly-Scheduled Dividends Needed

Dividends declared by an issuer pursuant to a policy or practice of such issuer are known and can thus be priced into option premiums. By definition, however, special dividends cannot be anticipated in advance and therefore cannot be integrated into option pricing models. If adjustments are not made in response to special dividends (*i.e.*, by calling for the delivery of the dividend) call holders can capture the dividends only by exercising their options. Often in these cases, especially with LEAPS options or FLEX options which can exist for 5 to 10 years, early exercise would sacrifice substantial option time value. This economic disadvantage would be further magnified if the option position is large, as is often the case today. Conversely, put holders often receive a windfall benefit from the increase in the in-the-money value on the ex date. To the extent that equity options can be priced accurately and consistently without dislocations due to unforeseen special dividends, these economic disadvantages can be avoided. Moreover, because special dividends are one-off events, adjusting for them would not cause the proliferation of outstanding series that would result from adjusting for regular dividends as explained below.

2. *De Minimis* Threshold

Adjusting for dividends can cause a proliferation of outstanding option symbols and series.[8] In the interest of providing some limit on option symbol proliferation, the proposed rule change includes a *de minimis* threshold of $12.50 per contract. Special dividends smaller than these amounts would not trigger an adjustment.

OCC believes that a threshold that is a set dollar amount is preferable to one that is a percentage of the stock price (like OCC's existing 10% Rule) because there are operational problems with applying a percentage threshold. Under the existing 10% Rule, in order to determine whether this threshold is met, the per share dividend amount is applied to the closing price of the underlying security on the dividend declaration date. The date the dividend is announced (by press release or by some other means) is not normally the ''declaration date'' when the dividend is officially declared by an issuer's board of directors. Until the actual declaration date, investors and traders may not know whether or not an announced dividend will trigger an adjustment based on the company's share price. In the interim, it is difficult for traders and investors to price their options because

[6] Although there are currently no decimal strikes for equity options, OCC wants to avoid the need for further amendments to its By-Laws and the options disclosure document in the event that such strikes are introduced in the future.

[7] OCC will notify the Commission and issue an Important Notice when the proposed adjustment methodology is implemented.

[8] Symbols proliferate when adjustments are made because often the dividend amount must be added to the deliverable yielding a non-standard option. The exchanges then introduce standard options with the same strikes.

they do not know if an adjustment will be made.

The advantage of a fixed dollar threshold is avoiding uncertainty. The per contract value of the dividend can be immediately determined without the need to wait until the declaration date and without the need to do a calculation based on the closing price of the underlying shares.

3. Consistency Across Relevant Interpretations

Interpretations and Policies .01 and .08 under Article VI, Section 11A apply to cash distributions. Interpretation and Policy .01 (as proposed to be amended) would apply in general to all cash distributions. Interpretation and Policy .08 currently carves out exceptions for fund share cash distributions and does not include a threshold minimum. In the interest of clarity and consistency with Interpretation and Policy .01, Interpretation .08 would be revised to provide for the same $12.50 per contract threshold. Clause (ii) of Interpretation and Policy .08 would be deleted because it is an exception to the 10% Rule and would no longer be needed when the 10% Rule is abolished.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [9] and the rules and regulations thereunder applicable to OCC because (1) it is intended to eliminate inequities that result from certain rounding practices currently required by OCC's By-Laws and thus protect investors and (2) it is intended to make more predictable when cash distributions by an issuer will result in an adjustment to an option contract and thus make the process for adjustments more equitable for all investors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–OCC–2006–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2006–01. 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, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com.* 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–OCC–2006–01 and should be submitted on or before March 24, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3326 Filed 3–8–06; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for Chemical and Allied Products.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Ammonia (except fertilizer material) merchant wholesalers; Chemical gases merchant wholesalers; Chemicals (except agriculture); Compressed gases (except LP gas) merchant wholesalers; Dry ice merchant wholesalers; Gases, compressed and liquefied (except liquefied petroleum gas), merchant wholesaler; Ice, dry, merchant wholesalers; Industrial chemicals merchant wholesalers; Liquefied gases (except LP) merchant wholesalers; Organic chemicals merchant wholesalers; and Welding gases merchant wholesalers.

According to the request, no small business manufacturers supply this class of products to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted by March 24, 2006.

ADDRESSES: You may submit comments and source information to Edith Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Ammonia (except fertilizer material) merchant wholesalers; Chemical gases merchant wholesalers; Chemicals (except agriculture); Compressed gases (except LP gas) merchant wholesalers; Dry ice merchant wholesalers; Gases, compressed and liquefied (except liquefied petroleum gas), merchant wholesaler; Ice, dry, merchant wholesalers; Industrial chemicals merchant wholesalers; Liquefied gases (except LP) merchant wholesalers; Organic chemicals merchant wholesalers; and Welding gases merchant wholesalers North American Industry Classification System (NAICS) codes 424690. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for this class of NAICS code by March 24, 2006.

Dated: February 18, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–3353 Filed 3–8–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5339]

30-Day Notice of Proposed Information Collection: Forms DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, & DS–104, DS–104E, Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, & Replacement Plates, OMB Control Number 1405–0072

ACTION: Notice of request for public comments and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, & Replacement Plates OMB Control Number: 1405–0072.
- *OMB Control Number:* 1405–0072.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM/VTC/V).
- *Form Numbers:* DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, & DS–104, DS–104E.
- *Respondents:* Foreign missions that have personnel assigned to the United States: diplomatic agents, consular officers, administrative and technical staff, specified official representatives of foreign governments to international organizations, and their dependents.
- *Estimated Number of Respondents:* 20,270.
- *Estimated Number of Responses:* 20,270.
- *Average Hours per Response:* .5 hours (30 minutes).
- *Total Estimated Burden:* 10,135.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from March 9, 2006.

ADDRESSES: Direct comments and questions to Alex Hunt, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–7860. You may submit comments by any of the following methods:

- E-mail: *ahunt@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD–ROM submissions): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- Fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Attn: Jacqueline Robinson, Diplomatic Motor Vehicle Director, Office of Foreign Missions, 3507 International Place, NW., State Annex 33, Washington, DC 20522–3302, who may be reached at 202–895–3528 or *RobinsonJD@state.gov.*

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The operation of a motor vehicle in the United States by foreign mission personnel is a benefit under the Foreign Mission Act, 22 U.S.C. 4301 *et seq.* The U.S. Department of State Registration and Title application forms (DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, & DS–104, DS–104E) are the means by which foreign missions in the United States request the registration, titling, and issuance of replacement license plates for motor vehicles owned/operated by foreign missions, foreign diplomatic and consular personnel, as well as specified official representatives of foreign governments to international organizations in the United States, and their dependents.

Methodology:

This collection is submitted by all foreign missions in paper format on one

of four forms; the information is then entered into an electronic database, maintained and utilized by the Office of Foreign Missions to administer the benefit. Electronic versions of DS–100 and DS–101 (DS–100E and DS–101E) were introduced in May 2005 to a few foreign missions to test and develop an electronic submission option. Electronic versions of the DS–102 and DS–104 (DS–102E and DS–104E) have been developed and will be implemented in early 2006. To facilitate the collection of information in a more systematic and efficient manner, the Office of Foreign Missions will continue to develop the database to support an end-to-end electronic submission process, bearing in mind as well that utilization of electronic submissions by individual missions is dependent on the status of their own systems.

Dated: February 9, 2006.

John P. Gaddis,

Deputy Assistant Secretary, Bureau of Diplomatic Security, Office of Foreign Missions, Department of State.

[FR Doc. E6–3357 Filed 3–8–06; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending February 17, 2006

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2006–23964.
Date Filed: February 14, 2006.
Parties: Members of the International Air Transport Association.
Subject:
TC12 Passenger Tariff Coordinating Conferences.
TC12 Mexico-Europe Resolutions (Memo 0078).
Minutes: PTC12 MEX–EUR 0079.
Tables: PTC12 MEX–EUR Fares 0036.
Mexico-Europe Specified Fares Tables.
Intended effective date: 1 April 2006.

Docket Number: OST–2006–23968.
Date Filed: February 15, 2006.
Parties: Members of the International Air Transport Association.
Subject:
TC12 South Atlantic-Europe Resolutions Memo 0140.
Minutes: PTC12 SATL–EUR 0141.
Tables: PTC12 SATL–EUR 0045.
South Atlantic Europe Specified Fares Tables.
Intended effective date: 1 April 2006.

Docket Number: OST–2006–23969.
Date Filed: February 15, 2006.
Parties: Members of the International Air Transport Association.
Subject:
TC12 Mid Atlantic-Europe Expedited Resolution.
002by Memo 0105 r1.
Intended effective date: 15 March 2006.

Docket Number: OST–2006–23970.
Date Filed: February 15, 2006.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP Mail Vote 473.
Resolution 011a.
Mileage Manual Non TC Member/Non IATA Carrier Sectors.
Intended effective date: 17 February 2006 Implementaton 1 April 2006.

Docket Number: OST–2006–23991.
Date Filed: February 16, 2006.
Parties: Members of the International Air Transport Association.
Subject:
TC12 Mid Atlantic-Europe Resolution (Memo 0103).
Minutes: TC12 Mid, South Atlantic-Europe Minutes (Memo 0104).
Tables: TC12 Mid, South Atlantic-Europe (Memo 044).
Specified fare tables.
Intended effective date: 1 April 2006.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–3335 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending February 17, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1999–6319.
Date Filed: February 15, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 2006.
Description: Application of Northwest Airlines, Inc. (''Northwest'') requesting an amendment to its experimental certificate of public convenience and necessity for Route 564 (U.S.-Mexico) to incorporate authority for scheduled combination service between: Houston, TX and Queretaro, Mexico; Cincinnati, OH and Cabo San Lucas, Mexico; and Atlanta, GA, on the one hand, and Cozumel, Merida, and Puerto Vallarta, Mexico, on the other hand. Northwest also requests that the Department integrate this authority with all of its existing certificate and exemption authority.

Docket Number: OST–2005–23977.
Date Filed: February 15, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 2006.
Description: Application of Northwest Airlines, Inc. (''Northwest'') requesting a certificate of public convenience and necessity authorizing Northwest to provide scheduled foreign air transportation of persons, property and mail between points in the U.S. and points in Latin America pursuant to codeshare arrangements with Continental Airlines, Inc. and Delta Air Lines, Inc. Northwest also requests that the Department integrate this authority with all Northwest's existing certificate and exemption authority.

Docket Number: OST–2005–23980.
Date Filed: February 15, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 2006.
Description: Application of Northwest Airlines, Inc. (''Northwest'') requesting a certificate of public convenience and necessity authorizing Northwest to provide scheduled foreign air transportation of persons, property and mail between Atlanta, GA, on the one hand, and Quito and Guayaquil, Ecuador, on the other hand. Northwest also requests that the Department integrate this authority with all Northwest's existing certificate and exemption authority.

Docket Number: OST–2005–23982.
Date Filed: February 15, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 2006.

Description: Application of Northwest Airlines, Inc. (''Northwest'') requesting a certificate of public convenience and necessity authorizing Northwest to provide scheduled foreign air transportation of persons, property and mail between Atlanta, GA and Caracas, Venezuela. Northwest also requests that the Department integrate this authority with all Northwest's existing certificate and exemption authority.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–3336 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2003–15432]

BNSF Railway Company; Notice of Extension of Comment Period

The BNSF Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval to expand the existing waiver, granted on June 23, 2004, from Fort Worth, Texas, milepost 346.67, to Arkansas City, Kansas, milepost 264.11, on the Fort Worth and Red Rock Subdivisions, a distance of approximately 329 miles. This expansion request is identified as Docket No. FRA–2003–15432.

The FRA has issued a public notice seeking comments of interested parties. After examining the railroad's proposal and the comments, FRA determined that a public hearing was necessary before a final decision was made on this proposal. A public hearing was conducted in this matter on February 23, 2006. At the hearing, FRA announced that it would extend the comment period in this proceeding until 10 business days after the transcript of the public hearing is made available on the Department of Transportation's (DOT's) Docket Management System found at *http://dms.dot.gov* in order to permit interested parties to review the transcript prior to submitting comments.

Accordingly, FRA is extending the comment period in this proceeding until 10 business days after the transcript of the public hearing is posted on DOT's Document Management System. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2003–15432) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC on March 3, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–3367 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Fayette Central Railroad

[Docket Number FRA–2006–23836]

The Fayette Central Railroad (FCRV) seeks a permanent waiver of compliance from *Control of Alcohol and Drug Use*, 49 CFR 219.601, which requires a railroad to submit for FRA approval, a random alcohol and drug testing program. FCRV has less than 16 hours of service employees, but operates on the tracks of the Southwest Pennsylvania Railroad Company (SWP). FCRV states that four of its hours of service employees are subject to random testing at their other places of employment. FCRV also says that it normally operates trains on weekends while the SWP normally operates on weekdays, and that track warrants and/or permission is required on all SWP tracks and only one train can operate at one time within specified limits.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2006–23836) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

Issued in Washington, DC, on March 3, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–3313 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received

a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

[Waiver Petition Docket Number FRA–2006–23837]

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain provisions of 49 CFR part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* Specifically, § 232.215, Transfer Train Brake Tests and § 232.103(e), which requires at least 85 percent of a train's brakes to be operative when moving defective equipment in a train. This relief would apply for the movement of ''bad order'' cuts of cars from UP's Salt Lake City North Yard to UP's Salt Lake City Roper Yard.

UP contends that the yards in question, located in Salt Lake City, Utah, consists of one large end-to-end yard, which has historically been considered separate yards—North Yard and Roper Yard. North Yard and Roper Yard are six miles apart. Both yards have a repair facility, each consisting of three repair tracks. Currently, cars that are bad ordered in North Yard are repaired at the North Yard facility and cars bad ordered in Roper Yard are repaired at the Roper Yard facility. Due to the proximity of these repair facilities, UP is considering closing the North Yard shop and having all bad orders repaired at the Roper facility.

UP contends that the movement of bad orders between Roper and North Yard should be treated as a switching move, without any air brake test requirement. If a transfer brake test is required for these repair movements, UP claims it will create a problem, since many of the cars are bad ordered for defective brakes, and at least 85 percent of the train's brakes would have to be operative in order to successfully perform a transfer train move. Accordingly, UP requests a waiver from the requirements of performing a transfer train brake test on the bad order repair movements from North Yard to Roper Yard, as well as relief from the requirements that no less than 85 percent of a train's brakes be operative for these train movements, subject to the following conditions:

1. This waiver will only apply to repair movements between Roper and North Yard.

2. After the train crew has coupled their locomotive(s) to the train, the brake hoses will be connected and the brake pipe pressure will be charged to 60 psi as indicated by an accurate gauge or an end-of-train device at the rear of the train. After brake pipe pressure has been adequately charged, the train would receive a Class III brake test as prescribed in § 232.211(b).

3. Trains will be restricted to 10 mph when moving between the two yards.

4. UP shall immediately notify FRA of any accident during these movements.

UP does not believe that safety will be compromised if the waiver is granted with the above conditions because these movements will have a certain number of operative train brakes, in addition to the locomotive brakes. UP cites that FRA has previously granted waivers allowing road trains to be moved several miles without an air brake test, FRA Docket 2002–13251 and FRA Docket 2002–13399.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2006–23837) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC on March 3, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–3316 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2006–23952]

Applicant: Springfield Terminal Railway Company, Mr. T. Kunzler, Engineer of Construction C&S, Iron Horse Park, North Billerica, Massachusetts 01862–1688.

The Springfield Terminal Railway Company seeks approval of the proposed modification of the traffic control system, on the Boston and Maine Corporation's single main track ''Freight Main Line,'' consisting of the relocation of the back-to-back intermediate signals No. 1558 and 1559, located near milepost K–436, in Petersburg, New York to a new location approximately 3,000 feet eastward, near milepost K–435, in Pownal, Vermont.

The reasons given for the proposed changes are to normalize the track circuit lengths between signals 1524/1525 and signals 1584/1585 for reliable Electro Code 5 operation, and the elimination of 3,800 feet of open wire AC service feed to the existing signals location.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the

docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 3, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–3312 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24100]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CRACKERJACK.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24100 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before April 10, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24100. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CRACKERJACK is:

Intended Use: ''Ecotours and activities associated with bird watching, oceanographic lectures, and marine biology.''

Geographic Region: Washington and Oregon.

Dated: March 2, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3303 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24099]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FRANCIS MARION.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24099 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 10, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24099. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will

be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FRANCIS MARION is:

Intended Use: ''six pack charter yacht.''

Geographic Region: East Coast of U.S.A. (Maine to Florida).

Dated: March 2, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3304 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24098]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LANIE MARIE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24098 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 10, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24098. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LANIE MARIE is:

Intended Use: ''Provide recreational charters and dinner and evening cruises in conjunction with a local area restaurant.''

Geographic Region: Clear Lake Texas and Galveston Bay area and Gulf Coast Waters.

Dated: March 2, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3306 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24097]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MISTY BLUE YONDER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24097 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 10, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24097. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MISTY BLUE YONDER is:

Intended Use: ''Bareboat Charter, occasional Skippered Charter and Instruction.''

Geographic Region: Washington State.

Dated: March 2, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3325 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24096]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PLAYIN' HOOKY.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24096 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before April 10, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24096. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PLAYIN' HOOKY is:

Intended Use: ''Sportfishing for 6 or less passengers.''

Geographic Region: Lake Erie.

Dated: March 2, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3302 Filed 3–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 3, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 10, 2006 to be assured of consideration.

Alcohol And Tobacco Tax And Trade Bureau (TTB)

OMB Number: 1513–XXXX.

Type of Review: New.

Title: Formula and Process for Domestic and Imported Alcohol Beverages.

Form: TTB form F 5100.51.

Description: This report is used to monitor the production of malt beverages, wine, and distilled spirits products. It ensures that these products are correctly produced and classified according to federal regulations.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 8,000 hours.

Clearance Officer: Frank Foote, (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–3333 Filed 3–8–06; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Discontinuance of the Electronic Data Interchange (EDI) and Proprietary Formats for Electronically Filed Forms 940 and 941

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: The Internal Revenue Service (IRS) plans to discontinue acceptance of electronically filed Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, and Form 941, Employer's Quarterly Federal Tax Return, in the EDI and Proprietary formats effective October 28, 2006. Decline in use of these formats, coupled with increasing costs to maintain these formats, prompted this decision. This action pertains to e-filers who develop software or electronically transmit Forms 940 and 941.

SUPPLEMENTARY INFORMATION: IRS will continue to support the Extensible Markup Language (XML) file format for electronically filed Forms 940 and 941.

FOR FURTHER INFORMATION CONTACT: Questions or concerns will also be taken over the telephone. Call Jeanie Yancey—202–283–0259 (not a toll-free number). You may email responses entitled EDI–PROP DISCONTINUANCE to *Jeanie.S.Yancey@irs.gov.*

Dated: February 3, 2006.

Jimmy L. Smith,

Director, Submission Processing Wage and Investment.

[FR Doc. E6–3305 Filed 3–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 5, 2006, at 1 p.m., eastern time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, April 5, 2006, at 1 p.m. eastern time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006–MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy.

Ms. Toy can be reached at 1–888–912–1227, or 414–297–1611, or by FAX at 414–297–1623.

The agenda will include the following: monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: March 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3309 Filed 3–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 4, 2006, at 3 p.m. eastern time.

FOR FURTHER INFORMATION CONTACT: Sandy McQuin at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, April 4, 2006, at 3 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Sandy McQuin at 1–888–912–1227 or at (414) 297–1604 for additional information.

The agenda will include the following: Various IRS issues.

Dated: March 3, 3006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3310 Filed 3–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Availability of Report of 2005 Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act, and 5 U.S.C. 552b, the Government in the Sunshine Act, a report summarizing the closed meeting activities of the Art Advisory Panel during 2005 has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management.

DATES: *Effective Date:* This notice is effective March 9, 2006.

ADDRESSES: The report is available for public inspection and requests for copies should be addressed to: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number (202) 622–5164 (not a toll free number)

FOR FURTHER INFORMATION CONTACT: Karen Carolan, AP:ART, Internal Revenue Service/Appeals, 1099 14th Street, NW., Washington, DC 20005, telephone (202) 435–5609 (not a toll free telephone number).

SUPPLEMENTARY INFORMATION: The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore, is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Mark W. Everson,

Commissioner of Internal Revenue.

[FR Doc. E6–3308 Filed 3–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Professional Certification and Licensure Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Professional Certification and Licensure Advisory Committee has scheduled a meeting for March 24, 2006, in Conference Room 542, Veterans Benefits Administration, 1800 G Street, NW., Washington, DC, from 8:30 a.m. to 4 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under Chapters 30, 32, 34, or 35 of title 38, United States Code.

The meeting will begin with opening remarks by Ms. Sandra Winborne, the Committee Chair. During the morning session, there will be an ethics briefing and discussions about system updates, new uses of the license and certification benefit, and outreach activities. The afternoon session will include a presentation on the usage of the license and certification test reimbursement benefit, statements from the public (scheduled for 2 p.m.), old business, and new business.

Interested persons may file written statements to the Committee before the meeting, or within 10 days after the meeting, with Ms. Stacey St. Holder, Designated Federal Officer, Department of Veterans Affairs (225B), 810 Vermont Avenue, NW., Washington, DC 20420. Anyone wishing to attend the meeting should contact Ms. Stacey St. Holder or Mr. Michael Yunker at (202) 273–7187.

Dated: March 2, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2195 Filed 3–8–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation (VACOR); Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Veterans' Advisory Committee on Rehabilitation will be held on March 29–31, 2006, in room 201 at the Paralyzed Veterans of America, 801 18th Street, NW., Washington, DC. The sessions will begin at 9 a.m. each day. The sessions will end at 4:30 p.m. on March 29 and 30, and at 12 noon on March 31. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on the rehabilitation needs of veterans with disabilities and the administration of VA's rehabilitation programs to meet those needs.

The agenda of the meeting will include updates on the Spinal Cord Injury Vocational Support Program, Disabled Transition Assistance Program, Seamless Transition, implementation of the Vocational Rehabilitation and Employment Task Force recommendations, employment initiatives, and other rehabilitation program initiatives. The Committee will also discuss recommendations for the 2006 report.

Time will not be allocated at this meeting for receiving oral presentations from the public. Any member of the public wishing to attend the meeting is requested to contact Ms. Janet LeClerc, Designated Federal Officer, at (202) 273–6952. The Committee will accept written comments. Comments can be addressed to Ms. LeClerc, Department of Veterans Affairs, Veterans Benefits Administration (28), 810 Vermont Avenue, NW., Washington, DC 20420, or electronically to *vrejlecl@vba.va.gov*. In their communications with the Committee, the writers must identify themselves and state the organizations, associations, or person(s) they represent.

Dated: March 3, 2006.

By direction of the Secretary:

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2198 Filed 3–8–06; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 71, No. 46

Thursday, March 9, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: David Phelps Archaelogy Laboratory of East Carolina University, University of Greenville, NC

Correction

In notice document 06–1628 beginning on page 9372 in the issue of Thursday, February 23, 2006, make the following correction:

On page 9372, in the first column, after the second full paragraph beginning with the words ''In 1971'', insert the following two paragraphs:

''Based on archeological evidence, the human remains have been determined to be Native American. Based on geographic placement, there are reasonable grounds to believe that the human remains are culturally affiliated with the Tuscarora Nation of New York.

In 1971, human remains representing a minimum of one individual were removed from site 31BR13, Bertie County, NC, during a cultural resource management survey conducted by East Carolina University professional staff. The human remains were fragmented. No known indvidual was identified. No associated funerary objects are present.''.

[FR Doc. C6–1628 Filed 3–8–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
March 9, 2006

Part II

Environmental Protection Agency

40 CFR Parts 51, 52 et al.

Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Corn Milling Facilities Under the "Major Emitting Facility" Definition; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[FRL–8041–5, Docket ID No. EPA–HQ–OAR–2006–0089]

RIN 2060–AN77

Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Corn Milling Facilities Under the ''Major Emitting Facility'' Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA has treated wet and dry corn milling facilities differently under the Clean Air Act (CAA or Act) depending on whether the facilities in question produce ethanol fuel or ethanol fit for human consumption. In particular, EPA has applied different major source size cut offs to these facilities under the Prevention of Significant Deterioration (PSD) program based on the product these facilities produce. Additionally, when the list of source categories relative to the definition of ''major emitting facility'' was first promulgated on August 7, 1980, this same list was promulgated in the same final regulatory package for determining from which source categories fugitive emissions were to be counted in determining whether a source is a major source. As a result, although two of the regulatory changes being proposed today address the major source threshold for PSD sources, the remaining proposed regulatory changes address when fugitive emissions are counted for purposes of determining whether a source is a major source under the PSD, nonattainment New Source Review (NSR), or title V programs.

In today's action, we are requesting public comment on two options under consideration by EPA with respect to corn milling facilities. Under Option 1, EPA would treat wet and dry corn milling facilities in the same manner under the PSD, nonattainment NSR, and title V programs regardless of whether they produce ethanol fuel or ethanol fit for human consumption. If EPA adopts Option 1, EPA would redefine chemical process plants under the definition of ''major emitting facility'' to exclude wet and dry corn milling facilities which produce ethanol fuel. Under Option 2, EPA would retain the current distinction between wet and dry corn milling facilities under these regulatory programs based on whether they produce ethanol fuel or ethanol fit for human consumption. The EPA's preferred option is Option 1. We are requesting comment on these two options and on the revisions that we propose to make if we adopt Option 1.

DATES: *Comments.* Comments must be received on or before May 8, 2006.

Public Hearing. If anyone contacts us requesting to speak at a public hearing March 29, 2006, we will hold a public hearing approximately 30 days after publication in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0089 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Fax: 202–566–1741.
- Mail: Attention Docket ID No. EPA–HQ–OAR–2006–0089, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, B102, Mail code 6102T, Washington, DC 20460. Please include a total of 2 copies.
- Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room B102, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2006–0089. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0089. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, please see section B. of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, B102, Mail code: 6102T, Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2006–0089, Washington, DC 20004]. This Docket Facility and Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA–HQ–OAR–2006–0089 is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Joanna Swanson, (C339–03), Air Quality Policy Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541–5282; fax number: (919) 541–5509, or electronic mail at *swanson.joanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Are the Regulated Entities?

Entities potentially affected by the subject rule for today's action include wet and dry corn milling facilities and industrial ethyl alcohol production.

Industry group	SIC [a]	NAICS [b]
Wet Corn Milling	2046	311221
Industrial Organic Chemicals (Ethyl Alcohol)	2869	325193

[a] Standard Industrial Classification (1987)
[b] North American Industry Classification System. Entities potentially affected by the subject rule for today's action also include State, local, and tribal governments.

B. How Should I Submit CBI Material to the Agency?

1. *Submitting CBI.* Do not submit this information that you consider to be CBI electronically through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Also, send an additional copy clearly marked as above not only to the Air docket but to: Roberto Morales, c/o OAQPS Document Control Officer, (C339–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2006–0089.

C. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

D. How Can I Find Information About a Possible Public Hearing?

Persons interested in presenting oral testimony should contact Mrs. Pamela S. Long, Air Quality Division (C339–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0641, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also contact Mrs. Long to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed changes.

E. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

II. Background

The NSR program legislated by Congress in parts C and D of title I of the Act is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the Act. In areas not meeting health-based NAAQS and in ozone transport regions (OTR), the program is implemented under the requirements of part D of title I of the Act for ''nonattainment'' NSR. In areas meeting NAAQS (''attainment'' areas) or for which there is insufficient information to determine whether they meet the NAAQS (''unclassifiable'' areas), the NSR requirements for the prevention of significant deterioration of air quality under part C of title I of the Act apply. The NSR regulations are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and Appendix S of part 51.

The Act, as implemented by our regulations, sets applicability thresholds for major sources in attainment areas (100 or 250 tons per year (tpy) depending on the source type) and nonattainment areas (100 tpy or less, depending on the nonattainment classification). A new source with a potential to emit (PTE) at or above the applicable threshold amount ''triggers,'' or is subject to, major NSR. To determine whether a source is subject to a 100 or a 250 tpy threshold for purposes of determining whether it is a ''major emitting facility,'' section 169(1) of the Act contains a definition of major emitting facility.

Title V of the CAA required EPA to promulgate regulations governing the establishment of operating permits programs. The current regulations are codified at 40 CFR parts 70 and 71. All major sources, as that term is defined for title V purposes, are required to obtain title V operating permits. Sources required to obtain title V permits also

include those sources subject to PSD and nonattainment NSR. Therefore, title V relies in part on the definition of major emitting facility for the PSD program and any change to this definition under this program could affect whether a source is required to obtain a title V permit.

A. What Is the History of the Term ''Major Emitting Facility''?

On August 7, 1977, the President signed the Clean Air Act Amendments of 1977 (1977 Amendments) into law. Those amendments established, in Part C of Title I of the Clean Air Act (the Act or CAA), a set of requirements for the prevention of significant deterioration (PSD) of air quality in so-called ''clean air,'' or attainment, areas. See sections 160–69, 42 U.S.C. 7470–79. As part of these amendments, the major emitting facility definition in section 169(1) was added to the CAA. The definition of major emitting facility as incorporated into section 169(1) of the 1977 Amendments reads as follows:

> The term ''major emitting facility'' means any of the following stationary sources of air pollutants which emit, or have the potential to emit,[1] one hundred tons per year or more of any air pollutant from the following types of stationary sources: fossil-fuel fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding three hundred thousand barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities. Such term also includes any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant. This term shall not include new or modified facilities which are nonprofit health or education institutions which have been exempted by the State.

The source categories established in the above definition have wide applicability under the major New Source Review (NSR) and title V operating permits programs. Although the above definition includes a number of source categories, it is the history and definition of the chemical process plants source category that we will be examining relative to the production of ethanol by wet or dry corn milling (also known as wet or dry milling) in this proposal.

B. What Is the Basis for the Source Categories Listed in the Definition of ''Major Emitting Facility'' in Section 169(1) of the Act?

Section 111 of the Act requires the Administrator of EPA to establish Federal standards of performance for new stationary sources which may significantly contribute to air pollution and was intended by Congress to complement the other air quality management approaches authorized by the 1970 Act. After enactment of section 111, EPA hired Research Corporation of New England (Research Corp.) to study stationary sources of air pollution in order to establish priorities for developing and promulgating New Source Performance Standards (NSPS). Because of limited resources, EPA could not feasibly set NSPS requirements for all categories of stationary sources simultaneously. Therefore, the goal of the Research Corp. study was to identify sources for which NSPS controls would have the greatest impact on reducing the quantity of atmospheric emissions. Research Corp. examined approximately 190 different types of stationary sources that potentially could be determined to be major emitting facilities, and provided information on the types of air pollutants that those sources emitted. The Research Corp. study was used by EPA in setting priorities for the order in which it would promulgate NSPS requirements for categories of stationary sources.

The Research Corp. study was also relied on by Congress in identifying the 28 categories of stationary sources specifically listed in the definition of the term ''major emitting facility'' in section 169(1) of the Act. 122 Cong. Rec. 24,520–23 (1976). As explained by Senator McClure in the *Congressional Record,* the EPA Administrator examined the data from the draft Research Corp. study and determined that 19 of the stationary source categories examined should initially be classified as major emitting facilities. Senator McClure further explained that the Senate Committee added nine more categories of stationary sources to the 19 selected by EPA for a total of 28 source categories. 122 Cong. Rec. at 24,521.[2]

In discussing the specific sources identified in section 169(1), Senator McClure stated:

> Mr. President, I ask unanimous consent that an extract from that report of the Research Corp. of New England, listing the 190 types of sources, from which the EPA took 19, and the committee took 28, be printed in the Record at this point as an illustration of what the committee examined and the kinds of sources the committee intended to include and exclude, recognizing that it is neither exclusive nor invariable. There is administrative discretion to add to the list, to change the list. But the committee spoke very clearly on its intent on that question.

122 Cong. Rec. at 24,521 (1976). As a result of Senator McClure's action, the table from the draft Research Corp. report containing the list of 190 types of sources was printed in the *Congressional Record.*

C. How Was the Chemical Process Plants Source Category Addressed in the Research Corp. NSPS Study?

The approximately 190 source categories identified in Research Corporation's report were further classified into ten general groups for purposes of the study—stationary combustion sources, chemical processing industries, food and agricultural industries, mineral products industries, metallurgical industries, and miscellaneous sources (evaporation losses, petroleum industry, wood products industry, and assembly plants).

For the chemical process industry grouping, the Research Corp. study considered 24 different source categories and their associated pollutants. Notably, within the chemical process industry listings in the 1977 final report and in the 1976 draft report (as incorporated into the *Congressional Record*) there is no listing which refers to ethanol production, ethanol fuel production, or corn milling operations. Of course, it is worth noting that although the first U.S. ethanol fuel plant was built by the U.S. Army in the 1940's, few, if any, ethanol fuel production facilities existed in the mid to late 1970's. Thus, at the time that Congress drafted section 169(1), for which it appears to have relied on the draft Research Corp. study developed for NSPS purposes, plants producing

[1] Under the PSD program, we define potential to emit (PTE) as the maximum capacity of a source to emit under its physical and operational design, taking into account any physical or operational limitations on the source that are enforceable as a practical matter. (See, for example, § 52.21(b)(4) for the full definition of PTE.)

[2] Although a draft of the Research Corp. study is referenced in the *Congressional Record,* the study entitled ''Impact of New Source Performance Standards on 1985 National Emissions from Stationary Sources'' was finalized in April, 1977 (EPA–450/3–76–017).

ethanol were not listed among the types of facilities that fell within the category for chemical processing industries.

D. How Have Ethanol Production Facilities Been Considered Under the PSD Program?

In addition to the term ''major emitting facility'' addressing sources within specified source categories which emit, or have the potential to emit, 100 tons per year or more of any air pollutant, this term also establishes a potential to emit threshold of 250 tons per year or more of any air pollutant for sources which fall outside of the source categories specified in section 169(1) of the Act. Thus, for new sources which are locating in attainment areas, the applicable major source threshold under the PSD program will be either 100 tons per year for sources in one of the source categories specifically listed in section 169(1), or 250 tons per year for all other sources. For new sources located in nonattainment areas, the applicable thresholds for the nonattainment pollutants will depend on the nonattainment area's status. For operating sources in attainment areas, the relevant major source threshold under title V is 100 tons per year, but is lowered in nonattainment areas for the relevant pollutant.

In its August 7, 1980, rulemaking, EPA decided to use the 2-digit ''Major Group'' listings as defined by the SIC manual of 1972 (as amended in 1977) [3] as its basis for defining a source under PSD and nonattainment NSR. Thus, to determine which source category a source belongs to, and therefore what major source thresholds apply, EPA determines which 2-digit ''Major Group'' code applies to the source. These classifications are based on the source's primary activity, which is determined by the source's principal product(s)—either produced or distributed—or services rendered. (August 7, 1980, 45 FR 52676, 52694).

It is important to note that the Standard Industrial Classification (SIC) manual was not designed for regulatory application, but was developed primarily for the collection of economic statistics and for the consistent comparison of economic data between various sectors of the U.S. economy. The use of SIC codes by EPA is also not required by the Act or even mentioned in the Act. As explained above, EPA chose to use SIC codes to define sources, including sources within the 28 listed source categories. EPA's regulatory use of SIC codes does not have to follow the exact approach taken by the SIC manual. While it may be appropriate for economic statistical purposes to place ethanol fuel and ethanol fit for human consumption in different categories (''Major Groups'' 28 and 20 respectively), this does not limit EPA's discretion to treat both types of ethanol in the same manner for regulatory purposes.

Ethanol Production Facilities

In the U.S., ethanol (ethyl alcohol) is currently being produced either synthetically or through the fermentation of sugars derived from agricultural feedstocks. For ethanol produced synthetically, either ethylene or hydrogen (H_2) and carbon monoxide (CO) are used as the feedstock. As of 2002, only two facilities in the U.S. were producing synthetic ethanol. (Memorandum from Mary Lalley, Easter Research Group, Inc., to Bob Rosensteel, U.S. EPA, July 2, 2002.)

The majority of ethanol produced in the U.S. is produced from sugar or starch-based feedstock (e.g., corn, millet, beverage waste) using two basic processes: the dry mill process and the wet mill process. The key difference between these two processes is the initial treatment of the grain. In the wet mill process, the grain is soaked and then ground to remove germ, fiber, and gluten from the starch prior to cooking. In the dry mill process, the grain or feedstock is not separated into its constituent parts prior to cooking.

Both wet and dry milling operations produce ethanol as well as other co-products. ''Co-products from the dry mill process, separated from the ethanol in the distillation step, include distiller's dried grain (DDG) and solubles (S), which are often combined and referred to as DDGS. DDGS is used as an animal feed. In the wet mill process, co-products are separated from the ethanol production process in the initial grinding or milling step. Co-products from the wet milling process include fiber and gluten, which are used for animal feed and corn oil.'' (Memorandum from Mary Lalley, July 2, 2002).

Most new ethanol production capacity comes from dry mill processing facilities (R.W. Beck, Inc., Renewable Energy Bulletin, Special Projects). Wet milling operations, on the other hand, can produce ethanol, including ethanol for fuel, but are typically primarily engaged in producing starch, syrup, oil, sugar, and by-products, such as gluten feed and meal. For ethanol which will be used as fuel, toxic solvents (typically gasoline) are added to the ethanol to render it unfit for human consumption (denatured). This additional step is required to develop ethanol fuel regardless of whether the dry or wet mill process was employed to develop the initially potable ethanol. It is EPA's understanding that whether the wet or dry milling process is used, the process for making ethanol for food products, and that for making ethanol for fuel, is essentially the same up until the step at which gasoline or other toxic solvents are added in the process for using ethanol for making fuel.

As noted above, one of the source categories in the list of 28 source categories included in the ''major emitting facility'' definition (and in the NSR and title V regulations) is chemical process plants.[4] The major group SIC code (2-digit SIC code) in which chemical process plants falls is major group 28—''Chemicals and Allied Products.'' The 4-digit SIC code which is directly applicable to the production of ethanol for fuel is SIC code 2869—''Industrial Organic Chemicals, Not Elsewhere Classified.'' ''Ethanol, industrial'' and ''Ethyl alcohol, industrial (nonbeverage)'' are both listed in the SIC Manual as a specific product within this 4-digit category.

In addition to the specific references in the SIC Manual relative to ethanol production, EPA also specifically addressed this issue in an internal EPA memorandum dated March 31, 1981, from Edward Reich, Director, Division of Stationary Source Enforcement, Office of Enforcement to the Directors, Air and Hazardous Materials Divisions, Regions I–X, and the Directors, Enforcement Divisions, Regions I–X. In this memo, Mr. Reich states the following:

> This is to clarify the proper classification for ethanol fuel plants for purposes of PSD applicability. The Agency regards any source listed under major Group 28 of the Standard Industrial Classification (SIC) manual as a chemical process plant. Ethanol fuel is listed under SIC Group 286: Industrial Organic Chemicals. Ethanol fuel plants should therefore be considered a chemical process

[3] The version of the SIC code manual that is used for purposes of classifying sources under the title V operating permits is the 1987 SIC Manual. See, e.g., the definition of ''Major Source'' in 40 CFR 70.2. However, there are no differences between these manuals in terms of how wet corn milling facilities and facilities which produce ''ethanol, industrial'' or ''ethyl alcohol, industrial (nonbeverage)'' are classified.

[4] It is important to note that although this document refers to the list of 28 source categories, you will actually see a list of 27 categories when you review the NSR and Title V regulations. This is because when the list was first promulgated on August 7, 1980 (45 FR 52676), the hydrofluoric, sulfuric, and nitric acid plants were listed as one category and an additional category (the 27th category) was added to address sources regulated by section 111 or 112 standards as of August 7, 1980.

plant subject to the 100 tons per year threshold for PSD review.

Given that ethanol fuel production is specifically listed under the 2-digit ''Major Group'' SIC code of 28 in the SIC manual and given the above-noted memo, EPA has historically required production facilities or units which produce ethanol fuel to be classified as chemical process plants (regardless of whether they are wet or dry corn mills); such facilities are therefore subject to the 100 tons per year threshold under PSD.

Wet milling operations are specifically addressed under SIC Code 2046 (''Wet Corn Milling'') in the SIC Manual. Although the SIC Manual lists this category as ''Wet Corn Milling'' the description for this 4-digit category specifically notes that this category applies to establishments primarily engaged in milling corn or sorghum grain (milo) by the wet process. The relevant Major Group for ''Wet Corn Milling'' is ''Major Group'' 20—''Food and Kindred Products.'' Accordingly, units at wet corn milling operations engaged in producing the food products noted in the SIC Manual are classified under ''Major Group'' 20. Since they do not fall within one of the 28 categories of industrial sources listed in section 169(1) of the Act and in the PSD regulations, wet corn milling units primarily engaged in producing food products are subject to the 250 tons per year threshold under PSD.

As discussed above, both wet and dry corn milling processes can produce ethyl alcohol for human consumption. Our understanding is that the processes in these facilities are identical to a facility which produces ethyl alcohol for fuel with the exception of an additional step in which a toxic solvent is added to the ethyl alcohol to render it unfit for human consumption.

Some industry stakeholders believe that it is unfair for EPA and States to have applied two different thresholds, i.e., a 100 tons per year threshold for ethanol fuel production and a 250 tons per year threshold for ethanol intended for human consumption, especially since the processes are the same except for the additional step of adding toxic solvents to the ethyl alcohol. Some stakeholders have mentioned to EPA that this permitting practice is not consistent. EPA requests information on (1) whether the corn milling processes for making ethanol for fuel and ethanol for food are essentially the same up until the step at which gasoline or another toxic solvent is added to the ethanol intended for fuel; (2) what steps, if any, take place beyond the step at which gasoline or another toxic solvent is added to the ethanol intended for fuel; (3) what steps in the ethanol intended for food (e.g., beverage) process are different from the ethanol for fuel process; (4) whether the technology used to manufacture the ethanol fuel and ethanol for food is the same technology; and (5) how the corn milling process for producing industrial ethanol varies from the corn milling processes used to produce ethanol fuel or ethanol fit for human consumption. Finally, we also request information on how EPA and States have permitted corn mills that produce ethanol for fuel, ethanol for food, and industrial ethanol.

III. Today's Proposed Rule

A. What Is Being Proposed?

Today we are taking comment on two options that EPA is considering with respect to the treatment of wet and dry corn mills that produce either ethanol for fuel or ethanol for food under the ''major emitting facility'' thresholds. Under the first option, EPA proposes to redefine chemical process plants under the definition of ''major emitting facility'' found in section 169(1) of the Act to exclude wet and dry corn milling facilities which produce ethanol fuel. Under the second option, we would continue to include wet and dry corn milling facilities that produce ethanol fuel within the definition of chemical process plants and within the definition of ''major emitting facility'' found in section 169(1). EPA's preferred option is Option 1. If EPA selects Option 1, we would base this proposal on several factors: (1) EPA's discretion to define chemical process plants to exclude wet and dry corn milling facilities; and (2) the desire to treat wet and dry corn milling facilities in the same manner under the PSD, nonattainment NSR, and title V permits programs due to the similar processes that are employed by these facilities regardless of whether ethanol fuel or potable ethanol is being produced.

The PSD and nonattainment NSR regulations that we are proposing to amend today if we select option 1 are found in 40 CFR 51.165, 51.166, 52.21, and 52.24. We are not proposing to amend Appendix S of part 51 in today's action. The title V regulations that we are proposing to amend today are found in 40 CFR parts 70 and 71.

In this proposal, we are soliciting comment on whether wet and dry corn milling facilities that produce ethanol for fuel should continue to be considered a part of the chemical process plants source category. In addition, we are also soliciting comment on whether other types of facilities which produce ethanol fuel, such as those using cellulosic biomass feedstocks, e.g., solid waste, agricultural wastes, wood, and grasses, should also be considered for exclusion from the chemical process plants definition due to having production processes similar to those found at wet and dry milling facilities in cases where potable ethanol or ethanol fuel is being produced. We request information, including process flow diagrams, on the processes used to develop ethanol fuel using the above-noted feedstocks.

B. What Additional Changes Are Being Proposed for Wet and Dry Corn Milling Facilities?

Two of the regulatory changes being proposed today address the major source threshold for PSD sources, i.e., 40 CFR 51.166(b)(1)(i)(a) and 52.21(b)(1)(i)(a). The remaining proposed regulatory changes address when fugitive emissions are counted for purposes of determining whether a source is a major source under the PSD, nonattainment NSR, or title V programs.

Section 302(j) of the Act states:

> Except as otherwise expressly provided, the terms ''major stationary source'' and ''major emitting facility'' mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

When the list of source categories relative to the definition of ''major emitting facility'' was first promulgated in the NSR regulations on August 7, 1980 (45 FR 52676), this same list was promulgated in the NSR regulations for determining from which source categories fugitive emissions were to be counted in determining whether a source was a major source. These 28 source categories were promulgated as a result of the decision in *Alabama Power* v. *Costle,* 626 F. 2d. 323 (D.C. Cir. 1979). In Alabama Power, the court held that ''fugitive emissions are to be included in determining whether a source or modification is major only if and when EPA issues an appropriate legislative rule.'' EPA conducted rulemaking by which it identified the 28 source categories for which fugitive emissions would be counted in determining whether a source is a major source. We also identified the two criteria by which we would decide whether a source's fugitive emissions would be included in major source determinations: (1) Sources in the category could degrade air quality significantly, and (2) there

were no unreasonable costs compared to benefits associated with listing the category. See 49 FR 43203 (1984).

However, as to the 28 initial source categories listed under section 302(j), EPA provided no discussion of the types of sources within the 28 source categories, nor any specific analyses associated with the development of this list, when the list was proposed (1979) and then promulgated (1980). Thus, the term ''chemical process plants'' was included in the list developed under section 302(j) of source categories whose fugitive emissions would be counted in a determination of whether it is a major source, even though no specific analysis was done as to that source category. Furthermore, EPA also did not perform any analysis of the specific types of plants that may have fallen within the category of ''chemical process plants.''

Thus, pursuant to section 302(j) of the Act, EPA by rulemaking listed categories of sources from which fugitive emissions shall be included for purposes of determining whether a source is a ''major stationary source.'' One of the categories of sources on that list is chemical process plants. If we adopt Option 1, we are not proposing to change the list of categories that we developed by rule under 302(j). However, we are proposing to change the definition of chemical process plants to exclude wet and dry corn milling facilities. Since we are not changing the list of source categories that we listed under section 302(j), but merely redefining one of those listed categories, we do not believe that it is now necessary to conduct a rulemaking which meets the requirements of 302(j) of the Act in order to redefine when we count fugitive emissions relative to chemical process plants. We solicit comment, however, on whether it is appropriate to define chemical process plants to exclude wet and dry corn milling facilities for the purpose of determining when fugitives are to be counted in major source determinations under PSD, nonattainment NSR, and title V without specifically addressing the requirements associated with a 302(j) rulemaking.

1. EPA's Discretion To Modify Its Approach if We Adopt Option 1

As explained previously (See ''II. Background''), we have no knowledge that ethanol production facilities, ethanol fuel production facilities, or corn milling facilities were specifically considered by Congress when major emitting facilities as specified in section 169(1) of the Act were being defined. We do know, however, that none of these facilities were specifically listed within the chemical process plants source category in either the draft report (as incorporated into the *Congressional Record*) or in the final Research Corp. report entitled ''Impact of New Source Performance Standards on 1985 National Emissions from Stationary Sources.'' (*See* 122 Cong. Rec. 24,520–23 (1976)). This report by EPA's contractor (Research Corp.) appears to be a significant source upon which Congress relied when it drafted section 169(1) and, more specifically, when it developed the list of identified source categories in this statutory provision. Therefore Congress, when it enacted section 169(1), appears not to have expressed its intent as to whether ethanol production facilities, ethanol fuel production facilities, or corn milling facilities should be considered within the ''chemical process plants'' source category.

As explained previously, in its August 7, 1980, rulemaking, EPA decided, in the exercise of its discretion and in the absence of an expression of Congressional intent on the issue, to use the 2-digit ''Major Group'' listings as defined by the SIC manual of 1972 (as amended in 1977) as its basis for defining a source. Using this approach to define a source, a facility producing ethanol fuel would be classified under ''Major Group 28—Chemicals and Allied Products'' given that ''Ethanol, industrial'' and ''Ethyl alcohol, industrial (nonbeverage)'' are two specific products under the more specific 4-digit SIC code of ''Industrial Organic Chemicals, Not Elsewhere Classified.''

Although EPA's policy, as defined in its March 31, 1981, memorandum above, has been to define wet and dry corn milling facilities which produce ethanol fuel as being within Major Group 28, EPA has the discretion to modify its classification of these facilities through notice and comment rulemaking. Congress did not indicate an intent, either in the statutory provision, or in the legislative history, to define ethanol fuel production facilities or wet and dry corn milling facilities as being within the chemical process plants source category, nor did Congress assign such facilities to any particular 2-digit ''Major Group'' within the SIC system. Given this absence of Congressional intent on the issue, EPA has the discretion to promulgate reasonable regulations on the appropriate treatment of plants that manufacture ethanol for fuel under section 169(1) of the CAA and under the PSD, nonattainment NSR, and title V programs.

EPA's discretion to modify its approach given that Congress has not spoken directly to how wet and dry corn mills are to be classified is allowed by the Chevron decision (*Chevron U.S.A., Inc.* v. *Natural Res. Def. Council,* 467 U.S. 837 (1984)). This decision was recently explained in *New York* v. *EPA,* 413 F.3d 3, 18 (D.C. Cir. 2005) as follows:

> As to EPA's interpretation of the CAA, we proceed under Chevron's familiar two-step process. See 467 U.S. at 842–43. In the first step (''Chevron Step 1''), we determine whether based on the Act's language, legislative history, structure, and purpose, ''Congress has directly spoken to the precise question at issue.'' *Id.* at 842. If so, EPA must obey. But if Congress's intent is ambiguous, we proceed to the second step (''Chevron Step 2'') and consider ''whether the agency's [interpretation] is based on a permissible construction of the statute.'' *Id.* at 843. If so, we will give that interpretation ''controlling weight unless [it is] arbitrary, capricious, or manifestly contrary to the statute.'' *Id.* at 844.

As a result, although it remains EPA's policy to classify sources under the PSD, nonattainment NSR, and title V programs using the 2-digit ''Major Group'' classification system as defined by the SIC manual, EPA is proposing to depart from this approach in classifying wet and dry corn mills. As summarized above, EPA has the discretion to modify its approach to classifying sources as appropriate through notice and comment rulemaking if it meets the criteria outlined in Chevron.

2. Similar Treatment of Wet and Dry Corn Milling Facilities Regardless of the Product Produced

Within this rulemaking, the two basic processes that are discussed for producing ethanol fuel are the wet mill and dry mill process. Both of these processes result in fermentation ethanol as opposed to synthetic ethanol. As discussed above, the primary feedstock for fermentation ethanol is corn, millet, or beverage waste; for synthetic ethanol, it is ethylene or hydrogen (H_2) and carbon monoxide (CO).

As also discussed above, the key differences between the wet and dry mill processes is the initial treatment of the grain or feedstock. Additionally, in situations where ethanol fuel is being produced, whether as a result of the dry or wet milling process, a denaturing step is added to the process in order to make the ethanol unfit for human consumption. This denaturing step is a step in which a small amount of gasoline (2–5%) or other toxic solvents are added to the ethanol. This additional step is what causes the ethanol fuel production facility to be classified under ''Major Group'' 28 of

the SIC manual. If the gasoline or other toxic solvents were not added to the ethanol in this additional step, the facility would produce ethanol fit for human consumption and would be classified under ''Major Group'' 20—''Food and Kindred Products.'' In this latter classification, a facility would not be subject to the 100 tons per year threshold under the PSD regulations, but instead would be subject to the 250 tons per year threshold under these regulations. The Agency does not believe that the denaturing step makes an ethanol fuel production facility into a chemical process plant and therefore prefers to subject production facilities which produce ethanol fit for human consumption and those production facilities which produce ethanol fuel to the same major source threshold.

As discussed in this section, if EPA adopts its preferred option, Option 1, EPA is proposing to depart from its practice of classifying ethanol fuel production facilities, which use the wet or dry milling process, as chemical process plants. EPA solicits comment on whether we should retain our current practice of classifying an ethanol fuel production facility, which uses the wet or dry milling process, as a chemical process plant, or if the Agency should adopt a different approach for classifying these facilities such as is discussed above. EPA also solicits comment on whether characteristics of the wet and dry milling processes for producing ethanol fuel are such that they are in important ways distinct from other sources that are included in the ''chemical process plants'' source category.

B. What Are the Implications of Changing the Classification of Facilities Which Produce Ethanol Fuel as a Result of the Wet or Dry Milling Process?

The obvious implication of changing the classification of facilities which produce ethanol fuel as a result of the wet or dry milling process to a classification other than chemical process plants is that this will allow these sources to expand production without triggering PSD permitting requirements, as a result of raising the applicable major source threshold from 100 tons per year to 250 tons per year. Many existing sources have taken PTE limits just below the 100 tons per year threshold to avoid PSD. Such sources would be able to raise these limits to just below 250 tons per year if the proposed rule is finalized as proposed. Alternatively, even without raising the current 100 tons per year threshold, sources could expand production to some extent without triggering PSD, nonattainment NSR, or title V permitting requirements, because the calculation of actual and potential emissions would no longer need to include fugitive emissions at the facilities. This is because if the proposed rule is finalized as proposed, fugitive emissions would no longer be counted in determining whether the facility producing ethanol fuel as a result of the wet or dry milling process is a major source under these programs.[5]

Moreover, such a change may have implications as to the use of the SIC Manual and SIC codes in the PSD, nonattainment NSR, and title V programs. This classification process is important and has implications in determining (1) what major source threshold under the PSD program is applicable to a source; (2) whether fugitive emissions from a source are considered in determining whether the source is subject to the PSD, nonattainment NSR, and title V programs; and (3) how a source is to be aggregated with other collocated sources at the site to determine whether a major source exists. The Agency does not believe, however, that this proposed change would have a significant impact on the use of the SIC codes for other source categories in the PSD, nonattainment NSR, and title V programs.

Another implication of a classification change is that it would create a disparity in how facilities which produce ethanol fuel as a result of the dry or wet milling process are considered under the NSR and title V programs versus how other ethanol fuel producers are considered under these programs. However, currently, ethanol fuel from corn milling accounts for the vast majority of ethanol fuel production from agricultural feedstocks.

A number of existing dry mills and wet mills which produce ethanol fuel have installed emission controls and have synthetic minor permits that limit plant-wide emissions to less than 100 tons per year. Changing the facility classification such that the major source threshold would be 250 tons per year could allow these sources to increase their emissions by more than 149 tons and still remain minor sources. EPA is seeking comment on the potential environmental effects of increasing the major source threshold from 100 tons per year to 250 tons per year, and eliminating the requirement to count fugitive emissions in these threshold determinations, for ethanol fuel facilities which have been proposed for construction and which will employ the wet or dry milling process.

C. What Are the Implications of Not Changing the Classification for Facilities Which Produce Ethanol Fuel as a Result of the Dry or Wet Milling Process?

If the classification for facilities which produce ethanol fuel as a result of the dry or wet milling process is not changed to a classification other than chemical process plants, then these facilities will continue to be subject to the 100 tons per year threshold under the PSD program and will be required to continue counting their fugitive emissions in determining whether they are subject to PSD or nonattainment NSR (whichever program is applicable) and title V. This could potentially stymie the growth of the ethanol production industry which, in turn, could lead to reduced energy diversification and independence in this country. Industry information shows that these facilities have experienced robust growth in recent years, even though they were subject to the major source threshold of 100 tons per year and the requirement to count fugitive emissions in their major source determinations. However, it is unclear whether this growth would have been greater without the current 100 tons per year threshold.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

[5] A wet or dry corn milling facility may be required to count its fugitive emissions to determine whether it is a major source regardless of whether today's proposal is finalized as proposed. This is because even if the facility isn't considered to be a part of the chemical process plants source category, one or more units within the facility may be considered to fall within another source category for which fugitive emissions are required to be counted.

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it is determined that this rule is a ''significant regulatory action'' because it raises policy issues arising from the President's priorities. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. We are not promulgating any new paperwork requirements (e.g., monitoring, reporting, recordkeeping) as part of today's proposed action. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR parts 51 and 52) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0003, EPA ICR number 1230.17. A copy of the OMB approved Information Collection Request (ICR) EPA ICR number 1230.17 may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Analysis (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statue unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, a small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (*see* 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. We are only requesting public comment on whether or not corn milling facilities should be subject to the same major source threshold regardless of whether they produce ethanol fuel or ethanol fit for human consumption. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan.

The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector.

Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposal rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA

and State and local governments, EPA is soliciting comment on today's proposal from State and local officials.

F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 13175, November 9, 2000, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. There are no Tribal authorities currently issuing major NSR and title V permits. Thus, Executive Order 13175 does not apply to this rule.

Although Executive Order 13175 does not apply to this proposed rule, EPA specifically solicits comment on this proposed rule from tribal officials.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's action is not subject to the Executive Order 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 action present a disproportionate risk to children. Today's proposed action is not expected to present a disproportionate environmental health or safety risk for children.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Today's action is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects

40 CFR Parts 51 and 52

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: February 28, 2006.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401, *et seq.*

Subpart I—[Amended]

2. Section 51.165 is amended by revising paragraphs (a)(1)(iv)(C)(20) and (a)(4)(xx) to read as follows:

§ 51.165 Permit requirements.

(a) * * *

(1) * * *

(iv) * * *

(C) * * *

(20) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

(4) * * *

(xx) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

3. Section 51.166 is amended by revising paragraphs (b)(1)(i)(a), (b)(1)(iii)(t), and (i)(1)(ii)(t) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(b) *Definitions.* * * *

(1)(i) *Major stationary source means:*

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include wet and dry corn milling facilities which produce ethanol fuel), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

* * * * *

(iii) * * *

(t) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

(i) *Exemptions.*

(1) * * *

(ii) * * *

(t) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

PART 52—[AMENDED]

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

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

Subpart A—[Amended]

5. Section 52.21 is amended by revising paragraphs (b)(1)(i)(a), (b)(1)(iii)(t), and (i)(1)(vii)(t) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(b) *Definitions.* * * *

(1)(i) *Major stationary source means:*

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include wet and dry corn milling facilities which produce ethanol fuel), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

* * * * *

(iii) * * *

(t) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

(i) *Exemptions.*

(1) * * *

(vii) * * *

(t) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

6. Section 52.24 is amended by revising paragraphs (f)(4)(iii)(t) and (h)(20) to read as follows:

§ 52.24 Statutory restrictions on new sources.

* * * * *

(f) * * *

(4) * * *

(iii) * * *

(t) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

(h) * * *

(20) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

PART 70—[AMENDED]

7. The authority citation for part 70 continues to read as follows:

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

8. Section 70.2 is amended by revising paragraph (2)(xx) of the definition of Major source to read as follows:

§ 70.2 Definitions.

* * * * *

Major source * * *

(2) * * *

(xx) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

PART 71—[AMENDED]

9. The authority citation for part 71 continues to read as follows:

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

Subpart A—[Amended]

10. Section 71.2 is amended by revising paragraph (2)(xx) of the definition of Major source to read as follows:

§ 71.2 Definitions.

* * * * *

Major source * * *

(2) * * *

(xx) Chemical process plants—which does not include wet and dry corn milling facilities which produce ethanol fuel;

* * * * *

[FR Doc. 06–2148 Filed 3–8–06; 8:45 am]

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Federal Register

Thursday,
March 9, 2006

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 48, 50, and 75
Emergency Mine Evacuation; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 48, 50, 75

RIN 1219–AB46

Emergency Mine Evacuation

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Emergency Temporary Standard; Notice of public hearings; Notice of close of comment period.

SUMMARY: The Mine Safety and Health Administration is issuing an emergency temporary standard under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger which miners are exposed to during underground coal mine accidents and subsequent evacuations. The January 2006 mine accidents and fatalities demonstrate the need for the Mine Safety and Health Administration to take additional action that protects miners from the grave danger that they face when they must evacuate a mine after an emergency occurs. This emergency temporary standard includes requirements for immediate accident notification applicable to all underground and surface mines. In addition, this ETS addresses self-contained self-rescuer storage and use; evacuation training; and the installation and maintenance of lifelines in underground coal mines.

DATES: This emergency temporary standard is effective March 9, 2006. The public hearings will be held on April 11, 2006, April 24, 2006, April 26, 2006, and April 28, 2006 at the locations listed in the Public Hearings section below under **SUPPLEMENTARY INFORMATION**. If individuals or organizations wish to make an oral presentation for the record, the Mine Safety and Health Administration (MSHA) is asking that you submit your request at least 5 days prior to the hearing dates. The comment period will close on May 30, 2006.

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

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *zzMSHA-Comments@dol.gov.* Include the Regulatory Information Number (RIN) for this rulemaking (RIN 1219–AB46 in the subject line of the message.
- Fax: (202) 693–9441. Include RIN 1219–AB46 in the subject line of the fax.
- Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939. If hand-delivered in person or by courier, please stop by the 21st floor first to check in with the receptionist before continuing on to the 23rd floor.

Instructions: All submissions must reference the MSHA and RIN 1219–AB46.

Docket Access: To access comments electronically, go to *http://www.msha.gov/currentcomments.asp.* All comments received will be posted without change at this Web address, including any personal information provided. Paper copies of the comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia. MSHA maintains a listserve on the Agency's Web site that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe to the listserve, visit the site at *http://www.msha.gov/subscriptions/subscribe.aspx.*

Information Collection Requirements: Comments concerning the information collection requirements must be clearly identified as such and sent to both the Office of Management and Budget (OMB) and MSHA as follows:

(1) OMB: All comments must be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for MSHA; and

(2) MSHA: Comments must be clearly identified by RIN 1219–AB46 as comments on the information collection requirements and transmitted either electronically to *zzMSHA-Comments@dol.gov,* by facsimile to (202) 693–9441, or by regular mail, hand delivery, or courier to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939.

FOR FURTHER INFORMATION CONTACT: Robert Stone, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939. Mr. Stone can be reached at *Stone.Robert@dol.gov* (Internet E-mail), (202) 693–9445 (voice), or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION: The outline of this notice is as follows:

I. Public Hearings

The public hearings will begin at 9 a.m. and end after the last scheduled speaker speaks (in any event not later than 5 p.m.) on the following dates at the locations indicated:

Date	Location	Phone
April 11, 2006	Marriott Town Center, 200 Lee Street, East Charleston, WV 25301	304–345–6500
April 24, 2006	Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, CO 80228	303–987–2000
April 26, 2006	Sheraton Suites, 2601 Richmond Road, Lexington, KY 40506	859–268–0060
April 28, 2006	MSHA Conference Room, 25th Floor, 1100 Wilson Boulevard, Arlington, VA 22209	202–693–9440

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. You do not have to make a written request to speak. Speakers will speak in the order that they sign in. Any unallotted time will be made available for persons making same-day requests. At the discretion of the presiding official, the time allocated to speakers for their presentation may be limited.

Speakers and other attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions. A verbatim transcript of the proceedings will be prepared and made a part of the rulemaking record. Copies of the transcript will be available to the public. The transcript will also be available on MSHA's Home Page at *http://www.msha.gov,* under Statutory and Regulatory Information.

MSHA will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. Written comments will be included in the rulemaking record.

II. Introduction

This emergency temporary standard (ETS) is issued in accordance with section 101(b) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 811. The ETS establishes or revises standards in part 48—Training and retraining of miners; part 50—Notification, investigation, reports, and records of accidents, injuries, illnesses, employment and coal production in mines; part 75—subpart D—Ventilation, §§ 75.380 and 75.381; Emergency Evacuations § 75.1502—Mine emergency evacuation and firefighting program of instruction, and subpart R—Miscellaneous, § 75.1714—Availability of approved self-rescue devices; instruction in use and location.

In accordance with section 101(b)(3) of the Mine Act, this ETS will also serve as the Agency's proposed rule. The preamble discusses specific provisions that may be included in the final rule and MSHA solicits comments on these provisions.

III. Basis for the Emergency Temporary Standard

A. Regulatory Authority

Section 101(b) of the Mine Act provides that:

1. The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary mandatory health or safety standard to take immediate effect upon publication in the **Federal Register** if [s]he determines (A) that miners are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful, or to other hazards, and (B) that such emergency standard is necessary to protect miners from such danger.

2. A temporary mandatory health or safety standard shall be effective until superseded by a mandatory standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

3. Upon publication of such standard in the **Federal Register**, the Secretary shall commence a proceeding in accordance with section 101(a), and the standards as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a mandatory health or safety standard under this paragraph no later than nine months after publication of the emergency temporary standard as provided in paragraph (2).

An ETS is an extraordinary measure provided by the Mine Act to enable MSHA ''to react quickly to grave dangers that threaten miners before those dangers manifest themselves in serious or fatal injuries or illnesses.'' S. Rept. 181, 95th Cong., 1st Sess. 23 (1977). Additionally, ''* * * once the Secretary has identified a grave danger that threatens miners the Committee expects the Secretary to issue an emergency temporary standard as quickly as possible, not necessarily waiting until [she] can investigate how well that grave danger is being managed or controlled in particular mines.'' *Senate Report at 24.* An ETS takes effect upon publication in the **Federal Register**, and is a fully enforceable standard.

To assure the comprehensive protection of miners, the ETS authority applies to all types of grave dangers without qualification. The legislative history of the Mine Act emphasizes that ''to exclude any kind of grave danger would contradict the basic purpose of emergency temporary standards—protecting miners from grave dangers.'' S. Rept. 181, 95th Cong., 1st Sess., 24 (1977). The ETS authority thus covers dangers arising from exposure to toxic or physically harmful substances or agents and to ''other hazards.'' It applies to dangers longstanding or novel, to dangers that ''result from conditions whose harmful potential has just been discovered'' or to which large numbers of miners are ''newly exposed.'' *Id.*

A record of fatalities or serious injuries is not necessary before an ETS can be issued because ''[d]isasters, fatalities, and disabilities are the very thing this provision is designed to prevent.'' *Id.* at 23. At the same time, the legislative history of the Mine Act is clear that an ETS is not limited to new dangers in the mining industry: ''That a danger has gone unremedied should not be a bar to issuing an emergency standard. Indeed, if such is the case the need for prompt action is that much more pressing.'' *Id.* at 24.

When issuing an ETS, MSHA is ''not required to prove the existence of grave danger as a matter of record evidence prior to taking action.'' Id. The legislative history expressly recognizes ''the need to act quickly where, in the judgment of the Secretary, a grave danger to miners exists.'' *Id.* The ETS is a critical statutory tool that MSHA can use to take immediate action to prevent the loss of life in the mines. MSHA accordingly has employed an ETS previously to order ''hands-on'' training for miners in the use of self-contained self-rescue (SCSR) devices, 52 FR 24373 (June 30, 1987), and to order certain training and mine evacuation procedures for underground coal mines, 67 FR 76658 (December 12, 2002).

B. Grave Danger

In response to the recent accidents at the Sago Mine on January 2, 2006 and the Aracoma Alma No. 1 Mine on January 19, 2006, MSHA has determined that new accident notification, safety and training standards are necessary to further protect miners when a mine accident takes place. First, mine operators must immediately notify MSHA within 15 minutes after determining that an accident has occurred so that the coordination of appropriate mine rescue or other emergency response can begin as soon as possible. Such immediate notification will enable help to arrive sooner at the mine, and protect miners from the grave dangers of physical injury and death. Immediate notification of a mine accident to MSHA in emergency situations enables the District Manager to activate the District's emergency response plan. Each Coal Mine Safety and Health District and Metal/Nonmetal Safety and Health District have an emergency response plan which provides for MSHA personnel to perform specific tasks, including the contacting of additional mine rescue teams if needed, issuing a section 103(k) order at the mine, directing MSHA inspectors to the mine site and initiating liaison with MSHA headquarters in Arlington, Virginia. Mine operators who do not immediately notify MSHA of accidents within the 15 minute time period increase the possibility of serious physical injury or death to miners because assistance may not arrive quickly enough. If the nature of the

accident is such that additional mine rescue teams are needed (i.e., to conduct rescue or recovery operations in irrespirable air), MSHA can help in procuring extra mine rescue teams who can provide assistance at the accident site.

Miners working underground when a mine accident occurs must be able to rapidly find lifesaving devices and use those devices to help them prevent injury, evacuate the mine quickly, and save their lives. Access to these devices and techniques for survival (including storage locations of supplemental SCSRs and more frequent training in their use, lifelines, and proper training in mine evacuations) is essential when a miner is underground and a mine fire, explosion, or other type of mine emergency happens. Use of these devices along with proper training will help miners quickly and safely escape from an accident underground, and will help prevent miners from suffering injury and death immediately after the occurrence of a mine accident. The current lack of available supplemental SCSRs, the lack of training in deploying a supplemental SCSR in irrespirable mine atmospheres, and the lack of lifelines in both required underground coal mine escapeways present a grave danger to miners when a fire, explosion, or other mine emergency occurs.

Miners who do not have access to additional SCSRs for escape and training in their deployment, and who do not have lifelines installed in the mine escapeways face a serious risk of physical injury and death from the hazards listed below.

Underground coal mines are dynamic work environments where the working conditions change rapidly and sometimes without warning. Diligent compliance with safety and health standards and safety conscious work habits provide a substantial measure of protection against the occurrence of mine accidents and emergencies. While MSHA has not yet determined the causes of the Sago and Alma mine accidents, in the high hazard environment where coal miners work, the danger of a fire, explosion, or gas or water inundation is always present. Methane gas or coal dust can be ignited by a spark from electrical equipment, resulting in an explosion. Fire can break out on mining equipment, and can rapidly spread to surrounding coal deposits. Fire may also start due to friction points becoming hot on or near conveyor belt systems and rollers underground. Caved or mined out areas which contain coal and accumulated gas can be the locations for explosions caused by rock falls, and in some instances, fires are started by spontaneous combustion. Moreover, when active mines are connected into previously mined out areas, there is also the risk of exposure to an oxygen deficient atmosphere that can cause asphyxiation. Finally, when mining near other mined out areas, there can be a risk of water inundation.

MSHA standards are designed to prevent these types of hazards from developing into catastrophic mine accidents. However, the timing and severity of mine accidents are unpredictable. When they occur, immediate notification of MSHA by the mine operator and additional safeguards installed underground will help miners escape safely. MSHA intends that miners not required to respond to a mine emergency should seek to evacuate areas where accidents have occurred and leave the mine as quickly as possible. This intent is consistent with existing paragraph (a) of 30 CFR 75.1502. These provisions require, first, that the mine operator have procedures for mine emergency evacuations when emergencies present an imminent danger to miners due to fire, explosion, or gas or water inundation and, second, that miners not required for a mine emergency response must evacuate the mine.

The Secretary has determined that miners are exposed to grave danger when a mine accident occurs and the mine operator does not immediately, that is, within 15 minutes, notify MSHA about the accident. Delay in notification may slow down the arrival of mine rescue assistance and the arrival of MSHA personnel who can provide assistance at the mine site. The Secretary has further determined that miners are exposed to grave danger when a mine accident occurs and miners do not have access to supplemental SCSRs for escape; prior training, including drills, in deploying these supplemental SCSRs in irrespirable atmospheres; and lifelines to guide miners through the designated escapeways to escape from the mine. Without these devices and training, miners are exposed to grave danger because they are not prepared and equipped to take action to safely escape from the mine.

IV. Discussion of the Emergency Temporary Standard

A. Background

During the month of January 2006, an explosion at the Sago Mine in Tallmansville, West Virginia resulted in 12 fatalities, and a fire at the conveyor belt drive at the Aracoma Alma Mine No. 1 in Melville, West Virginia resulted in two fatalities for a total of 14 deaths of miners. While the MSHA accident investigations are not complete and accident reports have not been written, MSHA believes that the implementation of this ETS will fill a critical need to improve the ability of underground coal miners to evacuate a mine after a mine emergency occurs.

Even though the MSHA accident investigation for the Sago mine is not yet complete, it is known that one crew successfully evacuated the mine. While the members of the second crew that survived the explosion donned SCSRs, they did not successfully evacuate the mine. Similarly, at the Alma No. 1 Mine, the MSHA accident investigation is not yet complete. While all of the twelve miners affected by the fire donned SCSRs, only ten of them successfully escaped. Two of the 12 miners in the area of the fire did not successfully evacuate the mine. It is not yet known what happened to prevent those two miners from evacuating the mine with the others. MSHA believes that the requirements implemented under this ETS would have provided the deceased miners with the tools and training needed for them to have had a better chance of completing a successful evacuation.

B. General Discussion

1. Part 48—Training and Retraining of Miners and Section 75.1502—Mine Emergency Evacuation and Firefighting Program of Instruction

a. Introduction

The best technology, equipment, and emergency supplies are of little use if they are misused or not used at all. Emergencies can incite disorientation and panic. Quality of judgment in how to proceed in a given emergency can be decisive for survival. Training is critical for instilling the discipline, confidence, and skill necessary to successfully escape and survive an emergency. The ETS enhances existing training requirements to help ensure that underground coal miners can effectively respond and ''know the drill'' to get out of the mine alive.

This ETS modifies various provisions in §§ 48.5, 48.6, 48.8, 48.11, and 75.1502. These modifications provide a more integrated training approach so miners will have the skills to evacuate a mine during an emergency. This enhanced training approach requires more frequent ''hands-on'' training and actual drills in evacuating the mine. In this ETS, MSHA requires that all persons, before entering an underground mine, have the skills to don and transfer

all SCSRs used in that mine. This ETS includes a new provision in §§ 48.5, 48.6, 48.8, and 48.11 to provide the new miner, newly hired experienced miner, and visitors with ''hands-on'' training in the transferring of self-rescue devices in addition to the required ''hands-on'' donning training.

Once a miner starts working in a mine, this ETS requires that the actual ''hands-on'' training for donning and transferring of self-rescue devices becomes part of the actual evacuation drill required in § 75.1502. Because miners will now receive ''hands-on'' SCSR training at least four times a year as part of the evacuation drill required under § 75.1502, they will not be required to receive ''hands-on'' training as part of their annual refresher training under part 48. Also, included in these evacuation drills is the training in the location and use of directional lifelines or equivalent devices, mine emergency scenarios, and stored SCSRs. This ETS requires the mine operator to have the miners walk the escapeways and to physically locate the lifelines and stored SCSRs instead of permitting a simulation drill. Further, the ETS permits the mine emergency evacuation drills in § 75.1502 to satisfy the evacuation practice drill requirements in § 75.383.

Various provisions of §§ 48.5—Training of new miners; minimum courses of instruction; hours of instruction; 48.6—Experienced miner training; 48.8—Annual refresher training of miners; minimum courses of instruction; hours of instruction; and 48.11—Hazard training are affected by this ETS.

Since 1980, each miner working in an underground coal mine has been required to have access to an SCSR that provides at least one hour of oxygen for escape from the mine during an emergency. If an emergency arises, many miners may have to escape through long and difficult underground travelways containing irrespirable air.

MSHA has identified problems related to skill degradation in the use of SCSRs in mine emergencies (described below in the discussion of research and studies). This ETS reflects the Agency's belief that more frequent SCSR training is necessary. There is support in the mining community for more frequent training to improve the miner's ability to properly don the devices and retain these vital skills for longer periods of time.

For instance, MSHA sponsored a Mine Emergency Preparedness Conference in January 1995 to provide a forum for members of the mining community to share their insights and to help shape the future of mine emergency preparedness. Representatives from two major labor unions expressed some doubt that, given the existing levels of training, miners were prepared to escape with the use of SCSRs and that they were already familiar with escape routes. One of the recommendations for further action was that SCSR proficiency could be increased by integrating SCSR training with evacuation and fire drills.

To minimize problems and enhance a coal miner's skill in handling emergency situations, this ETS includes additional training requirements. The new requirements increase the frequency of SCSR training from annually to within every 90 days and include hands-on training in the donning, use, and transfer of self-rescue devices as part of the regular mine emergency drills. These drills also will consist of locating the continuous directional lifelines or equivalent devices and stored SCSRs. Finally, the ETS will allow a mine operator to use the drills required under new paragraph 75.1502(c) to comply with the requirements for drills specified in existing § 75.383. In addition, the ETS permits the mine emergency evacuation drills in § 75.1502 to satisfy evacuation practice drill requirements in § 75.383.

b. Research and Studies

MSHA has identified a number of research studies that support this ETS. In 1990, researchers from the U.S. Bureau of Mines (now the Office of Mine Safety and Health Research, National Institute for Occupational Safety and Health (NIOSH)) and the University of Kentucky concluded a series of studies related to SCSR donning proficiency and use in an emergency. They looked at ''the procedures taught during the training, the use of any training models; the opportunity to practice donning and using the respirator; and on-the-job training.'' The researchers dismissed the notion that SCSRs were simple to don. They concluded that ''companies should adopt a hands-on training protocol that allows them to integrate SCSR donning practice into other workplace routines such as fire [drills]'' (U.S. Bureau of Mines, 1993).

Another U.S. Bureau of Mines study reported that a computer simulation showed that relative survival odds for different mines can vary by as much as 30 percent and that this difference is due to SCSR donning proficiency (Kovac, Vaught, and Brnich, 1990).

MSHA recognizes that with any ''nonroutine'' task, such as donning and transferring of self-rescue devices, knowledge and skill diminish rapidly. The U.S. Bureau of Mines, in a review of literature related to motor skill degradation (1993 BOM Bulletin 695), found that researchers are aware of this problem.

After conducting the series of studies on donning proficiency, the U.S. Bureau of Mines and University of Kentucky researchers also concluded in 1993 that a better training system for donning SCSRs was needed (Vaught, et al., 1993). The ''3+3 donning'' method improved donning proficiency, but did not eliminate the problem of skill degradation. In a field test for this donning method, almost all of the persons who went through the program were able to successfully complete the donning procedures. The ''3+3 donning'' method is a method of learning how to properly don an SCSR and was developed by MSHA and NIOSH. The first ''3'' steps of the method specifically train the user to begin the donning routine by concentrating on the breathing zone. Those steps include activating the oxygen supply, inserting the mouthpiece and affixing the noseclips. The second ''3'' steps involve adjustments to the unit's goggles and neck strap, and the miner's hardhat.

These studies further determined the effectiveness of the ''3+3'' donning procedures and support a need for more frequent training, such as every 90 days. In this study, 88 miners were trained in the ''3+3'' method until they could proficiently don the SCSR. A week after receiving the training, 32 of these miners were randomly selected to test their SCSR donning skills. In this test, most of the miners could still put on an SCSR proficiently. After 90 days, another sample group was chosen for testing. In 90 days the proficiency rate dropped from 80 percent to about 30 percent.

The U.S. Department of Labor Office of Inspector General (OIG) recommended that MSHA review the frequency and type of training required to ensure that miners will be able to effectively use SCSRs in an emergency (OIG, 1999).

Based on skills degradation research supporting additional self-rescue device training, the recommendation of the Inspector General, and past experience where improved training might have made a difference in an escape, MSHA is increasing the frequency of training on SCSRs to within every 90 days. The more frequent training, by reinforcing skills, should substantially reduce motor-skill degradation.

NIOSH has recently provided a guidance document, Informational

Circular 9481 (Fire Response Preparedness for Underground Mines) to the mining industry identifying training techniques that increase skill levels of miners to deal with underground mine fires. An important element in developing skills necessary to react to emergencies is ''hands-on'' training (NIOSH, 2005). This report further identified fire drills required at 90-day intervals as an important part of the mine emergency plan that helps promote confidence in miners by showing them how to handle an emergency situation. Another benefit of the drills the report identified is a test of how effective the mine emergency plan works.

c. Mine Emergency Incidents

In addition to the research, several past incidents have highlighted problems with self-rescue device training in mine emergencies that support the need for an integrated training approach for emergencies. A particularly noteworthy example occurred in 1984 when 27 miners lost their lives in a fire at the Wilberg mine in Orangeville, Utah. The final MSHA accident investigation report states that, ''No apparent attempt was made by the miners in 5th right panel to obtain a SCSR after the first notification of the fire and prior to smoke arriving on the section.'' Also, after retrieving their SCSR devices, some of the miners carried them for a distance before donning them. Had the miners immediately gone to the stored SCSRs when notified of the fire and donned the SCSRs, they would have greatly increased their ability to escape from the fire and exit the mine.

The MSHA investigators reviewed each miner's activities after they were warned of the fire. The report found ''the actions of the victims in obtaining and using self-rescue devices indicate many were not sufficiently instructed to be considered adequately trained in the use of the self-rescue devices.'' Each of the 27 miners had an FSR (filter self-rescuer). Four miners wearing FSRs walked past stored SCSRs in their attempt to escape. They died from lack of oxygen. Three other miners attempted escape with only an FSR and were overcome by carbon monoxide. Six miners first attempted to use their FSRs and then switched to their SCSRs. Four apparently died due to improper donning, removing the mouthpiece, or switching from the FSR to the SCSR. One miner used three SCSRs and almost made it to fresh air; however, he removed his SCSR prematurely. The rest of the deceased miners had not attempted to use either the FSRs or SCSRs (Huntley, et al., 1984). MSHA believes that better training, along with a better location of stored SCSRs could have resulted in a different outcome. Improper training of donning and transferring from one device to another, as well as the use of FSRs in such an environment, contributed to the severity of the disaster.

Based on the findings at Wilberg, MSHA issued an ETS in June 1987. The 1987 ETS required that all training in the use of SCSRs include complete donning procedures. This training was required for any person going underground for the first time and as part of regularly scheduled annual refresher training required by part 48.

In another incident, during the escape from a fire at the Mathies Mine in 1990, seven out of 18 miners removed their SCSR mouthpieces in order to talk or get more comfortable during the escape. Only seven miners donned their SCSRs at the first sign of smoke. One miner took his nose clip off during the escape. Another miner claimed that he could not get enough oxygen from his SCSR (Kovac, Kravitz, et al., 1991). If any of these persons had encountered a toxic atmosphere at the point when they removed their protection, they might have died.

Also, in November 1998, during the escape from the Willow Creek Mine Fire, the two miners that used SCSRs had difficulty starting the oxygen flow of their devices and removed the mouthpieces prior to reaching the main fresh airway. If the carbon monoxide in the mine atmosphere had been higher, the miners that removed their mouthpieces would likely have died. In situations where miners remove the mouthpiece prematurely, additional training will increase knowledge for continuing to use the self-rescue device until escaping into fresh air (Kravitz, 1991).

The recent Sago and Alma Mine accidents convince MSHA that the general situation in underground coal mines is such that additional training must be immediately instituted. In any mine accident, if the miners wait to see or smell smoke before donning their SCSRs it may be too late. In the Sago accident, still under investigation, a miner or miners may not have donned an SCSR because, in the absence of smoke, they may have believed the air was safe to breathe. Training must successfully convey not only how, but also when self-rescue devices must be used in emergency situations. Also, the Sago tragedy points to the necessity of increased availability of SCSRs so that miners can survive in toxic air for more than one hour. As self-rescue devices are usually good for one hour, this means that miners must have the skill to transfer from one self-rescue device to another.

Based on incidents during these recent mine emergencies and MSHA's experience with other self-rescue device training related problems, additional training in donning, using, and transferring self-rescue devices is needed to protect miners. MSHA believes that more frequent training in donning and using self-rescue devices is needed to adequately protect miners. The new and expanded training requirements in this ETS increase the donning frequency and emphasize the proper use of SCSRs.

The ETS also enhances the requirements for evacuation drills by requiring these drills not be simulations, but must involve physically traveling from the working section, or the miner's work station, to the surface or the exits at the bottom of the shaft or slope. These drills include miners donning and transferring self-rescue devices. MSHA requests comment about whether miners should be required to walk the escapeway rather than use mechanized transportation during the drills. The drills are to take place at intervals of not more than 90 days. This more frequent retraining represents a distinct improvement over current requirements for annual training.

2. Immediate Notification

This ETS modifies § 50.10—Immediate notification. Existing § 50.10 requires that, if an accident (as defined in paragraph (h) of § 50.2) occurs, the operator must immediately contact MSHA. While the basic notification requirement in existing § 50.10 is straightforward, precisely what constitutes ''immediately contact'' is not addressed. The Federal Mine Safety and Health Review Commission (Commission) has observed that ''immediately'' is a term of common usage but that the application of the current requirement must be evaluated on a case-by-case basis. The ETS defines ''immediately'' to mean at once without delay and within 15 minutes.

MSHA was not notified of the Sago Mine accident until approximately two hours after the occurrence of the accident. While that delay is under investigation and it is unclear whether the delay played any role in the fatalities due to the high levels of methane and carbon monoxide which prevented immediate entry by rescuers, the lack of timely notification of an accident can play a lethal role resulting in grave consequences for miners caught underground in a mine emergency. In

light of the Sago accident, MSHA reviewed the violation and case history for § 50.10. There have been a number of cases where operators failed to immediately contact MSHA, were cited and ordered to pay a penalty after contesting the citations before the Commission.

Operator notification to MSHA in the event of a mine accident is vital to enable the Agency to effectively respond in emergency or potentially life threatening situations. Notification alerts the Agency so that accident investigations and assistance to trapped or injured miners can be initiated. MSHA is particularly concerned that failure to immediately notify the Agency of mine emergencies can cost lives by delaying rescue services. In defining ''immediately,'' the ETS emphasizes the urgency of notification and makes it clear to mine operators what is expected of them.

3. Escapeways in Underground Coal Mines

MSHA has included new provisions, new paragraph (d)(7) under § 75.380 and new paragraph (c)(5) under § 75.381, that require the use of directional lifelines in both the primary and alternate escapeways. MSHA believes that this new rule provides greater protection than any existing state requirements. A directional lifeline is most likely a rope made of durable material, though it could also be an equivalent device, such as a pipe or handrail; marked with a reflective material every 25 feet; located in such a manner for miners to use effectively to escape; and have directional indicators, signifying the route of escape, placed at intervals not exceeding 100 feet. The 1994 Final Report of the Department of Labor's Advisory Committee on the Use of Air in the Belt Entry to Ventilate the Production (Face) Areas of Underground Coal Mines and Related Provisions (Advisory Committee) recommended the installation and maintenance of lifelines in all underground coal mines, whether belt air was in use at the mine or not.

The Advisory Committee recommendation specified that lifelines had to clearly designate the route of escape. Discussion in the Advisory Committee's report suggested the use of directional cones to increase the effectiveness of lifelines. MSHA solicited information from the public concerning the use and maintainability of lifelines in the belt air proposed rule (64 FR 17480). Many commenters, including NIOSH, commented that lifelines can improve the likelihood of escape from mine fires and suggested that MSHA consider an additional requirement for the installation of lifelines in all escapeways, not just alternate escapeways in return air courses at mines using belt air. These commenters maintained that, due to the lack of visibility, lifelines were necessary to escape a smoke-filled atmosphere.

Overall, the commenters to the belt air rule stated that lifelines could be useful in helping miners escape to the surface of the mine when smoke-filled atmospheres are present. After further review of the petitions for modifications previously granted to allow the use of belt air, reviewing the comments on lifelines, and researching state regulations regarding lifelines, MSHA agreed with the commenters that lifelines can aid in escape during emergency situations, especially in instances of reduced visibility due to smoke. In heavy smoke, a miner can easily become disoriented and cannot determine the proper direction for escape. A directional lifeline gives the miner added safety by directing the miner through the smoke-filled entries to safety. As a result of the ''belt air'' rulemaking, the Agency included paragraph (n) of § 75.380 and required the use of lifelines in alternate escapeways located in return air courses in mines using belt air (69 FR 17480).

Three states, Kentucky, West Virginia, and Virginia have required lifelines in underground coal mines (Ky.Rev.Stat.Ann. § 352.135; W.Va. Code § 22A–2–60, paragraph (b); Va. Code § 45.1–161.166, paragraph (b)) for many years. These state statutes require the use of directional durable lifeline cords; either in the primary or alternate escapeway.

4. The Need for Additional Self-Contained Self Rescuers

MSHA has included new § 75.1714–4 requiring the mine operator to provide at least one additional self-contained self rescuer (''SCSR'') that provides protection for a period of 1 hour or longer to cover the maximum number of persons in an underground coal mine. Since 1980, each person working in an underground coal mine has been required to have immediate access to an SCSR. SCSRs are devices which aid in the escape from mine fires, explosions, and other incidents where an irrespirable mine atmosphere is present. An SCSR is a closed-circuit breathing device that contains an independent supply of oxygen. Because SCSRs function in a closed circuit, they enable persons to breathe clean air in the presence of hazardous or life-threatening contaminants in the mine atmosphere.

Contaminated air in underground coal mines is usually the result of an explosion or mine fire which is an ever-present threat in that inherently dangerous environment. For example, in January 2006, the explosion at the Sago Mine and the mine fire at the Aracoma Alma No. 1 Mine filled the atmosphere at both mines with smoke and other contaminants. In addition to smoke, the contaminated air at both of these mines contained carbon monoxide, methane, carbon dioxide, and other products of combustion. This contaminated air may have also contained chlorine; hydrogen cyanide; isocyanates; oxides of nitrogen; and sulfur. Such contaminants are more complex and potentially more harmful than the ordinary combustion products of coal fires. The contaminants are the result of a wide variety of materials that are usually present in the mine, such as rubber conveyor belts, plastics, polyurethane, insulation, combustible liquids including hydraulic fuels and lubricants, and cable coverings. Depending on the nature of the material exposed to the fire or heat, very complex and toxic decomposition products can result. The combination of contaminants can be more hazardous than the individual contaminants alone.

MSHA's records show that 56 underground coal mine fires, with a duration greater than 30 minutes, and five explosions have been reported to MSHA during the ten-year period from February 1, 1996 to February 1, 2006. During that same period explosions resulted in the deaths of 31 coal miners, and fires resulted in two deaths. Although mine fires that last less than 30 minutes do not have to be reported to MSHA, the Agency has anecdotal reports that such fires commonly occur. Mine fires, ignitions, and explosions, regardless of duration, can present a grave potential hazard to underground coal miners due to the thick smoke, toxic atmosphere, and limited visibility that often results from these events.

In addition to reportable coal mine fires, operators have reported numerous unplanned ignitions of methane. During the ten-year period from February 1, 1996 to February 1, 2006, the coal mining industry reported approximately 650 ignitions. Each of these ignitions had the potential to result in a mine fire or explosion which would release hazardous or life threatening contaminants into the mine atmosphere.

Potentially explosive methane is naturally present in underground coal mines and can ignite when an ignition source is present. Combustible dusts, including material brought into a mine,

can smolder and eventually catch fire when near a source of heat. There are numerous ignition sources present underground. For example, belt lines, trolley wires, roof falls, diesel powered equipment, battery operated equipment, charging stations, and other forms of electrical equipment are prevalent underground and can be the source of an ignition. In addition, coal can undergo spontaneous combustion and burn.

In 1998, MSHA inspectors conducted a self-rescue device survey at each underground coal mine to determine the type and quantity of self-rescue device protection used in the coal mining industry. As part of this survey, the inspectors collected information about escape conditions, such as the height of the escapeways and the distance from the working sections to the surface or designated safe location. Based on the mine height and distance data obtained from this survey, MSHA concluded that there were approximately 234 coal mines where it would take miners more than one hour to reach the surface. In addition, in 76 of the 234 coal mines, miners would require more than two hours of travel time to reach the surface. Existing § 75.1714 only requires that each miner and visitor to an underground coal mine be supplied with one SCSR that is adequate to provide protection from contaminated air for one hour or longer. The results of MSHA's 1998 survey show that there is a need to have SCSR devices, in addition to the single SCSR device required by existing § 75.1714, stored in the mine so that all miners would have an air supply sufficient to safely exit the mine in the event of an accident or emergency.

While some miners were able to successfully don and escape the mine using their SCSR after the explosion at the Sago Mine and the mine fire at the Aracoma Alma No. 1, other miners equipped with only one SCSR did not safely evacuate the mines, which were filled with thick, smoky, contaminated air. An explosion or mine fire creates a thick, smoke-filled atmosphere in the mine which hampers a miner's ability to quickly evacuate because miners may panic or become disoriented. If an accident occurs or an emergency arises, such as the recent Sago mine explosion or the Alma No. 1 Mine fire, miners may have to escape through long and difficult underground travelways containing irrespirable air. During an accident or emergency requiring evacuation through a hazardous environment, SCSRs are the last line of defense for any miner in the mine. If an adequate number of SCSRs is not readily available, the chance of survival during an emergency or accident is greatly diminished.

To further assist all miners to evacuate the mine safely, in addition to the SCSR that is now required by the existing standards, this new section requires the mine operator to provide at least one additional SCSR for each person who is underground. The additional SCSR will provide protection for a period of one hour or longer to cover the maximum number of miners in the mine. Thus, each miner or person underground will have the SCSR that is traditionally carried with him or her and an additional SCSR device readily accessible. The requirement for additional SCSRs will greatly enhance the ability of all miners to safely exit from the mine in an accident or emergency. Further, all miners not required to respond to the mine emergency will be encouraged to evacuate knowing that an additional supply of oxygen is available. This result is consistent with MSHA's intent that miners not needed to respond to the mine emergency, evacuate the mine as quickly as possible. For those mines where the one required SCSR plus one additional required SCSR are not adequate to provide enough oxygen to all persons for a safe evacuation, the mine operator will provide additional SCSRs in the primary and alternate escapeways under an ''outby SCSR storage plan.''

5. Timeframe for Implementation

This ETS is effective immediately. However, various new provisions will require that the mine operator develop new plans or purchase new equipment. This section of the preamble explains the implementation of this ETS.

A new paragraph (p) is added to § 48.3 requiring the mine operator to submit a revised training plan under part 48 to the appropriate District Manager for approval no later than April 10, 2006. The operator must train in accordance with the revised training plan within 2 weeks of plan approval. This provision is consistent with the new paragraph 75.1502(d) requiring a revised program of instruction.

The underground coal operator must submit to the District Manager for approval a revised training plan for part 48 and a revised program of instruction for § 75.1502 to incorporate the ETS-required changes by April 10, 2006. Although equipment required by paragraphs 75.380(d)(7) and 75.381(c)(5), and § 75.1714–4, may not be available immediately, any new or revised training plan and program must address training for this equipment.

MSHA will accept as good faith evidence of compliance, purchase orders or contracts to buy lifelines or SCSRs. MSHA will work with lifeline and SCSR manufacturers to facilitate implementation of these ETS requirements and encourage manufacturers to provide realistic delivery dates. MSHA expects that mine operators will have purchase orders or contracts completed within 30 days of the effective date of this ETS. Installation of such equipment must be completed as soon as possible after delivery.

No later than 2 weeks after receiving approval for the part 48 training plan modification, the operator must train in accordance with the newly revised plan.

The ETS adds new paragraph (d) to § 75.1502 to require each underground coal operator, subject to the Emergency Temporary Standard effective March 9, 2006, to submit for approval a revised program of instruction to the appropriate District Manager no later than April 10, 2006. Within 2 weeks of program approval the operator must train in accordance with the revised program. This change is consistent with the requirement for submitting a revised plan under new paragraph (p) of § 48.3.

MSHA acknowledges that there may be a delay in the ability of mine operators to train miners on transferring from one SCSR to another SCSR since SCSR training units may not be available. Otherwise, MSHA expects mine operators to comply with all of the training requirements. For instance, SCSR donning can be included with the mine emergency drills and the drills themselves can include traveling the primary or alternate escapeway, from the working section or the miner's work station, to the surface or the exits at the bottom of the shaft or slope. Also, miners can be taught the correct actions to take based on different mine emergency scenarios which would require the miner to immediately don a self-rescue device.

C. Section-by-Section Discussion

1. Part 48—Training and Retraining of Miners

The ETS makes a number of non-substantive organizational changes to clarify existing provisions or to accommodate new or moved provisions. These non-substantive changes retain the substantive requirements in existing standards. Non-substantive changes to 30 CFR part 48 include:

Organizational changes to existing paragraphs 48.5(b)(2), 48.6(b)(12), 48.8(b)(8), and 48.11(a)(4) by adding a separate listing for training in donning

(paragraph i) and new training in transferring self-rescue devices (paragraph ii).

Adding the term ''hands-on'' to the detailed description of *Self-Rescue and Respiratory Devices* training in existing §§ 48.5, 48.6, and 48.11, and paragraph 48.8(b)(8). This further clarifies the SCSR training requirements and is consistent with the new provision on transferring from self-rescue device to self-rescue device.

a. Section 48.3—Training Plans; Time of Submission; Where Filed; Information Required; Time for Approval; Method for Disapproval; Commencement of Training; Approval of Instructors

A conforming change is made to existing paragraph (a) to include the exception of the new paragraph (p). The language now reads, ''[e]xcept as provided in paragraphs (o) and (p) of this section, each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:''.

A new paragraph (p) is added to this section requiring the mine operator to submit a revised training plan under this part 48. This revised plan shall be submitted to the appropriate District Manager for approval no later than April 10, 2006. Within 2 weeks of plan approval, the operator must train miners in the new training plan requirements. This provision is consistent with the new provision for a revised program of instruction for paragraph 75.1502(d) with a revised training plan.

b. Section 48.5—Training of New Miners; Minimum Courses of Instruction; Hours of Instruction and Section 48.6—Experienced Miner Training

This ETS makes identical changes to § 48.5—Training of new miners; minimum courses of instruction; hours of instruction, and § 48.6—Experienced miner training. These changes are necessary to conform and align the training requirements in 30 CFR part 48 with the emergency evacuation and related requirements being added to 30 CFR part 75. These regulatory changes do not reduce protection for miners.

1. Self-Rescue and Respiratory Devices: Paragraphs 48.5(b)(2) and 48.6(b)(12).

Specifically, MSHA is amending paragraphs 48.5(b)(2) and 48.6(b)(12) by including language that the complete donning of self-rescue devices must include a requirement for actual ''hands-on'' practice in transferring from self-rescue device to self-rescue device. This change parallels changes in 30 CFR part 75 requiring all persons in an underground coal mine to have at least one additional self-rescue device available for escape during a mine emergency. It also ensures that new or newly employed experienced coal miners have the skill to not only use a self-rescue device, but also to transfer from self-rescue device to self-rescue device, before they begin work underground. They may need this skill if a mine emergency occurs before they are able to participate in a mine emergency evacuation drill. This added requirement enhances protection for miners. This training is critical and it is important that the training models used for the donning and transferring exercises are the same type(s) and model(s) of self-rescue devices in use at that mine.

2. Mine map; escapeways; emergency evacuation; barricading: Paragraphs 48.5(b)(5) and 48.6(b)(5).

This ETS also amends paragraphs 48.5(b)(5) and 48.6(b)(5) by adding a reference to the requirements for emergency evacuation plans in existing paragraph 75.1502(a) for underground coal mines and § 57.11053 for underground metal and nonmetal mines. The existing requirements for the initial training of miners requires a review of the mine map, escapeway systems, and the mine emergency evacuation plans in effect at the mine. Referencing the appropriate standards allows MSHA to incorporate the added and expanded ETS requirements in existing paragraph 75.1502(a), including scenarios and actual practice, into the initial training of coal miners without affecting the training program for metal and nonmetal miners. This added requirement improves protection for miners by requiring scenarios to be developed and used in the actual quarterly drills. This will give miners better information to prepare them to successfully evacuate the mine. The requirements in this ETS only apply to underground coal mines because only underground coal mines are required to provide all persons with SCSR devices.

3. Participation in evacuation drills: New paragraphs 48.5(e) and 48.6(f).

This ETS also amends § 48.5 and § 48.6 by adding new identical paragraphs 48.5(e) and 48.6(f) requiring new or newly employed experienced coal miners to participate in the next drill as required in existing paragraph 75.383(b) or newly amended paragraph 75.1502(c), whichever occurs first. This will ensure that newly hired miners will be included in the next drill at the mine. MSHA believes that regular and frequent participation in the emergency evacuation drills will reinforce the miners' knowledge and skill for responding appropriately to a mine emergency and lessen the disorientation and panic that may cause the miner to make wrong decisions.

MSHA chooses to require the new or experienced underground coal miner's participation in the evacuation drills under the requirements in 30 CFR part 75 rather than as part of the initial training under 30 CFR part 48. Initial miner training is reinforced by the experience of traveling the escapeways to the surface or bottom of a shaft or slope, and physically locating directional lifelines or equivalent devices and stored SCSRs. This added requirement increases protection for miners because the frequency of drills is increased from one time per year under this part to four times per year under § 75.1502 and ensures that miners receive training at the next underground drill.

c. Section 48.8—Annual Refresher Training of Miners; Minimum Courses of Instruction; Hours of Instruction

Underground coal miners will receive refresher training on their SCSR skills at least every 90 days because this ETS adds the requirement for ''hands-on'' SCSR training during the drills required by § 75.1502. For this reason, the requirement for training in donning self-rescue devices under existing paragraph 48.8(b)(8) is being modified to included transferring from one self-rescue device to another device for underground coal miners. New language in this section allows underground coal miners to satisfy the requirements of new paragraphs 48.8(b)(8)(i) and (ii) by participating in the emergency evacuation drills required by § 75.1502. This added requirement enhances protection for miners because it increases the frequency of training.

d. Section 48.11—Hazard Training

This ETS adds a new requirement for ''hands-on'' training in transferring from self-rescue device to self-rescue device to the existing requirement for donning a self-rescue device in paragraph (a)(4) of existing § 48.11. It also identifies the donning requirement as paragraph (a)(4)(i) and the transfer requirement as paragraph (a)(4)(ii). This additional requirement reinforces MSHA's belief that all miners and visitors need to know how to transfer from one self-rescue device to another. This added requirement enhances protection for miners or visitors. The ETS does not change the existing requirement that all

miners and visitors receive training in the donning of all types of SCSRs.

2. Part 50—Notification, Investigation, Reports, and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines

Section 50.10—Immediate Notification

The ETS incorporates a definitive standard into § 50.10 of what is meant by ''immediately contact.'' The ETS provides that the contact is to be done ''at once without delay.'' These terms reflect the ordinary meaning of ''immediately'' and are taken from definitions found in Webster's Third New International Dictionary (Unabridged)(1986 ed.) and the Random House Dictionary of the English Language (Unabridged)(2d ed. 1987). In discussing the meaning of ''immediately,'' the Commission has cited these dictionary sources. *See, e.g., Consolidation Coal Co., 11 FMSHRC 14 1935 at 1938 (October 31, 1989).* The ETS further specifies that the notification must be done ''within 15 minutes.'' This sets a maximum time within which the contact must be made. MSHA believes that 15 minutes is a reasonable time to access a telephone or other means of communication and place a contact call to the Agency. Fifteen minutes or a quarter of an hour is a concept that is easily remembered even in times of stress. To comply with the ETS then, an operator must act right away as circumstances permit and such action must take place within 15 minutes.

The 15 minute time period begins when the mine operator determines that an accident has occurred. MSHA is aware, however, that there are occasions, especially immediately after an explosion or fire, when mine communications may be lost and it may take some time to re-establish contact and communicate that an accident has occurred. The ETS recognizes that such circumstances may occur by providing that when communications are lost due to emergency or other unexpected event, the operator must notify MSHA at once without delay and within 15 minutes of having access to a telephone or other means of communication. It is expected that the operator will be diligent in attaining access to a telephone or other communication means under such circumstances.

Under the MSHA system for receiving notification, a call to the MSHA district office having jurisdiction over the mine may be forwarded to an answering service that gives the mine operator other numbers to call to personally reach district officials. Once an official is reached, the agency is notified. Alternatively, the MSHA Headquarters 800 toll-free line has a 24 hour, 7 day per week answering protocol so that once the call is placed, the agency is notified.

MSHA reviewed contest cases concerning § 50.10, and the Agency's enforcement experience, to determine why some mine operators may not immediately notify the Agency. One reason is that the notification is made only after being processed through a chain of command at the mine. Another reason is a tendency to try to take care of an incident before it becomes a reportable accident. Yet another reason may be grounded in the very human propensity to focus exclusively on evacuation and mine emergency response in the wake of a mine emergency. Taking too much time to determine whether, in fact, an accident occurred which would trigger notification to MSHA, is another reason. Yet another reason is ignorance of the law. The ETS is intended to impress upon mine operators that notification is urgent and must be made a priority. Therefore, the ETS enhances protection to miners, and certainly does not reduce that protection.

The ETS does not change the basic interpretation of § 50.10. By the terms of the provision, an operator is required to notify MSHA only after determining whether an ''accident'' as defined in existing paragraph 50.2(h) has occurred. This affords operators a reasonable opportunity to investigate an event prior to notifying MSHA. That is, mine operators may make reasonable investigative efforts to expeditiously reach a determination. In that way an operator is responsible for immediately notifying MSHA about those accidents that the operator knows or should know about. Thus § 50.10, in the words of the Commission, ''[s]hould be carried out in good faith and without delay, and in light of the regulation's command of prompt, vigorous action.'' It is important that notification be sufficient so that the Agency is actually put on notice as to what happened. MSHA invites comment on whether § 50.10 should be further amended to require that the notification specify the type of accident per existing paragraph 50.2(h) and pertinent details.

As discussed above, immediate notification hinges on the occurrence of an ''accident.'' Existing paragraph (h)(6) of § 50.2 defines ''accident'' to include ''an unplanned mine fire not extinguished within 30 minutes of discovery.'' MSHA believes there are situations in the mines that involve more than one fire or a smoldering condition at a particular place. Each episode of flame or smolder may have been extinguished within 30 minutes.

The Agency is concerned that such events may represent a serious or potentially serious hazard, and should be reported as an ''accident'' and subject to the immediate notification requirement of § 50.10. It was reported in the press that there had been a fire previously at the same spot along the beltline at the Aracoma Alma No. 1 Mine and that the belt had been ''running hot for days'' before the fire that caused the fatalities on January 23, 2006. MSHA is considering revising the definition under existing paragraph (h)(6) of § 50.2 in the final rule after considering comments submitted about this definition. MSHA invites comments on whether a revision, for example, should cover all unplanned underground mine fires, or all unplanned underground fires of particular types, duration or occurrences at particular locales. MSHA solicits comments on whether and how the definition of ''accident'' in paragraph 50.2(h)(6) should be revised to accurately take into account the fire hazards that miners face.

3. Part 75—Mandatory Safety Standards—Underground Coal Mines

a. Section 75.350—Belt Air Course Ventilation

A conforming change is made to existing paragraph (b) of § 75.350 by removing paragraph (b)(7) since existing paragraph 75.380(n) is also being removed. This change enhances safety protection for miners since lifelines will now be required not only in the return entries when used as alternate escapeways; but in all primary and alternate escapeways.

b. Section 75.380—Escapeways, Bituminous and Lignite Mines and Section 75.381—Escapeways; Anthracite Mines

The ETS includes new provisions, paragraph (d)(7) of § 75.380 and paragraph (c)(5) of § 75.381, that require the use of directional lifelines in both the primary and alternate escapeways for underground bituminous, lignite, and anthracite coal mines. These lifelines will clearly designate the escape route that miners should take to evacuate the mine quickly when an accident occurs. These requirements replace existing paragraph 75.380(n) (which is removed for bituminous and lignite mines) and include a new requirement under § 75.381 for anthracite mines. Removed paragraph 75.380(n) only applied to alternate

escapeways located in return air courses in mines using belt air under the ''belt air rule'' (69 FR 17480). This ETS enhances protection to miners because it broadens the requirements for lifelines to both the primary and alternate escapeways in every underground coal mine.

New paragraphs 75.380(d)(7) and 75.381(c)(5) require that each escapeway be provided with a continuous directional lifeline or equivalent device and further require that it be installed and maintained throughout the entire length of the escapeway as defined in existing paragraph 75.380(b)(1) or 75.381(b) as applicable; be made of durable material; be marked with reflective material every 25 feet; located in such a manner for miners to use effectively to escape; be equipped with directional indicators showing the route of escape; and be attached to and mark the location of stored SCSRs.

Existing paragraphs 75.380(d)(2) and 75.381(c)(2) provide that each escapeway shall be clearly marked to show the route [and direction] of travel to the surface. While such markings are beneficial, they are not always effective, particularly under some adverse conditions such as the presence of thick smoke which significantly reduces visibility. MSHA records also indicate that mine operators are frequently cited for violating existing paragraphs 75.380(d)(2) and 75.381(c)(2). Failure to provide or maintain these markings increases the probability of miners becoming disoriented during an attempt to evacuate a mine under adverse conditions. When directional lifelines are installed in the escapeways, miners will not be solely dependent upon markings in the escapeway to show the route and direction of travel to the surface.

The ETS provisions relating to lifelines are the same for both underground bituminous and lignite mines (§ 75.380) and anthracite mines (§ 75.381). Each provision will be discussed as it applies to both §§ 75.380 and 75.381.

The first provision, paragraph (d)(7)(i) of § 75.380 and paragraph (c)(5)(i) of § 75.381, requires that lifelines be installed and maintained in both escapeways leading from the working sections or areas where mechanized mining equipment is being installed or removed. The lifelines must be continuous to the surface escape drift opening, continuous to the escape shaft or slope facilities to the surface, or continuous from each working section to the surface, as applicable. This provision is based on language that describes escapeways in existing paragraphs 75.380(b)(1) and 75.381(b). Requiring lifelines in both escapeways will increase the probability of escape in the event that either is impassable or unreachable.

The second provision, paragraph (d)(7)(ii) of § 75.380 and paragraph (c)(5)(ii) of § 75.381, requires that lifelines be made of a durable material so that they are resistant to damage. This provision is based on language in removed paragraph (n)(2) of § 75.380. Lifelines must be constructed of durable (strong) materials and must survive normal mining conditions (*e.g.*, atmospheric conditions such as humidity). They must be available in an emergency when miners need them to evacuate the mine. In addition, lifelines must also be sturdy enough to withstand intense physical use during an evacuation.

The third provision, paragraph (d)(7)(iii) of § 75.380 and paragraph (c)(5)(iii) of § 75.381, requires that the lifelines be marked with a reflective material every 25 feet, so that miners can locate the lifeline using their cap lamps in low-visibility conditions and when smoke is present. This provision is based on language that describes lifelines in removed paragraph (n)(3) of § 75.380.

The fourth provision, paragraph (d)(7)(iv) of § 75.380 and paragraph (c)(5)(iv) of § 75.381, provides that lifelines be positioned in such manner that miners can use them effectively to escape. This provision is based on language that describes lifelines in removed paragraph (n)(4) of § 75.380. The proper positioning of the lifeline regarding height, accessibility, and location as determined by the mining conditions improves the ability of miners to effectively use lifelines to escape during emergency situations.

The fifth provision, paragraph (d)(7)(v) of § 75.380 and paragraph (c)(5)(v) of § 75.381, provides that lifelines contain directional indicators, signifying the route of escape, placed at intervals not to exceed 100 feet. This provision is based on language that describes lifelines in removed paragraph (n)(5) of § 75.380. These directional indicators are physical objects, such as, but not limited to, cones, that provide tactile feedback to a miner attempting to escape a dark, smoke-filled environment. During escape when visibility is low, the directional indicators will enhance the ability of miners to escape by quickly indicating the proper direction of travel.

Currently, some mines place prefabricated directional lifelines in escapeways, using cones to show the direction of escape. NIOSH publications discuss the design of a particular lifeline construction (75-foot cone spacing) and NIOSH recommends installation of double-cones at obstructions to alert miners of personnel doors, overcasts, belt crossings, etc. However, NIOSH did not recommend an interval for directional cone spacing. MSHA experience in training miners at the Mine Simulation Laboratory in Beaver, West Virginia, indicates that the directional cone spacing interval needs to be variable, due to variation in conditions found in return entries, including overcasts and undercasts and turns. The new standard requires the interval spacing will never exceed 100 feet, but may be shorter depending upon entry conditions, as determined by the mine operator as mine conditions warrant.

The sixth provision, paragraph (d)(7)(vi) of § 75.380 and paragraph (c)(5)(vi) of § 75.381 requires that the lifeline be securely attached to, and marked to show the location of, all SCSR storage locations in the escapeways. This provision is new and directs escaping miners to SCSR storage locations that are required by the new provision, paragraph 75.1714–4(c). Miners escaping a mine under adverse environmental conditions may need to access additional SCSRs in order to successfully evacuate the mine. This requirement, and new paragraph 75.1714–4(e) that requires a reflective sign to be posted, will enable persons to quickly locate additional SCSRs.

MSHA also requests comments about whether miners should have the ability to tether themselves together during escapes through smoke-filled environments. Mine rescue teams currently use tethers (lifelines) to attach to each rescue team member to keep the group together when they enter smoke filled environments. What length of tether between miners should be required? Should the tether be composed of separate sections that clip together to allow any number of miners to be attached? How should the tether be attached to the miners' belts, or should there be a place other than the miners' belts to attach the tether to the miners? Should the tether be constructed of durable and/or reflective material? Where should the tether be stored on the section? Should it be stored with the additional SCSRs in a readily accessible and identifiable location, or in a separate location?

c. Section 75.383—Escapeway Maps and Drills

The ETS removes existing paragraph (c) from § 75.383. Existing paragraph 75.383(c) allows the operator to use the

escapeway practice drills to comply with the requirements of paragraph 75.1502(c). Because MSHA increased the requirements in the evacuation drills in § 75.1502, drills conducted under § 75.383 will no longer satisfy paragraph 75.1502(c). A new paragraph, 75.1502(c)(4), allows the operator to use drills defined in paragraph 75.1502(c) to comply with the requirements of drills specified in § 75.383. This change enhances protection to miners because the ETS expands the content of the drills under paragraph 75.1502(c) to include donning and transferring of self-rescue devices, locating directional lifelines and equivalent devices, and physically traveling to the surface or exits of the bottom of shafts or slopes.

d. Section 75.1502—Mine Emergency Evacuation and Firefighting Program of Instruction

The ETS makes a number of non-substantive organizational changes to clarify existing provisions or to accommodate new or moved provisions. The ETS adds paragraph headings and realigns paragraph numbers in § 75.1502 to make it easier to find and understand specific requirements. Existing language in paragraph 75.1502(c) ''which shall be held at periods of time so as to ensure that all miners participate in such evacuations at intervals of not more than 90 days'' is moved to 75.1502(c)(1). In addition, the ETS moves existing paragraph 75.1502(c)(1) to 75.1502(c)(3), and emphasizes the requirement in existing 75.1502(c)(1) that the mine operator certify which miners have completed the training. This certification includes the names of the miners participating in each drill. Also, this ETS adds ''and materials'' to the term ''firefighting equipment'' in existing paragraph 75.1502(a) to 75.1502(a)(1)(vi) clarifying that materials, such as water and rock dust, are also important for fighting fires.

This ETS modifies existing paragraph (a) of § 75.1502 by adding new requirements in the mine emergency evacuation and firefighting program. The new provisions do not reduce the protection afforded miners because MSHA has enhanced the requirements in the program of instruction to assist the miner in handling mine emergencies.

For organizational purposes, MSHA added eight requirements to paragraph 75.1502(a)(1). Three of these paragraphs specify new requirements. Five of the paragraphs retain existing provisions: (a)(1)(i), (a)(1)(iii), (a)(1)(iv), (a)(1)(v), and (a)(1)(vi).

New paragraph (a)(1)(ii) of § 75.1502 requires operators to develop scenarios for mine emergencies, including fires, explosions, or gas or water inundations, and develop best options for evacuation under each type of emergency. This requirement further emphasizes that operators must include immediate donning of self-rescue devices in these scenarios.

Under new paragraph (a)(1)(vii) operators are required to include instruction in locating and using continuous directional lifelines or the equivalent. The instruction is added to cover the new requirements for lifelines.

New paragraph (a)(1)(viii) of § 75.1502 requires the operator to provide, in the plan, instructions for training in locating and using SCSRs. The operator is required to specify the quantity and types of self-rescue devices to ensure that appropriate training is provided.

These changes are necessary to require training in the proper use of equipment in mine emergencies, because of the additional requirements added to other sections in the ETS.

Existing paragraph 75.1502(a)(1)(vii) is modified to include training in the location and use of continuous directional lifelines or equivalent devices. MSHA includes this additional requirement in the training program to ensure that miners are properly trained to locate and use these additional escape devices. This increases the miners' options for escape.

New paragraph 75.1502(a)(2) is added to require operators to designate persons with the appropriate abilities, training, knowledge, or experience to provide training and conduct § 75.1502-required drills. MSHA experience indicates that effectively trained miners are more likely to retain their skills when they are needed during an emergency. A key component of effective training is the instructor's ability to train and evaluate performance. This is important to ensure that the miner is properly trained on donning and transferring of self-rescue devices.

Some of the existing language in paragraph 75.1502(a) is moved to paragraph 75.1502(a)(3) to require the operator to submit a program of instruction, with any revisions, for approval to the District Manager of the Coal Mine Safety and Health district in which the mine is located. Before implementing any new or revised approved plan provision, the operator must instruct miners in the changes.

New paragraph 75.1502(c)(2) is added to enhance the mine evacuation drill to require miners to travel the primary or alternate escapeways to the surface or bottom of a shaft or slope. Further, language was added to require that the drill be conducted in a different escapeway than the previously conducted drill. This requirement is added to ensure miners are familiar with all the possible escapeways in the event their primary escape route is impassable. This provision emphasizes that the existing standard means a practice drill. This change ensures miners will engage in a practice drill.

The ETS adds paragraph (c)(2)(i) of § 75.1502 requiring training on directional lifelines or equivalent devices and stored SCSRs. This is based on the new ETS requirements for lifelines and additional stored SCSRs. This training is included in emergency drills to ensure that miners are able to locate and use the lifelines and additional SCSRs.

The provision from paragraph (b)(8) of § 48.8 requiring complete donning procedures of SCSRs is added in new paragraph (c)(2)(ii) of § 75.1502. Adding this provision into § 75.1502 increases the frequency of the SCSR training from once per year to at least four times per year. A reason for including this training within the mine evacuation drill is to provide a more realistic training environment. This training, when integrated with the other components of the drill, will provide the miner with a complete experience of an emergency situation.

Drills may further provide a more realistic emergency evacuation practice. For example, conducting the drill in smoke or using a realistic mouthpiece that provides the user with the sensation of actually breathing through an SCSR, commonly referred to as ''expectations'' training, is more realistic than simulation training. MSHA is asking for comments and suggestions on alternative realistic emergency evacuation practices to ensure that miners are prepared to act in an emergency.

This requirement for a more realistic training drill is supported by the research discussed in the PW–SCSR Project Final Report, (Kovac and Kravitz, 1991) evaluating the ''3+3'' training method. A total of 185 miners and MSHA inspectors were trained by U.S. Bureau of Mines personnel. The training was provided to the miners on the working section, usually a few crosscuts outby the face. Miners were brought back from the face one at a time for their training. This approach can be used during mine emergency drills to satisfy requirements without disrupting other activities at the mine.

This ETS adds new paragraph (c)(2)(iii) to § 75.1502 to provide hands-on training in transferring from one self-rescue device to an SCSR. MSHA adds this provision to include training to

cover new requirements in paragraph 75.1502(c)(2) and § 75.1714–4. Miners must be trained on all types of self-rescue devices in use at the mine. This training must include experience in transferring from one type of self-rescue device to the same type, as well as to all other types in use at the mine, as applicable.

The ETS adds new paragraph (c)(3) to § 75.1502. Existing paragraph 75.1502(c)(1) is moved to new paragraph 75.1502(c)(3) and the language is amended to emphasize the requirement that mine operators certify, by name, all miners who participated in each emergency evacuation drills. This provides a record of training for each miner. MSHA is soliciting comments on whether such a record of training should include additional information, such as a checklist. The checklist could be used to itemize the successful completion of each step of the training, as outlined in the approved program of instruction.

The ETS adds new paragraph (c)(4) to § 75.1502 to allow the operator to use the mine emergency evacuation drills in this section to satisfy the requirement for practice escapeway drills in paragraph 75.383(b) of this part. See discussion under section-by-section discussion on paragraph 75.383(b).

A new paragraph (d) is added to this section requiring the mine operator to submit a revised program of instruction under this part 75. This revised program of instruction shall be submitted to the appropriate District Manager for approval no later than April 10, 2006. Within 2 weeks of plan approval, the operator must train miners in the revised requirements. This provision is consistent with the new provision for a revised training plan in paragraph 48.3(p).

e. Section 75.1714–2—Self Rescue Devices; Use and Location Requirements

This ETS modifies paragraph (f) of § 75.1714–2 to conform the language to changes in § 75.1714–4. The new provision is that a sign with the word ''SELF–RESCUER'' or ''SELF–RESCUERS'' must be conspicuously posted at each storage place and it must be made of reflective material. Direction signs made of a reflective material must also be posted leading to each storage place.

In addition, this ETS modifies paragraph (g)(2) of § 75.1714–2. A new phrase, ''made of a reflective material'' has been added in reference to the cache (storage location) signs and direction signs. The paragraph now reads, ''The one-hour canister shall be available at all times to all persons when underground in accordance with a plan submitted by the operator of the mine and approved by the District Manager. When the one-hour canister is placed in a cache or caches, a sign made of a reflective material with the word ''SELF–RESCUERS'' shall be conspicuously posted at each cache, and direction signs made of a reflective material shall be posted leading to each cache.''

f. Section 75.1714–4—Additional Self-Contained Self-Rescuers

This ETS includes a new § 75.1714–4 which requires the mine operator to provide at least one additional SCSR that will provide protection for a period of one hour or longer to cover the maximum number of persons in the mine. Thus, each miner or person underground will have the self-rescuer device that is traditionally carried with him or her and an additional SCSR device readily accessible. If a filter self rescuer is used in conjunction with an existing SCSR storage plan, a mine operator must comply with the requirement for an additional SCSR as described under this new 75.1714–4(a). In addition, where persons enter or exit the mine using a mantrip or mobile equipment, additional SCSRs must be available on the mantrip or mobile equipment portal to portal. Moreover, this provision requires the mine operator to submit an outby SCSR storage plan, identifying the location, quantity and type of additional SCSRs in the primary and alternate escapeways in circumstances where the SCSR devices required under the existing standards will not provide sufficient oxygen for all persons to safely evacuate the mine. The outby SCSR storage plan must also show how the storage location in each escapeway was determined. For District Manager approval of the outby storage plan, the District Manager may require the mine operator to demonstrate that the location, quantity, and type of the additional SCSRs provide adequate protection for all persons to safely evacuate the mine.

Section 75.1714–4 also requires the operator to store all SCSRs required under this section in locations that are conspicuous and that are readily accessible by each person in the mine. All SCSR devices required under this section must be stored according to the manufacturer's instructions.

Section 75.1714–4 further requires a sign with the words ''SELF–RESCUERS'' to be conspicuously posted at each storage location. The sign must be made of reflective material. In addition, direction signs that are made of a reflective material must be posted in each entry leading to each storage location.

This ETS enhances protection because it requires additional SCSRs to cover the maximum number of persons in every underground coal mine. These additional SCSRs in the storage locations will greatly increase the ability of all persons to safely evacuate during a mine emergency or accident.

New paragraph 75.1714–4(a) requires that in addition to the requirements in §§ 75.1714, 75.1714–1, 75.1714–2, and 75.1714–3, the mine operator shall provide at least one additional SCSR to each person who is underground, and which provides protection for a period of one hour or longer, to cover the maximum number of persons in the mine. This is a new requirement to provide one additional SCSR device for each person in the mine. Having at least one additional SCSR device per person will double the amount of oxygen that is available to that person during any accident or emergency evacuation. MSHA's intent is to encourage persons who are not required for a mine emergency response to evacuate the mine as quickly as possible. The additional SCSR will aid persons who must travel through smoke and toxic gases to safely exit the mine. The additional SCSR will likely facilitate evacuation of the mine by increasing the person's confidence in the availability of oxygen in the smoke-filled mine entries.

The SCSRs that are required under new paragraph 75.1714–4(a) must meet the storage location requirements under new paragraphs 75.1714–4(d) and (e) discussed below.

New paragraph 75.1714–4(b) requires that if a mantrip or mobile equipment is used to enter or exit the mine, additional SCSRs, each of which provides protection for a period of one hour or longer, shall be available from portal to portal on the mantrip or mobile equipment. At many mines, persons use mantrips or mobile equipment such as scoops, ramcars, or pick-up trucks, to enter the mine and travel to and from their working section. A mine accident or emergency that requires evacuation could occur while crews are traveling to or from their working section on mantrips or mobile equipment. If additional SCSRs are not available on the mantrips or the mobile equipment, persons may not be able to evacuate safely during a mine accident or emergency. Requiring that additional SCSRs be available portal to portal to persons who are using the mantrip or mobile equipment provides the protection of an additional SCSR while

on the mantrip or mobile equipment during an accident or emergency.

Mine operators may utilize the additional SCSRs on the mantrip or mobile equipment to comply with paragraph 75.1714–4(a) if the mantrip stays on the section. If the mantrip leaves the section, operators can choose to comply with paragraph 75.1714–4(a) by removing the SCSRs from the mantrip and keeping them on the section. That is, SCSRs on the mantrip can remain on the section if the mantrip leaves the section for other duties. However, at all times any operator and passengers on the mantrip or mobile equipment must have an additional SCSR available. Additionally, if miners traveling on mantrips or mobile equipment are using filter self-rescuers, or SCSRs which provide less than one hour of protection, they must be provided with two SCSRs, each of which provides protection for a period of one hour or longer, on the mantrip or mobile equipment.

New paragraph 75.1714–4(c) requires that when the SCSR devices otherwise required by paragraph 75.1714(a) are not adequate to provide enough oxygen for all persons to safely evacuate the mine under the mine emergency conditions; the mine operator shall provide additional SCSR devices in the primary and alternate escapeways. Under these circumstances, the mine operator shall submit an outby SCSR storage plan to the appropriate District Manager for approval. The mine operator must also include in the outby SCSR storage plan required by paragraph 75.1714–4(c) the location(s), quantity, and type of additional SCSR devices, each of which provides protection for a period of one hour or longer, that are stored in the primary and alternate escapeways. The outby SCSR storage plan must also show how the storage location in the primary and alternate escapeways was determined. The District Manager may require the mine operator to demonstrate that the location, quantity, and type of the additional SCSRs provide protection to all persons to safely evacuate the mine. The outby SCSR storage plan must also be kept current by the mine operator and made available for inspection by an authorized representative of the Secretary and by the miners' representative.

The outby SCSR storage plan required by new paragraph 75.1714–4(c) gives mine operators flexibility in determining the location, quantity, and type of additional SCSRs stored in the primary and alternate escapeways. The requirements of this paragraph are performance-oriented. It allows mine operators to assess the conditions unique to their mine and to establish SCSR storage locations based on these conditions.

New paragraph 75.1714–4(c) also allows MSHA to verify, if needed, the appropriateness of the storage locations. If the MSHA District Manager doubts that all persons underground could reach the additional storage locations safely, the District Manager can require the mine operator to demonstrate that the storage location provides adequate protection to all persons to reach the designated storage location in a timely manner and safely evacuate the mine.

The SCSRs that are required under new paragraph 75.1714–4(c) must also meet the storage location requirements under new paragraphs 75.1714–4(d) and (e) discussed below.

To assist mine operators in complying with the requirements of new paragraph 75.1714–4(c), MSHA is providing one possible method that an operator may use in choosing appropriate outby SCSR storage locations. MSHA developed a method for selecting locations based on a 1996–1997 MSHA–NIOSH study (Unpublished document ''The Oxygen Cost of a Mine Escape'' (Kovac, Kravitz, Rehak, 1997)). The MSHA–NIOSH study demonstrated that it is possible to project, on a mine-by-mine basis, the difficulty of the mine escape and how much oxygen would be required for such an escape, knowing the body weight and heart rate of the escaping person. Accordingly, the method used by this heart rate study may also be used to determine the sufficient number and appropriate storage locations of additional SCSRs so that persons can safely evacuate the mine. A mine operator who wants to use the heart rate method to determine the number and storage location of additional SCSRs should, however, adhere to the following procedures:

1. Select the worst-case escape scenario (for example, the furthest point of penetration into coal seam and the heaviest person).

2. Have the person perform an escape drill bare-faced with all the person's normal tools and safety equipment (including an SCSR on the person's belt) along the designated escapeway. During this escape drill, the person's heart-rate should be continuously monitored with the person wearing a heart-rate watch.

3. The person's heart-rate should not exceed the lower of (0.70) × (220 minus the person's age) or 135 beats per minute. (135 beats per minute is the average heart-rate for the 95th percentile person—by weight—performing mantest 4 during MSHA–NIOSH certification tests.) Under the formula, the calculated rate for a 65 year old person—95th percentile by age—is 109 beats per minute and the calculated rate for a 20 year old person is 140 beats per minute. Comparing each calculated rate with 135 beats per minute, the lower rate for the 65 year old person is the calculated rate of 109 and the lower rate for the 20 year old person is 135. Thus, during the simulated escape, if a 65 year old person's heart-rate exceeds 109 or a 20 year old person's heart rate exceeds 135, the person should slow down or stop until his heart rate is in an acceptable range.

4. After one hour, the distance should be recorded and marked.

5. The above procedure should be repeated 3 times, and an average distance calculated.

6. The location for the SCSR storage is the average distance recorded minus 15 percent (the amount of work added by using an SCSR). For example, if the distance traveled is 5,000 feet along the escapeway, the SCSR storage should be placed 4,250 feet along the escapeway (5,000 feet − 750 feet = 4,250 feet).

7. If multiple storage locations are required, the above procedure should be repeated until the escape is completed to the surface.

8. In addition to a person's physiological ability to reach the storage location within the rated duration of the SCSR, given the environmental conditions of the mine and the oxygen provided by the SCSR, other factors can come into play. For example, the number of persons accessing a storage location can affect the time it takes to retrieve and don an SCSR from the storage location. The accessibility of the storage location may be affected by its physical configuration.

To summarize, for purposes of the outby SCSR storage plan, an operator may use any reliable method of choosing storage locations including the method mentioned above. MSHA solicits comments on the above suggested method, and other reliable methods, for determining where to locate the additional SCSRs in the mine. In addition, MSHA solicits comments on whether a specification standard would be more appropriate than the performance-oriented approach provided in this ETS. For example, MSHA is considering a requirement that the additional SCSRs under new paragraph 75.1714–4(c) be stored in all escapeways at intervals of 5,000 feet for mines where the escapeway height is above 48 inches and 2,500 feet for all other mines. MSHA solicits comments on such a specification-oriented standard, including comments on whether the specific 5,000 and 2,500

foot intervals, or some other specific interval, is appropriate.

MSHA solicits comments on the appropriateness of eliminating filter self-rescuers (''FSRs'') from all underground bituminous, lignite, and anthracite mines. FSRs were required before SCSRs were available to the mining industry. Some current SCSR storage plans allow the use of FSRs to reach stored SCSRs. Given that FSRs only provide filter protection for carbon monoxide, and due to the fact that FSRs do not produce oxygen, MSHA solicits comments on whether underground coal mines should only require SCSRs.

MSHA also solicits comments on the appropriateness of requiring mine operators to report the total number of SCSRs in use at each underground coal mine, semi-annually, to the MSHA District Manager. Along with the total number of SCSRs, MSHA could require the following information be reported for each SCSR at each mine: (1) Manufacturer, (2) model, (3) date of manufacture, and (4) the serial number. This information would be valuable because manufacturers often lose track of where their SCSRs are in the mining industry. When a mine shuts down, the SCSRs are often sold to another mine. In the past, problems have been discovered with all brands of SCSRs. Sometimes these problems are related to specific production runs that generate unique serial numbers for the SCSRs. Sometimes, the problems affect all the manufactured SCSRs from one manufacturer. Having knowledge of where the SCSRs are located will benefit persons because MSHA can then expeditiously locate the affected SCSRs so that remedial action can be taken.

New paragraph 75.1714–4(d) provides that all SCSR devices required under this section be stored in locations that are conspicuous and that are readily accessible by each person in the mine. In addition, new paragraph 1714–4(d) provides that all SCSR devices required under this section be stored according to manufacturers' instructions. The time used to locate an SCSR that is not conspicuously stored could make the difference between the success or failure of a safe evacuation. In addition, the storage location must be readily accessible so that the additional SCSRs can be retrieved in a prompt, timely manner. An example of a storage location that is readily accessible is on the working face or in locations where mechanized mining equipment is being installed and removed. Such a location, however, may not be readily accessible to all persons, such as pumpers, outby crews, and examiners. MSHA is, therefore, soliciting comments on storage locations that are readily accessible to such persons.

This new requirement will facilitate the successful use of the additional SCSRs during a mine accident or emergency. Moreover, manufacturers' instructions are required to be included in the approval documents for all SCSRs, which are submitted to MSHA and NIOSH under 42 CFR part 84. The instructions are included with all SCSRs from each manufacturer.

New § 75.1714–4(e) requires that a sign with the words ''SELF-RESCUERS'' be conspicuously posted at each storage location, be made of reflective material, and direction signs made of a reflective material be posted in each entry leading to each storage location. The requirements are similar to the requirements in existing § 75.1714–2(f) pertaining to the storage of an SCSR device that is required under existing § 75.1714, but that is not carried out of the mine at the end of a person's shift. MSHA is adding a requirement that the sign be made of reflective material here and under existing § 75.1714–2(f) and (g) because escape routes are often filled with thick smoke that could obscure any SCSR storage location. Under such circumstances, a sign made of a reflective material will provide greater visibility of the storage locations to persons who need to exit the mine quickly. Moreover, new § 75.380(d)(7)(vi) and § 75.381(c)(5)(vi) require that lifelines be attached to, and marked to show these storage locations.

The requirement that a sign under paragraphs 75.1714–2(f) and (g) be made of reflective material enhances miner protection because escape routes are often filled with thick smoke that could obscure any SCSR storage location and a sign made of a reflective material will provide greater visibility of the storage locations to persons who need to exit the mine quickly.

MSHA solicits comments on the appropriateness of requiring signs to be made of a reflective material and whether there are alternative methods available for making storage locations easy to locate when conditions in the mine might obscure the storage location.

The new requirement that a sign be made of a reflective material enhances miner safety by making SCSR storage locations easier to locate when a person needs to evacuate the mine quickly and the escape route is filled with thick smoke obscuring the SCSR storage location.

g. Section 75.1714–5—Map locations of Self-Contained Self-Rescuers

New § 75.1714–5 requires the mine operator to include the storage location(s) of SCSR devices subject to storage plans on the § 75.383 mine emergency map and on the § 75.1200 mine map. Existing § 75.383 requires escapeway maps to be posted in each working section, and in each area where mechanized mining equipment is being installed or removed, and at a surface location of the mine where miners congregate, such as the mine bulletin board, bathhouse, or waiting room. Existing § 75.1203 requires the mine map under § 75.1200 to be available to miners. Because an escapeway map is posted in an obvious location and because a miner has access to the mine map, requiring the operator to include the storage location of all SCSRs on the escapeway map and mine map helps ensure that persons are aware of the storage location of all SCSRs in the mine. In addition, the § 75.1200 mine map is the basis for all mine rescue attempts.

Finally, MSHA is considering a requirement that the mine operator promptly report to the MSHA District Manager, in writing, all incidents where any SCSR, required by this section or existing § 75.1714, is used for an accident or emergency and all instances where such SCSR device did not function properly. In addition, when any SCSR device has not functioned properly, the mine operator would retain the device, for at least 90 days, for investigation by MSHA.

MSHA solicits comments on this reporting requirement because, in the past, MSHA did not always learn of problems associated with SCSRs in a timely manner. This requirement would help assure that MSHA is notified of problems in a timely manner and that the affected SCSRs are available for testing and evaluation.

V. Executive Order 12866

Executive Order (E.O.) 12866 (58 FR 51735) as amended by E.O. 13258 (Amending Executive Order 12866 on Regulatory Planning and Review (67 FR 9385)) requires that regulatory agencies assess both the costs and benefits of regulations. MSHA has determined that the ETS would not have an annual effect of $100 million or more on the economy and that, therefore, it is not an economically ''significant regulatory action'' pursuant to § 3, paragraph (f) of E.O. 12866.

A. Population-at-Risk

Using 2004 data, the ETS applies to the 634 underground coal mine operators employing 33,490 miners and 3,697 contractor workers who work underground in coal mines. Also, using 2004 data, the immediate notification

provisions of the ETS apply to the entire mining industry, encompassing all 214,450 miners and 72,739 contract workers who work in the 14,480 U.S. mines.

B. Benefits

To estimate benefits, MSHA focused on three accidents where miners' lives might have been saved if this rule was implemented. These three accidents occurred at the Wilberg Mine in 1984, at the Sago Mine in 2006, and at the Aracoma Alma #1 Mine, also in 2006. In these three accidents, there were, in total, 41 fatalities and one serious injury. MSHA believes that this ETS, if in place at the time of these accidents, could have saved the lives of most of these victims. One of the miners at Sago Mine died in the explosion and would have perished even if the ETS had been in force. In quantitative terms, MSHA estimates that perhaps 70% to 90% of miners in similar accidents in the future could be saved by implementing the ETS, with a mid-range estimate of 80%. Multiplying 40 by 80% provides a mid-range estimate of 32 lives that could be saved. Multiplying 40 by 70% and 90% provides a full-range estimate of 28 to 36 lives that could be saved by the ETS.

January 1, 1983 is the starting point for the accident records in MSHA's electronic Teradata database. Starting at January 1, 1983 and ending in early February, 2006 is a time span of 23.1 years. Since these three accidents occurred over a period of 23.1 years, MSHA divides 32 lives saved by 23.1 years to obtain a mid-range estimate of 1.39 lives saved per year. A similar calculation provides a full-range estimate of 1.21 to 1.56 lives saved per year. Using the same method, MSHA also calculates a mid-range estimate of 0.035 serious injuries prevented per year and a full-range estimate of 0.030 to 0.039 serious injuries prevented per year. The actual number of miners' lives saved could be much larger.

C. Compliance Costs

The immediate notification provisions of the ETS, which apply to all mines, are definitional and clarify existing requirements. As such, MSHA expects that they will impose no additional costs on the mining industry.

MSHA estimates that the ETS will result in total yearly costs for underground mine operators and contractors of approximately $18.9 million, which reflect first-year costs of about $54.7 million. Of the yearly costs, $7.9 million will be associated with training requirements; $0.5 million will be associated with lifeline requirements; and $10.5 million will be associated with additional SCSR devices. Disaggregated by mine size, yearly costs will be $1.2 million (or about $5,100 per mine) for mine operators with fewer than 20 employees; $15.6 million (or about $40,100 per mine) for mine operators with 20–500 employees; and $2.1 million (or about $256,700 per mine) for mine operators with more than 500 employees.

VI. Feasibility

MSHA has concluded that the requirements of the ETS are technologically and economically feasible.

The ETS is not a technology-forcing standard and does not involve activities on the frontiers of scientific knowledge. Many of the requirements of the ETS are based on MSHA's current regulations.

The yearly compliance costs of the ETS (of $18.9 million) are equal to 0.2 percent of all revenues (of $11.1 billion in 2004) for all underground coal mines. Insofar as the total compliance costs are well below one percent of the estimated revenues for all underground coal mines, MSHA concludes that the ETS is economically feasible for these mines.

As noted above, the immediate notification provisions of the ETS, which apply to the entire mining industry, will impose no additional costs. MSHA therefore concludes that these provisions are economically feasible for the mining industry.

VII. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (SBREFA)

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA has analyzed the impact of the ETS on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the ETS will not have a significant economic impact on a substantial number of small entities that are covered by this rulemaking. Under the SBREFA amendments to the RFA, MSHA must include in the rule a factual basis for this certification. If a rule has a significant economic impact on a substantial number of small entities, MSHA must develop a regulatory flexibility analysis.

A. Definition of a Small Mine

Under the RFA, in analyzing the impact of a rule on small entities, MSHA must use the Small Business Administration (SBA) definition for a small entity or, after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not taken such an action and hence is required to use the SBA definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also looked at the impacts of Agency rules on a subset of mines with 500 or fewer employees—those with fewer than 20 employees, which MSHA and the mining community have traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, their costs of complying with MSHA's rules and the impact of the Agency's rules on them will also tend to be different. It is for this reason that ''small mines,'' as traditionally defined by MSHA as those employing fewer than 20 workers, are of special concern to MSHA.

This analysis complies with the legal requirements of the RFA for an analysis of the impacts on ''small entities'' while continuing MSHA's traditional definition of ''small mines.'' The Agency concludes that it can certify that the ETS will not have a significant economic impact on a substantial number of small entities that are covered by this rulemaking. MSHA has determined that this is the case both for mines affected by this rulemaking with fewer than 20 employees and for mines affected by this rulemaking with 500 or fewer employees.

B. Factual Basis for Certification

MSHA's analysis of impacts on ''small entities'' begins with a ''screening'' analysis. The screening compares the estimated compliance costs of a rule for small entities in the sector affected by the rule to the estimated revenues for the affected sector. When estimated compliance costs or savings are less than one percent of the estimated revenues, the Agency believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. When estimated compliance costs or savings exceed one percent of revenues, it tends to indicate that further analysis may be warranted.

Metal/nonmetal and surface coal mines are covered in the ETS only by the immediate notification provisions. Since these provisions define and clarify existing provisions, they do not impose any costs on mine operators and contractors. MSHA therefore concludes

that the ETS will not have a significant economic impact on a substantial number of small entities in these mine sectors.

For underground coal mines, estimated 2004 production was 10,375,660 tons for mines that had fewer than 20 employees and 312,531,849 tons for mines that had 500 or fewer employees. Using the 2004 price of underground coal of $30.36 per ton, the 2004 underground coal revenues are estimated to be approximately $315 million for mines employing fewer than 20 employees and $9.5 billion for mines employing 500 or fewer employees. Thus, the cost of the rule for mines that have fewer than 20 employees is 0.4 percent ($1.2 million/$315 million), while the cost of the rule for mines that have 500 or fewer employees is 0.2 percent ($0.017 billion/$9.5 billion). Using either MSHA's traditional definition of a small mine (one having fewer than 20 employees) or SBA's definition of a small mine (one having 500 or fewer employees), compliance costs of the ETS for underground coal mines will be substantially less than 1 percent of their estimated revenues.

VIII. Paperwork Reduction Act of 1995

A. Summary

This emergency rulemaking contains information collection requirements that MSHA estimates will result in 17,547 new burden hours and approximately $533,601 related burden costs to mine operators and contractors in the first year that the rule is in effect. In the second year that the rule is in effect, and for every year thereafter, MSHA estimates that mine operators and contractors will incur 9,226 new burden hours and approximately $525,739 related burden costs. The burden is different in the first year because some information collection requirements occur only in the first year that the rule is in effect; while different burdens occur either every year beginning in the first year, or every year beginning in the second year that the rule is in effect.

This ETS contains information collection requirements in the following sections: § 48.3—Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors; § 50.10—Immediate notification; § 75.1502—Mine emergency evacuation and firefighting program of instruction; § 75.1714–3—Self-rescue devices; inspection, testing, maintenance, repair and recordkeeping; § 75.1714–4—Additional self-contained self-rescuers; and § 75.1714–5—Map locations of self-contained self-rescuers to be codified in 30 CFR. Although the new requirement in § 50.10 included in this emergency rulemaking creates no additional paperwork burden, MSHA is listing the provision here because it continues to require a collection of information. The ETS adds to the information collected under existing OMB information collections OMB 1219–0007, OMB 1219–0009, OMB 1219–0044, OMB 1219–0054, and OMB 1219–0073.

Although paragraph 75.1714–3(e) is an existing provision and is not changed by this emergency rulemaking, MSHA is including it in the burden estimates above because the use of additional SCSR devices mandated by this ETS will increase the burden associated with inspection and recordkeeping requirements contained in this existing paragraph.

For a detailed explanation of how the burden hours and related costs were determined, see Chapter VII of the Regulatory Economic Analysis (REA) associated with this rulemaking. The REA is located on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM*. A print copy of the REA can be obtained from the Office of Standards, Regulations, and Variances at MSHA.

B. Details

The information collection package has been submitted to the Office of Management and Budget (OMB) for review under 44 U.S.C. 3504, paragraph (h) of the Paperwork Reduction Act of 1995, as amended. A copy of the information collection package can be obtained from the Department of Labor by electronic mail request to *king.darrin@dol.gov* or by phone request to (202) 693–4129.

Comments on the provisions in the information collection requirements should be sent to both the Office of Information and Regulatory Affairs of OMB and to MSHA. Comments sent to OMB should be sent to the Attention of the Desk Officer for the Mine Safety and Health Administration. Comments sent to MSHA should be sent to the Office of Standards, Regulations, and Variances. Addresses for both offices can be found in the Addresses section of this preamble. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. MSHA will publish a notice in the **Federal Register** announcing when OMB has approved the new information collection requirements.

IX. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act Of 1995

This ETS does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments; nor will it increase private sector expenditures by more than $100 million annually; nor will it significantly or uniquely affect small governments. Accordingly, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) requires no further agency action or analysis.

B. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

This ETS will have no affect on family well-being or stability, marital commitment, parental rights or authority, or income or poverty of families and children. Accordingly, section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires no further Agency action, analysis, or assessment.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This ETS does not implement a policy with takings implications. Accordingly, E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, requires no further Agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

This ETS was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. Accordingly, this ETS will meet the applicable standards provided in section 3 of E.O. 12988, Civil Justice Reform.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This ETS will have no adverse impact on children. Accordingly, E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, as amended by E.O. 13229 and 13296, requires no further Agency action or analysis.

F. Executive Order 13132: Federalism

This ETS does not have ''federalism implications'' because it will not ''have substantial direct effects on the States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Accordingly, E.O. 13132, Federalism, requires no further Agency action or analysis.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This ETS does not have ''tribal implications'' because it will not ''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.'' Accordingly, E.O. 13175, Consultation and Coordination with Indian Tribal Governments, requires no further Agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This ETS has been reviewed for its impact on the supply, distribution, and use of energy because it applies to the underground mining sector. Insofar as this ETS will result in yearly costs of approximately $18.9 million to the underground coal mining industry, relative to annual revenues of $11.1 billion in 2004, it is not a ''significant energy action'' because it is not ''likely to have a significant adverse effect on the supply, distribution, or use of energy * * * (including a shortfall in supply, price increases, and increased use of foreign supplies).'' Accordingly, E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, requires no further Agency action or analysis.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

This ETS has been thoroughly reviewed to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. MSHA has determined and certified that this ETS does not have a significant economic impact on a substantial number of small entities. Accordingly, E.O. 13272, Proper Consideration of Small Entities in Agency Rulemaking, requires no further Agency action or analysis.

X. Emergency Temporary Standard—Regulatory Text

List of Subjects

30 CFR Part 48

Education, Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 50

Investigations, Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health.

Reporting and recordkeeping requirements

Signed at Arlington, Virginia, this 6th day of March 2006.

David G. Dye,

Acting Assistant Secretary of Labor for Mine Safety and Health.

■ Chapter I of Title 30, parts 48, 50, and 75 of the Code of Federal Regulations are amended as follows:

PART 48—TRAINING AND RETRAINING OF MINERS

■ 1. The authority citation for part 48 continues to read as follows:

Authority: 30 U.S.C. 811, 825.

■ 2. Amend § 48.3 by revising paragraph (a) introductory text and by adding paragraph (p) to read as follows:

§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Except as provided in paragraphs (o) and (p) of this section, each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

* * * * *

(p) Each underground coal operator, who is required to submit a revised program of instruction for paragraph (a) of § 75.1502, shall also submit a revised training plan under this part 48. This revised plan shall be submitted to the appropriate District Manager for approval no later than April 10, 2006. Within 2 weeks of plan approval the operator shall train in accordance with the revised training plan.

■ 3. Amend § 48.5 by revising paragraphs (b)(2) and (b)(5) and by adding paragraph (e) to read as follows:

§ 48.5 Training of new miners; minimum courses of instruction; hours of instruction.

* * * * *

(b) * * *

(2) *Self-rescue and respiratory devices.* The course shall be given before a new miner goes underground and shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. This training shall include:

(i) For the use of self-contained self-rescue (SCSR) devices: Hands-on training in the complete donning of all types of SCSRs used at the mine, which includes assuming a donning position, opening the device, activating the device, inserting the mouthpiece or simulating this task while explaining proper insertion of the mouthpiece, and putting on the nose clip; and

(ii) Hands-on training in transferring from one self-rescue device to an SCSR.

* * * * *

(5) *Mine map; escapeways; emergency evacuation; barricading.* The program of instruction for mine emergency evacuation plans and firefighting approved by the District Manager under 30 CFR 75.1502(a) or the escape and evacuation plan under 30 CFR 57.11053, as applicable, shall be used for this course. The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; and the location of abandoned areas. Also included shall be an introduction to the methods of barricading and the locations of the barricading materials, where applicable.

* * * * *

(e) Coal miners receiving training under this section shall participate in the next drill as required in §§ 75.383(b) or 75.1502(c) of this chapter, as applicable.

■ 4. Amend § 48.6 by revising paragraphs (b)(5) and (b)(12) to read as follows and by adding paragraph (f).

§ 48.6 Experienced miner training.

* * * * *

(b) * * *

(5) *Mine map; escapeways; emergency evacuation; barricading.* The program of instruction for mine emergency evacuation and firefighting approved by the District Manager under 30 CFR 75.1502(a) or the escape and evacuation plan under 30 CFR 57.11053, as applicable, shall be used for this course. The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; and the location of abandoned areas;

and, where applicable, methods of barricading and the locations of barricading materials.

* * * * *

(12) *Self-rescue and respiratory devices.* The course shall be given before the miner goes underground and shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. This training shall include:

(i) For the use of self-contained self-rescue (SCSR) devices: Hands-on training in the complete donning of all types of SCSRs used at the mine, which includes assuming a donning position, opening the device, activating the device, inserting the mouthpiece or simulating this task while explaining proper insertion of the mouthpiece, and putting on the nose clip; and

(ii) Hands-on training in transferring from one self-rescue device to an SCSR.

* * * * *

(f) Coal miners receiving training under this section shall participate in the next drill as required in §§ 75.383(b) or 75.1502(c) of this chapter, as applicable.

■ 5. Amend § 48.8 by revising paragraph (b)(8) to read as follows.

§ 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

* * * * *

(b) * * *

(8) *Self-rescue and respiratory devices.* For underground coal miners subject to § 75.1502, the training required by paragraphs (i) and (ii) of this section are satisfied by meeting the requirements of § 75.1502. The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. This training shall include:

(i) For the use of self-contained self-rescue (SCSR) devices: Hands-on training in the complete donning of all types of SCSRs used at the mine, which includes assuming a donning position, opening the device, activating the device, inserting the mouthpiece or simulating this task while explaining proper insertion of the mouthpiece, and putting on the nose clip; and

(ii) Hands-on training in transferring from one self-rescue device to an SCSR.

* * * * *

■ 6. Amend § 48.11 by revising paragraph (a)(4) to read as follows.

§ 48.11 Hazard training.

(a) * * *

(4) Use of self-rescue and respiratory devices, including:

(i) Hands-on training in the complete donning of all types of SCSRs used at the mine, which includes assuming a donning position, opening the device, activating the device, inserting the mouthpiece or simulating this task while explaining proper insertion of the mouthpiece, and putting on the nose clip; and

(ii) Hands-on training in transferring from one self-rescue device to an SCSR; and

* * * * *

PART 50—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

■ 7. Revise the authority citation for Part 50 to read as follows:

Authority: 29 U.S.C. 557(a); 30 U.S.C. 951, 957, 961.

■ 8. Revise § 50.10 to read as follows:

§ 50.10 Immediate notification.

If an accident occurs, an operator shall immediately contact the MSHA District Office having jurisdiction over its mine. If an operator cannot contact the appropriate MSHA District Office, it shall immediately contact the MSHA Headquarters Office in Arlington, Virginia by telephone, at (800) 746–1553. The operator shall contact MSHA as described at once without delay and within 15 minutes. If communications are lost because of an emergency or other unexpected event, the operator shall notify MSHA at once without delay and within 15 minutes of having access to a telephone or other means of communication.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

■ 9. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 75.350 [Amended].

■ 10. Remove paragraph (b)(7) in § 75.350.

■ 11. Amend § 75.380 by adding paragraph (d)(7) to read as follows.

§ 75.380 Escapeways; bituminous and lignite mines.

* * * * *

(d) * * *

(7) Provided with a continuous directional lifeline or equivalent device that shall be:

(i) Installed and maintained throughout the entire length of each escapeway as defined in paragraph (b)(1) of this section.

(ii) Made of durable material.

(iii) Marked with a reflective material every 25 feet.

(iv) Located in such a manner for miners to use effectively to escape.

(v) Equipped with directional indicators, signifying the route of escape, placed at intervals not exceeding 100 feet.

(vi) Securely attached to and marked to show the location of any SCSR storage locations in the escapeways.

* * * * *

§ 75.380 [Amended].

■ 12. Remove paragraph (n) from § 75.380.

■ 13. Amend § 75.381 by adding paragraph (c)(5) to read as follows:

§ 75.381 Escapeways; anthracite mines.

* * * * *

(c) * * *

(5) Provided with a continuous directional lifeline or equivalent device that shall be—

(i) Installed and maintained throughout the entire length of each escapeway as defined in paragraph (b) of this section;

(ii) Made of durable material;

(iii) Marked with a reflective material every 25 feet;

(iv) Located in such a manner for miners to use effectively to escape;

(v) Equipped with directional indicators, signifying the route of escape, placed at intervals not exceeding 100 feet; and

(vi) Securely attached to and marked to show the location of any SCSR storage locations in the escapeways.

* * * * *

§ 75.383 [Amended].

■ 14. Remove paragraph (c) from § 75.383.

■ 15. Amend § 75.1502 by revising paragraphs (a) and (c) and by adding paragraph (d) to read as follows.

§ 75.1502 Mine emergency evacuation and firefighting program of instruction.

(a) *Approved program of instruction.* Each operator of an underground coal mine shall adopt and follow a mine emergency evacuation and firefighting program that instructs all miners in the proper evacuation procedures they must follow if a mine emergency occurs.

(1) The approved program shall include a specific plan designed to instruct miners on all shifts on the following:

(i) Procedures for evacuating the mine for mine emergencies that present an

imminent danger to miners due to fire, explosion, or gas or water inundation.

(ii) Scenarios of the various mine emergencies (fires, explosions, or gas or water inundations) and the best options for evacuation under each type of emergency. These options shall include conditions in the mine that will require immediate donning of self-rescue devices.

(iii) Procedures for evacuating all miners not required for a mine emergency response.

(iv) Procedures for the rapid assembly and transportation of necessary miners, fire suppression equipment, and rescue apparatus to the scene of the mine emergency.

(v) Operation of the fire suppression equipment available in the mine.

(vi) Location and use of firefighting equipment and materials.

(vii) Location of escapeways, exits, and routes of travel to the surface, including the location and use of continuous directional lifelines or equivalent devices.

(viii) Locations, quantity, types, and use of stored SCSRs, if applicable.

(2) The mine emergency evacuation instruction and drills shall be conducted by a person who is designated by the mine operator and who has the ability, training, knowledge, or experience to provide training to miners in his or her area of expertise. Persons conducting donning and transferring training shall be able to effectively train and evaluate whether miners can successfully don the SCSR and transfer to additional SCSR devices.

(3) The operator shall submit this program of instruction, and any revisions, for approval to the District Manager of the Coal Mine Safety and Health district in which the mine is located. Before implementing any new or revised approved provision, the operator shall instruct miners in the changes.

* * * * *

(c) *Mine emergency evacuation drills.* Each operator of an underground coal mine shall require all miners to participate in mine emergency evacuation drills.

(1) Mine emergency evacuation drills shall be held at periods of time so as to ensure that all miners participate in such evacuations at intervals of not more than 90 days.

(2) For purposes of this paragraph (c), a mine emergency evacuation drill means that the miner shall travel the primary or alternate escapeway, from the working section or the miner's work station, to the surface or the exits at the bottom of the shaft or slope. An evacuation drill shall not be conducted in the same escapeway as the immediately preceding drill. At a minimum, this drill shall include:

(i) Physically locating continuous directional lifelines or equivalent devices and stored SCSRs;

(ii) Hands-on training in the complete donning of all types of SCSRs used at the mine, which includes assuming a donning position, opening the device, activating the device, inserting the mouthpiece or simulating this task while explaining proper insertion of the mouthpiece, and putting on the nose clip; and

(iii) Hands-on training in transferring from one self-rescue device to an SCSR.

(3) The operator shall certify by signature and date that the mine emergency evacuation drills were held in accordance with the requirements of this section. This certification shall include the names of the miners participating in each drill. Certifications shall be kept at the mine for one year and made available on request to an authorized representative of the Secretary, and to the representative of the miners.

(4) These mine emergency evacuation drills may be used to satisfy the evacuation specifications of the drills required by paragraph (b) of § 75.383 of this part.

(d) Each underground coal operator shall submit for approval a revised program of instruction to the appropriate District Manager no later than April 10, 2006. Within 2 weeks of program approval the operator shall train in accordance with the revised program.

■ 16. Amend § 75.1714–2 by revising paragraphs (f) and (g)(2) to read as follows:

§ 75.1714–2 Self-rescuer devices; use and location requirements.

* * * * *

(f) A sign with the word ''SELF-RESCUER'' or ''SELF-RESCUERS'' shall be conspicuously posted at each storage location and shall be made of reflective material. Direction signs made of a reflective material shall be posted leading to each storage place.

(g) * * *

(2) The 1-hour canister shall be available at all times to all persons when underground in accordance with a plan submitted by the mine operator and approved by the District Manager. When the one-hour canister is placed in a cache or caches, a sign made of a reflective material with the word ''SELF-RESCUERS'' shall be conspicuously posted at each cache, and direction signs made of a reflective material shall be posted leading to each cache.

■ 17. Add § 75.1714–4 to read as follows:

§ 75.1714–4 Additional Self-Contained Self-Rescuers.

(a) In addition to the requirements in §§ 75.1714, 75.1714–1, 75.1714–2, and 75.1714–3, the mine operator shall provide for each person who is underground at least one additional SCSR device, which provides protection for a period of one hour or longer, to cover all persons in the mine.

(b) If a mantrip or mobile equipment is used to enter or exit the mine, additional SCSR devices, each of which provides protection for a period of one hour or longer, shall be available for all persons who use such transportation from portal to portal.

(c) When the SCSR devices otherwise required by paragraph (a) of § 75.1714 are not adequate to provide enough oxygen for all persons to safely evacuate the mine under mine emergency conditions, the mine operator shall provide additional SCSR devices in the primary and alternate escapeways. Under these circumstances, the mine operator shall submit an outby SCSR storage plan to the appropriate District Manager for approval. The mine operator shall include in the outby SCSR storage plan that is required by this paragraph, the location, quantity, and type of additional SCSR devices, each of which provides protection for a period of one hour or longer, that are stored in the primary and alternate escapeways. The outby SCSR storage plan shall also show how the storage location(s) in the primary and alternate escapeways was determined. The District Manager may require the mine operator to demonstrate that the location, quantity, and type of the additional SCSRs provide protection to all persons to safely evacuate the mine. The outby SCSR storage plan shall be kept current by the mine operator and made available for inspection by an authorized representative of the Secretary and by the miners' representative.

(d) All SCSR devices required under this section shall be stored in locations that are conspicuous and that are readily accessible by each person in the mine. In addition, all SCSR devices required under this section shall be stored according to manufacturers' instructions.

(e) A sign made of reflective material with the words ''SELF-RESCUERS'' shall be conspicuously posted at each storage location and direction signs

made of a reflective material shall be posted leading to each storage location.

■ 18. Add § 75.1714–5 to read as follows.

§ 75.1714–5 Map locations of Self-Contained Self-Rescuers.

The mine operator shall include the storage location(s) of all SCSR devices subject to storage plans as required by § 75.1714–2 and paragraph 75.1714–4(c) on the posted § 75.383 mine escapeway map and on the § 75.1200 mine map.

[FR Doc. 06–2255 Filed 3–7–06; 8:45 am]

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Federal Register

Thursday,
March 9, 2006

Part IV

The President

Executive Order 13397—Responsibilities of the Department of Homeland Security With Respect to Faith-Based and Community Initiatives

Federal Register
Vol. 71, No. 46
Thursday, March 9, 2006

Presidential Documents

Title 3—

The President

Executive Order 13397 of March 7, 2006

Responsibilities of the Department of Homeland Security With Respect to Faith-Based and Community Initiatives

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to help the Federal Government coordinate a national effort to expand opportunities for faith-based and other community organizations and to strengthen their capacity to better meet America's social and community needs, it is hereby ordered as follows:

Section 1. *Establishment of a Center for Faith-Based and Community Initiatives at the Department of Homeland Security.*

(a) The Secretary of Homeland Security (Secretary) shall establish within the Department of Homeland Security (Department) a Center for Faith-Based and Community Initiatives (Center).

(b) The Center shall be supervised by a Director appointed by Secretary. The Secretary shall consult with the Director of the White House Office of Faith-Based and Community Initiatives (WHOFBCI Director) prior to making such appointment.

(c) The Department shall provide the Center with appropriate staff, administrative support, and other resources to meet its responsibilities under this order.

(d) The Center shall begin operations no later than 45 days from the date of this order.

Sec. 2. *Purpose of Center.* The purpose of the Center shall be to coordinate agency efforts to eliminate regulatory, contracting, and other programmatic obstacles to the participation of faith-based and other community organizations in the provision of social and community services.

Sec. 3. *Responsibilities of the Center for Faith-Based and Community Initiatives.* In carrying out the purpose set forth in section 2 of this order, the Center shall:

(a) conduct, in coordination with the WHOFBCI Director, a department-wide audit to identify all existing barriers to the participation of faith-based and other community organizations in the delivery of social and community services by the Department, including but not limited to regulations, rules, orders, procurement, and other internal policies and practices, and outreach activities that unlawfully discriminate against, or otherwise discourage or disadvantage the participation of faith-based and other community organizations in Federal programs;

(b) coordinate a comprehensive departmental effort to incorporate faith-based and other community organizations in Department programs and initiatives to the greatest extent possible;

(c) propose initiatives to remove barriers identified pursuant to section 3(a) of this order, including but not limited to reform of regulations, procurement, and other internal policies and practices, and outreach activities;

(d) propose the development of innovative pilot and demonstration programs to increase the participation of faith-based and other community organizations in Federal as well as State and local initiatives; and

(e) develop and coordinate Departmental outreach efforts to disseminate information more effectively to faith-based and other community organizations with respect to programming changes, contracting opportunities, and other agency initiatives, including but not limited to Web and Internet resources.

Sec. 4. *Reporting Requirements.*

(a) *Report.* Not later than 180 days from the date of this order and annually thereafter, the Center shall prepare and submit a report to the WHOFBCI Director.

(b) *Contents.* The report shall include a description of the Department's efforts in carrying out its responsibilities under this order, including but not limited to:

(i) a comprehensive analysis of the barriers to the full participation of faith-based and other community organizations in the delivery of social and community services identified pursuant to section 3(a) of this order and the proposed strategies to eliminate those barriers; and

(ii) a summary of the technical assistance and other information that will be available to faith-based and other community organizations regarding the program activities of the agency and the preparation of applications or proposals for grants, cooperative agreements, contracts, and procurement.

(c) *Performance Indicators.* The first report shall include annual performance indicators and measurable objectives for Departmental action. Each report filed thereafter shall measure the Department's performance against the objectives set forth in the initial report.

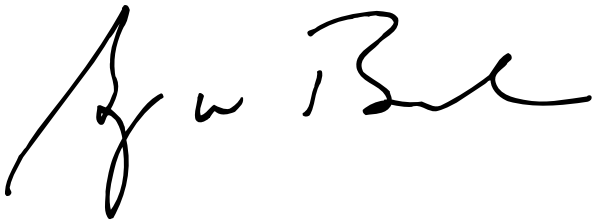
Sec. 5. *Responsibilities of the Secretary.* The Secretary shall:

(a) designate an employee within the department to serve as the liaison and point of contact with the WHOFBCI Director; and

(b) cooperate with the WHOFBCI Director and provide such information, support, and assistance to the WHOFBCI Director as requested to implement this order.

Sec. 6. *General Provisions.* (a) This order shall be implemented subject to the availability of appropriations and to the extent permitted by law.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,

March 7, 2006.

[FR Doc. 06–2362

Filed 3–8–06; 11:05 am]

Billing code 3195–01–P

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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.

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LIST OF PUBLIC LAWS

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S. 1989/P.L. 109–175

To desginate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office". (Feb. 27, 2006; 120 Stat. 190)

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