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

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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, May 9, 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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Reader Aids
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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 71, No. 74
Tuesday, April 18, 2006

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1437

RIN 0560–AG20

Noninsured Crop Disaster Assistance Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule published on March 17, 2006, amending the regulations for the Noninsured Crop Disaster Assistance Program. A correction is needed to correct an amendatory instruction that inadvertently omitted several references.

DATES: *Effective Date:* March 17, 2006.

FOR FURTHER INFORMATION CONTACT: Tom Witzig, Director, Regulatory Review Group, Economic and Policy Analysis Staff, Farm Service Agency (FSA), United States Department of Agriculture (USDA), Stop 0572, 1400 Independence Ave., SW., Washington, DC 20250–0572. Telephone: (202) 205–5851; e-mail: *tom.witzig@wdc.usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

This rule corrects the final rule published in the **Federal Register** on March 17, 2006 (71 FR 13737) that amended the regulations for the Noninsured Crop Disaster Assistance Program. In the final rule, the instruction revising section 1437.102 inadvertently omitted paragraphs (c), (d) and (e). However, those revised paragraphs were correctly published in the regulatory text. This correction is needed to correct the instruction to specifically state that the paragraphs are in fact to be revised as published.

List of Subjects in 7 CFR Part 1437

Crop insurance, Disaster assistance, Nursery stock, Plants.

■ Accordingly, the final rule published March 17, 2006 (71 FR 13737) is corrected as follows:

PART 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM

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

Authority: 15 U.S.C. 714 *et seq.*; and 7 U.S.C. 7333.

■ 2. In the document published March 17, 2006 (FR Doc. 06–2548), on page 13744, in the second column, correct amendatory instruction 17a to read ''a. Revising paragraphs (a), (b) introductory text, (b)(1), (c), (d) and (e);''

Signed in Washington, DC, on April 12, 2006.

Thomas B. Hofeller,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 06–3670 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Part 204

[CIS No. 2106–00]

RIN 1615–AA47

Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule adopts, without change, the interim rule published by the former Immigration and Naturalization Service (Service) in the **Federal Register** on October 11, 2001, that established procedures under which the International Broadcasting Bureau of the United States Broadcasting Board of Governors, or a grantee organization, could file immigrant visa petitions for foreign language alien broadcasters. The rule explained the requirements that alien broadcasters must meet in order to be the beneficiary of an immigrant visa petition. The public did not submit any comments to the interim rule.

DATES: This final rule is effective May 18, 2006.

FOR FURTHER INFORMATION CONTACT: Alanna Ow, Adjudications Officer, Business and Trade Services Branch, Office of Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor (ULLICO), Washington, DC 20529, telephone (202) 616–7417.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the Immigration and Nationality Act (INA) provides for the allocation of preference visas for both family and employment-based immigrants.[1] The fourth preference, employment-based category (EB–4), allows for the immigration of a variety of aliens who possess various specialized job skills or abilities. *Id.* at 203(b)(4). Section 101(a)(27) of the INA also offers definitions of the various jobs or professions that aliens must hold or possess in order to qualify for the EB–4 category.

Legislative and Regulatory History

On November 22, 2000, President Clinton signed the Special Immigrant Status For Certain United States International Broadcasting Employees Act (IBE Act), Public Law 106–536. Section 1 of the IBE Act amended section 101(a)(27) of the INA by adding a new subparagraph. The amendment established a special fourth preference employment-based immigrant category for immigrants seeking to enter the United States to work as broadcasters in

[1] The first preference, priority workers, allows for the immigration of workers with extraordinary abilities in the sciences, arts, education, business, or athletics; outstanding professors and researchers; and certain multinational executives. *Id.* at 203(b)(1). The second preference allows for the immigration of professionals holding advanced degrees. *Id.* at 203(b)(2). The third preference allows for the immigration of skilled workers in short supply and professionals holding baccalaureate degrees. *Id.* at 203(b)(3).

the United States for the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG) or a BBG grantee. (Currently, BBG grantees are Radio Free Asia, Inc. and Radio Free Europe/Radio Liberty, Inc.)

On October 11, 2001, at 66 FR 51819, the former Service published an interim rule in the **Federal Register** that added 8 CFR 204.13 and established an administrative procedure for the BBG and its grantees to use in order to petition for the services of an alien broadcaster. The interim rule also codified the provisions of the IBE Act and put into place procedures for the BBG, its grantees, and former Service officers, now U.S. Citizenship and Immigration Services (USCIS) officers, to follow.

Why Does the BBG Need Alien Broadcasters?

The BBG and its grantees are charged by Congress to broadcast internationally on behalf of the United States Government. This requires that the BBG attract and retain a large number of foreign language broadcasters. These broadcasters must have the unique combination of native fluency in the broadcast language combined with an in-depth knowledge of the people, history, and culture of the broadcast area. Historically, the BBG has experienced difficulty in finding and employing members of the domestic workforce possessing this unusual combination of skills to meet the United States Government's international broadcasting needs.

By creating a new special EB–4 subcategory, the IBE Act allows the BBG and its grantees to directly petition for alien broadcasters. Being able to offer immigrant status to an alien broadcaster and his or her spouse and children may assist the BBG in fulfilling its obligation as the international broadcasting conduit for the United States Government. Under section 203(b)(4) of the INA, only 100 such visas may be made available in any fiscal year to alien broadcasters coming to work for BBG or a BBG grantee. This numerical limitation does not apply, however, to the spouses and children of such immigrants.

Did the Former Service Receive Any Comments on the Interim Rule?

The former Service did not receive any comments during the 60-day comment period in response to the interim rule. Accordingly, the Department of Homeland Security (DHS) is now adopting the interim rule as a final rule without change.

Regulatory Flexibility Act

DHS has reviewed this regulation in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The October 11, 2001, interim rule provided a special process that benefits individuals who will be coming to the United States to work as broadcasters. It did not affect small entities as that term is defined in 5 U.S.C. 601(6). Since this final rule does not make any changes to the interim rule, this final rule likewise will not affect small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by DHS to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget (OMB) has waived its review process under section 6(a)(3)(A).

Executive Order 13132

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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 204

Administrative practice and procedures, Aliens, Employment, Immigration, Petitions.

■ Accordingly, the interim rule amending 8 CFR part 204, which was published in the **Federal Register** at 66 FR 51819, on October 11, 2001, is adopted as a final rule without change.

Dated: April 11, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–3655 Filed 4–17–06; 8:45 am]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH86

List of Approved Spent Fuel Storage Casks: FuelSolutions™ Cask System Revision 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the BNG Fuel Solutions Corporation (FuelSolutions™) cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 4 to Certificate of Compliance Number 1026. Amendment No. 4 will change Technical Specification (TS) requirements related to periodic monitoring during storage operations. Specifically, the amendment will revise the TS to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic

monitoring requirements that govern general design criteria for spent fuel storage casks. TS 3.3.1 will be deleted to remove daily monitoring requirements. TS 3.3.2 will be revised for the W21 and W74 canisters to permit either visual inspection of vent screens or liner thermocouple temperature monitoring. Also, TS 5.3.8 will add a section to the Periodic Monitoring Program which establishes intervals for periodic monitoring that are less than the time required to reach the limiting short-term temperature limit. This program will establish administrative controls and procedures to assure that the licensee will be able to determine when corrective action is required. In addition, the amendment will update editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation and make other administrative changes.

DATES: The final rule is effective July 3, 2006, unless significant adverse comments are received by May 18, 2006. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH86) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays [telephone (301) 415–1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML053420606 (CoC), ML053420632 (TS–W100/W150), ML053420626 (TS–W21), ML053420617 (TS–W74), and ML053420638 (SER).

CoC No. 1026, the revised TS, the underlying SER for Amendment No. 4, and the Environmental Assessment (EA), are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on January 16, 2001 (66 FR 3444) that approved the FuelSolutions™ cask system design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1026.

Discussion

On June 30, 2005, the certificate holder, BNG Fuel Solutions Corporation, submitted an application to the NRC to amend CoC No. 1026 to modify the TS requirements related to periodic monitoring during storage operations. Specifically, the application requested TS changes to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic monitoring requirements of 10 CFR 72.122(h)(4). TS 3.3.1 will be deleted to remove daily monitoring requirements. TS 3.3.2 will be revised for the W21 and W74 canisters to permit either visual inspection of vent screens or liner thermocouple temperature monitoring. Also, TS 5.3.8 will add a section to the Periodic Monitoring Program which establishes intervals for periodic monitoring that are less than the time required to reach the limiting short-term temperature limit. This program will establish administrative controls and procedures to assure that

the licensee will be able to determine when corrective action is required. In addition, the amendment will update editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation and make other administrative changes. No other changes to the FuelSolutions™ cask system were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. The NRC staff also has determined that there continues to be reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the FuelSolutions™ cask system listing in 10 CFR 72.214 by adding Amendment No. 4 to CoC No. 1026. The amendment consists of changes to the requirements to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic monitoring requirements of 10 CFR 72.122(h)(4). The particular TS which are changed are identified in the NRC staff's SER for Amendment No. 4.

The amended FuelSolutions™ cask system, when used under the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1026 is revised by adding the effective date of Amendment Number 4.

Procedural Background

This rule is limited to the changes contained in Amendment No. 4 to CoC No. 1026 and does not include other aspects of the FuelSolutions™ cask system. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on July 3, 2006. However, if the NRC receives significant adverse comments by May 18, 2006, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments, published elsewhere in this issue of the **Federal Register**, in a subsequent final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the FuelSolutions™ cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing,'' directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, will not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will amend the CoC for the FuelSolutions™ cask system within the list of approved spent fuel storage casks that power-reactor licensees can use to store spent fuel at reactor sites under a general license. Amendment No. 4 will modify the present cask system design to revise the TS requirements related to periodic monitoring during storage operations. Specifically, the amendment will revise TS to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic monitoring requirements of 10 CFR 72.122(h)(4). TS 3.3.1 will be deleted to remove daily monitoring requirements. TS 3.3.2 will be revised for the W21 and W74 canisters to permit either visual inspection of vent screens or liner thermocouple temperature monitoring. Also, TS 5.3.8 will add a section to the Periodic Monitoring Program which establishes intervals for periodic monitoring that are less than the time required to reach the limiting short-term temperature limit. This program will establish administrative controls and procedures to assure that the licensee will be able to determine when corrective action is required. In addition, the amendment will update

editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation and make other administrative changes.

The EA and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov*.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

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

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power-reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On January 16, 2001 (66 FR 3444), the NRC issued an amendment to Part 72 that approved the FuelSolutions™ cask design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214. On June 30, 2005, the certificate holder, BNG Fuel Solutions Corporation, submitted an application to the NRC to amend CoC No. 1026 to modify the TS requirements related to periodic monitoring during storage operations. Specifically, the amendment will revise the TS to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic monitoring requirements of 10 CFR 72.122(h)(4). TS 3.3.1 will be deleted to remove daily monitoring requirements. TS 3.3.2 will be revised for the W21 and W74 canisters to permit either visual inspection of vent screens or liner thermocouple temperature monitoring. Also, TS 5.3.8 will add a section to the Periodic Monitoring Program which establishes intervals for periodic monitoring that are less than the time required to reach the limiting short-term temperature limit. This program will establish administrative controls and procedures to assure that the licensee will be able to determine when corrective action is required. In addition, the amendment will update editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation and make other administrative changes. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and BNG Fuel Solutions Corporation. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects In 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also

issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1026 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1026.

Initial Certificate Effective Date: February 15, 2001.

Amendment Number 1 Effective Date: May 14, 2001.

Amendment Number 2 Effective Date: January 28, 2002.

Amendment Number 3 Effective Date: May 7, 2003.

Amendment Number 4 Effective Date: July 3, 2006.

SAR Submitted by: BNG Fuel Solutions Corporation.

SAR Title: Final Safety Analysis Report for the FuelSolutions™ Spent Fuel Management System.

Docket Number: 72–1026.

Certificate Expiration Date: February 15, 2021.

Model Number: WSNF–220, WSNF–221, and WSNF–223 systems; W–150 storage cask; W–100 transfer cask; and the W–21 and W–74 canisters.

* * * * *

Dated at Rockville, Maryland, this 3rd day of April, 2006.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. 06–3651 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 528, 546, 552, 561, 563, 563b, 570, 574, 575, and 583

[No. 2006–15]

RIN 1550–AC05

Technical Amendments To Reflect BIF and SAIF Merger

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate numerous technical and conforming amendments necessary to reflect the recent merger of the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF).

DATES: *Effective Date:* April 18, 2006.

FOR FURTHER INFORMATION CONTACT: Sandra E. Evans, Legal Information Assistant (Regulations), (202) 906–6076; or Richard Bennett, Counsel, (202) 906–7409, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate numerous technical and conforming amendments necessary to reflect the recent merger of the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF). The Deposit Insurance Reform Act of 2005, which was enacted as part of the Deficit Reduction Act of 2005, Public Law 109–171, brought about this merger, creating one Deposit Insurance Fund (DIF). The President signed that act into law on February 8, 2006.

The Act provides that the merger would take effect no later than July 1, 2006. The Federal Deposit Insurance Corporation made the merger effective March 31, 2006.

Accordingly, OTS is making technical and conforming amendments to its regulations. These include deleting references to SAIF and BIF, substituting references to DIF where applicable, and other related changes to simplify definitions and provisions consistent with the Deposit Insurance Reform Act of 2005.

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

OTS finds that there is good cause to dispense with prior notice and comment on this final rule and with the 30-day delay of effective date mandated by the Administrative Procedure Act. 5 U.S.C. 553. OTS believes that these procedures are unnecessary and contrary to public interest because the rule merely makes technical and conforming amendments to existing provisions necessitated by the merger of BIF and SAIF under the Deposit Insurance Reform Act of 2005. That merger took effect March 31, 2006.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides that regulations that impose additional reporting, disclosure, or other new requirements may not take effect before the first day of the quarter following publication. Public Law 103–325, 12 U.S.C. 4802. This section does not apply because this final rule imposes no additional requirements and makes only technical and conforming changes to existing regulations.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, Public Law 96–354, 5 U.S.C. 601, the OTS Director certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 528

Advertising, Aged, Civil rights, Credit, Equal employment opportunity, Fair housing, Individuals with disabilities, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Savings associations, Sex discrimination, Signs and symbols.

12 CFR Part 546

Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 552 and 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 561

Savings associations.

12 CFR Part 563

Accounting, Administrative practice and procedure, Advertising, Conflict of interest, Crime, Currency, Holding companies, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bond.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and

recordkeeping requirements, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 575

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 583

Holding companies, Savings associations.

■ Accordingly, the Office of Thrift Supervision amends title 12, chapter V of the Code of Federal Regulations, as set forth below.

PART 528—NONDISCRIMINATION REQUIREMENTS

■ 1. The authority citation for part 528 continues to read as follows:

Authority: 12 U.S.C. 1464, 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

■ 2. Revise § 528.1(b) to read as follows:

§ 528.1 Definitions.

* * * * *

(b) *Savings association.* The term ''savings association'' means any savings association as defined in 12 U.S.C. 1813(b).

* * * * *

PART 546—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

■ 3. The authority citation for part 546 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

■ 4. Revise § 546.2(a)(3) to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(a) * * *

(3) Any resulting Federal savings association conforms within the time prescribed by the OTS to the requirements of sections 5(c) and 10(m) of the Home Owners' Loan Act; and

* * * * *

PART 552—FEDERAL STOCK ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

■ 5. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

■ 6. Revise § 552.13(a) and (c)(3) to read as follows:

§ 552.13 Combinations involving Federal stock associations.

(a) *Scope and authority.* Federal stock associations may enter into combinations only in accordance with the provisions of this section, section 18(c) of the Federal Deposit Insurance Act, sections 5(d)(3)(A) and 10(s) of the Home Owners' Loan Act, and § 563.22 of this part.

* * * * *

(c) * * *

(3) Any resulting Federal savings association conforms within the time prescribed by the OTS to the requirements of sections 5(c) and 10(m) of the Home Owners' Loan Act; and

* * * * *

PART 561—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS

■ 7. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§ 561.3 [Amended]

■ 8. Amend § 561.3 by removing ''SAIF'' and adding in its place ''Deposit Insurance Fund''.

§ 561.7 [Removed]

■ 9. Remove and reserve § 561.7.

§ 561.41 [Removed]

■ 10. Remove and reserve § 561.41.

PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

■ 11. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 31 U.S.C. 5318; 42 U.S.C. 4106.

■ 12. Amend § 563.22 as follows:
■ a. Revise paragraph (d)(4);
■ b. Remove ''the Savings Association Insurance Fund, the Bank Insurance Fund,'' and add in its place ''the Deposit Insurance Fund'' in paragraph (e)(2)(i);
■ c. Remove '', except as provided in paragraph (h)(2)(iii) of this section'' in paragraph (h)(2)(ii); and
■ d. Remove paragraph (h)(2)(iii), to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

* * * * *

(d) * * *

(4) Applications filed under paragraph (a) of this section must be processed in accordance with the time frames set forth in §§ 516.210 through 516.290 of this chapter, provided that the period for review may be extended only if the Office determines that the applicant has failed to furnish all requested information or that the information submitted is substantially inaccurate, in which case the review period may be extended for up to 30 days.

* * * * *

§ 563.81 [Amended]

■ 13. Amend § 563.81 as follows:
■ a. Remove ''the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be,'' and add in its place ''the Deposit Insurance Fund'' in paragraph (b)(3);
■ b. Remove ''the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be,'' and add in its place ''the Deposit Insurance Fund'' in paragraph (f);
■ c. Remove ''whose accounts are insured by the Savings Association Insurance Fund,'' in paragraph (k)(3)(ii); and
■ d. Remove ''the Savings Association Insurance Fund or the Bank Insurance Fund, as appropriate'' and add in its place ''the Deposit Insurance Fund'' in paragraph (k)(5)(i).

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

■ 14. The authority citation for part 563b continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901; 15 U.S.C. 78c, 78l, 78m, 78n, 78w.

§ 563b.625 [Amended]

■ 15. Amend § 563b.625 by removing ''the federal deposit insurance funds'' and adding in its place ''the Deposit Insurance Fund'' in paragraphs (b)(3) and (4).

§ 563b.630 [Amended]

■ 16. Revise the section heading of § 563b.630 to read as follows:

§ 563b.630 When is a state-chartered savings bank eligible for a voluntary supervisory conversion?

■ 17. Amend the introductory text of § 563b.630 by removing ''BIF-insured''.

§ 563b.670 [Amended]

■ 18. Amend § 563b.670 by removing ''the federal deposit insurance funds'' and adding in its place ''the Deposit Insurance Fund'' in paragraph (b).

§ 563b.675 [Amended]

■ 19. Amend § 563b.675 by removing ''the federal deposit insurance funds'' and adding in its place ''the Deposit Insurance Fund'' in paragraph (b)(1).

PART 570—SAFETY AND SOUNDNESS GUIDELINES AND COMPLIANCE PROCEDURES

■ 20. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p–1, 1881–1884; 15 U.S.C. 1681s and 1681w; 15 U.S.C. 6801 and 6805(b)(1).

Appendix A to Part 570 [Amended]

■ 21. Amend paragraph I(vi) of Appendix A by removing ''the deposit insurance funds'' and adding in its place ''the Deposit Insurance Fund''.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

■ 22. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

§ 574.2 [Amended]

■ 23. Remove and reserve § 574.2, paragraphs (e) and (o).

§ 574.7 [Amended]

■ 24. Amend § 574.7 as follows:

■ a. Remove ''the SAIF or BIF; or'' and add in its place ''the Deposit Insurance Fund; or'' in paragraph (c)(1)(i);

■ b. Remove ''the SAIF or the BIF'' and add in its place ''the Deposit Insurance Fund'' in paragraph (d)(6).

PART 575—MUTUAL HOLDING COMPANIES

■ 25. The authority citation for part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

§ 575.7 [Amended]

■ 26. Amend § 575.7 by removing ''the relevant Federal deposit insurance fund,'' and adding in its place ''the Deposit Insurance Fund,'' in paragraph (d)(6)(ii).

PART 583—DEFINITIONS FOR REGULATIONS AFFECTING SAVINGS AND LOAN HOLDING COMPANIES

■ 27. The authority citation for part 583 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

■ 28. Revise § 583.3 to read as follows:

§ 583.3 Bank.

The term *bank* means any national bank, state bank, state-chartered savings bank, cooperative bank, or industrial bank, the deposits of which are insured by the Deposit Insurance Fund.

§ 583.5 [Removed]

■ 29. Remove and reserve § 583.5.

§ 583.19 [Removed]

■ 30. Remove and reserve § 583.19.

Dated: March 31, 2006.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. 06–3720 Filed 4–17–06; 8:45 am]

BILLING CODE 6720–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE92

Small Business Size Standards; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final regulations which were published in the **Federal Register** of Friday, May 21, 2004 (69 FR 29192). The regulations amended several definitions and made procedural and technical amendments to cover several of the U.S. Small Business Administration's (SBA's or Agency's) programs.

DATES: Effective April 18, 2006.

FOR FURTHER INFORMATION CONTACT: Gary Jackson, Assistant Administrator, Office of Size Standards, (202) 205–6618, or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2004 the SBA published a final rule amending its size regulations (69 FR 29192). These regulations are used to determine eligibility for all SBA and Federal programs that require an entity to be a small business concern. Section 121.404 was amended to address the treatment of the acquisition of a small business concern by another concern during contract performance. Specifically, the final regulation states that the new entity must submit a written self-certification that it is small to the procuring agency so that the agency can count the award, options or orders issued pursuant to the contract towards its small business goals. In the preamble to the final rule, however, the SBA explained that the

> amended regulations now state that the new entity must submit a written self-certification that it is small to the procuring agency so that the agency can count the award options, or orders issued pursuant to that contract, towards its small business goals.

69 FR 29192, 29198 (May 21, 2004). According to the preamble, it is clear that the self-certifications for novations and change-of-name agreements affected the subsequent options and orders, but not the original contract award or any option or order executed before the novation or change-of-name agreement.

Need for Correction

The final regulatory text, however, contained an error that has caused some confusion. The SBA misplaced a comma in the final rule, which has caused many readers to interpret section 121.404 to require concerns to submit a self-certification as a small business at the time of a novation or change-of-name so that the procuring agency can count the original contract award towards its small business goals. This interpretation is incorrect, however, as the procuring agency was already given credit towards its small business goals for the original contract award. Section 121.404 is only meant to address whether the procuring agency can count any future award options or orders issued pursuant to the contract toward the agency's small business goals, if there has been a novation or change-of-name during contract performance. Therefore, the removal of the comma after the word award will eliminate any doubt as to the SBA's intent regarding this provision.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Small businesses.

■ Accordingly, 13 CFR part 121 is corrected by making the following correcting amendment:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub.L. 105–135, sec. 401 *et seq*., 111 Stat. 2592.

■ 2. Revise paragraph (i) of § 121.404 to read as follows:

§ 121.404 When does SBA determine the size status of a business concern?

* * * * *

(i) At the time a novation or change-of-name agreement has been executed pursuant to FAR subject 42.12, the new entity must submit a written self-certification that it is small to the procuring agency so that the agency can count the award options, or orders issued pursuant to the contract, towards its small business goals.

* * * * *

Dated: March 14, 2006.

Anthony Martoccia,

Associate Deputy Administrator for Government Contracting and Business Development.

[FR Doc. 06–3672 Filed 4–17–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24370; Airspace Docket No. 06–ACE–3]

Modification of Class E Airspace; Mason City Municipal Airport, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace areas at Mason City Municipal Airport, IA. A review of the Class E airspace surface area and the Class E airspace area extending upward from 700 feet above ground level (AGL) revealed neither area complies with criteria in FAA Orders. These airspace areas and their legal descriptions are modified to conform to the criteria in FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, August 3, 2006. Comments for inclusion in the Rules Docket must be received on or before June 1, 2006.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–24370/Airspace Docket No. 06–ACE–3, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace surface area and the Class E airspace area extending upward from 700 feet AGL at Mason City Municipal Airport, IA. A review of the Class E airspace surface area and the Class E airspace area extending upward from 700 feet AGL revealed neither area complies with criteria in FAA Orders required for diverse departures. The radius of the Class E airspace surface area is expanded from within a 4.2-mile radius to within a 4.5-mile radius of the airport and the radius of the Class E airspace area extending upward from 700 feet AGL is expanded from within a 6.7-mile radius to within a 7-mile radius of the airport. These modifications bring the legal description of the Mason City Municipal Airport, IA Class E airspace area into compliance with FAA Orders 7400.2F and 8260.19C. Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document would be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24370/Airspace Docket No. 06–ACE–3.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this

regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it contains aircraft executing instrumental approach procedures to Mason City Municipal Airport, IA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE IA E2 Mason City, IA

Mason City Municipal Airport, IA
(Lat. 43°09′28″ N., long. 93°19′53″ W.)

Within a 4.5-mile radius of Mason City Municipal Airport.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Mason City, IA

Mason City Municipal Airport, IA
(Lat. 43°09′28″ N., long. 93°19′53″ W.)

Mason City VORTAC
(Lat. 43°05′41″ N., long. 93°19′47″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Mason City Municipal Airport; and within 3 miles each side of the 002° radial of the Mason City VORTAC extending from the 7-mile radius to 21 miles north of the VORTAC; and within 3 miles each side of the 182° radial of the Mason City VORTAC extending from the 7-mile radius to 18.5 miles south of the VORTAC.

* * * * *

Issued in Kansas City, MO, on April 7, 2006.

Donna R. McCord,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 06–3660 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23896; Airspace Docket No. 06–ACE–2]

Modification of Class E Airspace; Scott City, KS.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: *Effective Date:* 0901 UTC, June 8, 2006.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 1, 2006 (71 FR 10417). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 8, 2006. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 7, 2006.

Donna R. McCord,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 06–3661 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 39

[Docket No. RM05–30–001; Order No. 672–A]

Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards

Issued March 30, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing.

SUMMARY: The Commission grants rehearing on one matter, clarifies certain provisions and otherwise reaffirms its determinations in Order No. 672. 71 FR 8662 (February 17, 2006). Order No. 672 implements Subtitle A (Reliability Standards) of the Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005, by establishing criteria that an entity must satisfy to qualify to be the Electric Reliability Organization (ERO). The Commission will certify one ERO as the organization that will develop and enforce Reliability Standards for the Bulk-Power System in the United States. The Final Rule also establishes procedures under which the ERO may propose new or modified Reliability Standards for Commission review and procedures governing an enforcement action for the violation of a Reliability Standard.

DATES: This final rule and order on rehearing will become effective May 18, 2006.

FOR FURTHER INFORMATION CONTACT:

Kumar Agarwal (Technical Information), Office of Energy Markets and Reliability, Division of Policy Analysis and Rulemaking, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8570.

Michelle Veloso (Technical Information), Office of Energy Markets

and Reliability, Division of Policy Analysis and Rulemaking, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6473.

Jonathan First (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8529.

Paul Silverman (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8683.

SUPPLEMENTARY INFORMATION:

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

Order on Rehearing

I. Introduction and Summary

1. On February 3, 2006, the Commission issued a Final Rule (Order No. 672),[1] implementing Subtitle A (Reliability Standards) of the Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005.[2] Order No. 672 establishes criteria that an entity must satisfy to qualify to be the Electric Reliability Organization (ERO). The Commission will certify one organization that will develop and enforce Reliability Standards for the Bulk-Power System in the United States.[3] The Final Rule also establishes procedures under which the ERO may propose new or modified Reliability Standards for Commission review and procedures governing an enforcement action for the violation of a Reliability Standard.

A. Summary of Order No. 672 [4]

2. Order No. 672 provides that the Commission will, after notice and opportunity for comment, certify one applicant as the ERO. The Final Rule sets forth the criteria that an ERO applicant must satisfy to qualify as the ERO, including the ability to develop and enforce Reliability Standards. To ensure that the ERO complies with the certification criteria on an ongoing basis, the Final Rule requires the ERO to undergo a performance assessment three years after certification and every five years thereafter.

3. Order No. 672 provides that the ERO is responsible for developing proposed Reliability Standards and must submit each proposed Reliability Standard to the Commission for approval. Only a Reliability Standard approved by the Commission is enforceable under section 215 of the Federal Power Act (FPA). The Commission may approve a proposed Reliability Standard (or modification to a Reliability Standard) if it determines that it is just, reasonable, not unduly discriminatory or preferential, and in the public interest and satisfies other requirements set out in Order No. 672. In its review of a proposed Reliability Standard, the Commission will give due weight to the technical expertise of the ERO or a Regional Entity organized on an Interconnection-wide basis with respect to a proposed Reliability Standard to be applicable within that Interconnection. However, the Commission will not defer to the ERO or a Regional Entity with respect to a Reliability Standard's effect on competition.

4. The ERO may delegate its enforcement responsibilities to a Regional Entity. Delegation is effective only after the Commission approves the delegation agreement. A Regional Entity may also propose a Reliability Standard to the ERO for submission to the Commission for approval. This Reliability Standard may be either for application to the entire interconnected Bulk-Power System or for application only within its own region.

5. The ERO or a Regional Entity must monitor compliance with the Reliability Standards. They will conduct investigations of alleged violations of Reliability Standards. The ERO or Regional Entity may impose a non-monetary or monetary penalty on a user, owner or operator for violating a Reliability Standard, subject to review by the Commission.

B. Procedural Discussion

6. The following parties have filed timely requests for rehearing or for clarification of Order No. 672: Edison Electric Institute (EEI), ISO/RTO Council, National Rural Electric Cooperative Association (NRECA), New York Independent System Operator, Inc. (New York ISO), New York State Reliability Council (NYSRC), Southern California Edison Company (SoCal Ed), and Western Governors' Association (Western Governors) filing jointly with the Committee on Regional Electric Power Cooperation (CREPC). In addition, the California Public Utilities Commission (CPUC) submitted a letter stating its full support for, and request to be associated with, the filing of Western Governors and CREPC.

II. Discussion

A. Definitions, Jurisdiction, and Applicability

7. Order No. 672 adopted verbatim the definitions set forth in new section 215(a) of the FPA, including the definitions of ''Bulk-Power System,'' ''Reliable Operation'' and ''Reliability Standard.'' [5] The Commission, however, declined proposals to define the term ''User of the Bulk-Power System,'' concluding that:

> The precise scope of the term ''User of the Bulk-Power System,'' and thus the extent of persons subject to the Reliability Standards, would be best considered in the context of our review of those Standards, taking into account the views of the ERO and others. Therefore, until we have proposed Reliability Standards before us, we will reserve further judgment on whether a definition of ''User of the Bulk-Power System'' is appropriate or whether the decision of who is a ''User of the Bulk-Power System'' should be made on a case-by-case basis.[6]

8. Order No. 672 also does not formally define the term ''end user.'' [7] The Commission explained that there was no need to adopt a formal definition because the term end user is commonly used in the electric power industry and is generally understood to mean a retail consumer of electricity. However, Order No. 672 does not preclude an ERO applicant from proposing a definition, subject to Commission approval, if the applicant believes additional definition is needed as part of its application for explaining its funding mechanism or for another reason.

9. Section 39.2 of the regulations codifies the jurisdictional provisions found in section 215(b)(1) of the FPA. Those provisions state, among other things, that ''[a]ll users, owners and operators of the Bulk-Power System shall comply with Reliability Standards that take effect under this section.'' Further, consistent with the statute, Order No. 672 explicitly makes the Reliability Standards applicable to all users, owners, and operators of the Bulk-Power System.[8]

Request for Rehearing

10. SoCal Ed maintains that the Commission erred in failing to define or further define the terms ''Bulk-Power System,'' ''End User,'' ''Reliable

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[1] Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards, Order No. 672, 71 FR 8662 (Feb. 17, 2006), FERC Stats. & Regs. Regulations Preambles ¶ 31,204 (2006).

[2] Pub. L. 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 to be codified at 16 U.S.C. 824o (2000).

[3] Terms defined in Order No. 672 are capitalized in this order.

[4] A comprehensive summary of the Final Rule is provided in Order No. 672 at P 20–58.

[5] Order No. 672 at P 70 and 18 CFR 39.1.

[6] *Id.* at P 99.

[7] *Id.* at P 101.

[8] *Id.* at P 112.

Operation,'' ''Reliability Standard,'' and ''User of the Bulk Power System.'' SoCal Ed argues that failure to establish or refine these definitions would be inconsistent with due process because the Commission would have failed to establish with reasonable clarity and certainty what is meant by the rules it has promulgated and what is required of regulated entities.[9] SoCal Ed further argues that the Commission has improperly delegated the task of defining some of these terms to others.

11. EEI states that, in response to rulemaking comments that small entities such as distribution-only utilities should not be ''targeted,'' Order No. 672 explains that ''[s]ection 215 of the FPA provides the Commission with jurisdiction over all users, owners and operators of the Bulk-Power System for purposes of ensuring compliance with the Reliability Standards. Until the Commission has approved a specific Reliability Standard that impacts a particular type/class of users, it is premature to consider'' commenters' concerns.[10] Based on this language, EEI asks the Commission to clarify that small entities are not exempt from the statutory obligation to comply with applicable Reliability Standards.

Commission Conclusion

12. Order No. 672 adopted the statutory definitions of the terms ''Bulk Power System,'' ''Reliable Operation'' and ''Reliability Standard.'' [11] These definitions need no further clarification at this time. As we explained in Order No. 672, the Commission believes it is appropriate to consider the issue of scope about which SoCal Ed expresses concern, in the context of specific proposed Reliability Standards.[12] Since proposed Reliability Standards are not enforceable until approved by the Commission, no harm will result from deferring judgment here and allowing SoCal Ed to renew any specific concerns regarding applicability in response to the filing of proposed Reliability Standards. Accordingly, SoCal Ed's request for rehearing is denied on this issue.

13. Order No. 672 does not formally define ''End User or ''User of the Bulk-Power System.'' SoCal Ed acknowledges that the Commission has deferred the question of the proper definition of the terms ''End User'' and ''User of the Bulk Power System'' until a later date. Therefore, SoCal Ed's claims are premature. The Commission recognizes in Order No. 672 the common industry use of the term ''end user'' as referring generally to a retail consumer of electricity and invites an ERO applicant to provide additional definition if needed for explaining its funding mechanism.[13] Likewise, in Order No. 672, the Commission states that it will consider the precise scope of the term ''User of the Bulk Power System'' on a case-by-case basis in the context of its review of a Reliability Standard, as this would permit it to take ''into account the views of the ERO and others.'' [14] Any formal definition proposed in an ERO application would be subject to Commission approval. Thus, we reject SoCal Ed's argument that we are improperly delegating the definition of certain terms to others.[15]

14. Order No. 672 addresses EEI's request for clarification regarding categorical exemptions from applicable Reliability Standards. As noted by EEI, the Final Rule requires that all entities subject to the Commission's reliability jurisdiction, *i.e.*, all users, owners and operators of the Bulk Power System, shall comply with applicable Reliability Standards.[16] While the Commission has deferred the question of who is a ''User of the Bulk Power System,'' it did note in Order No. 672 that if the owner or operator of a local distribution facility falls within that definition, it must comply with all relevant Reliability Standards as a user.[17] EEI acknowledges that some Reliability Standards, by their terms, may not be applicable to small entities or to distribution-only entities. It is in reviewing such terms in the course of its review of a proposed Reliability Standard that the Commission will consider the scope of a particular Reliability Standard.[18]

B. Electric Reliability Organization Certification

15. Order No. 672 provides that the Commission will, after notice and opportunity for comment, certify one applicant as the ERO and sets forth the criteria that an ERO applicant must satisfy to qualify as the ERO. The Final Rule gives guidance to ERO applicants regarding the content of an application and certain functions it must undertake.

16. With regard to ERO governance, an ERO applicant must demonstrate that it has Rules that adequately assure its independence from the users, owners and operators of the Bulk-Power System, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subcommittee. The Commission, however, recognized that ''there are many ways that an ERO could provide balanced governance and decisionmaking.'' [19] The Commission, therefore, did not mandate a specific approach to ERO governance but, rather, allowed an ERO candidate to develop a proposal to be provided in its application for certification consistent with the requirements of independence and stakeholder representation.

Request for Rehearing

17. ISO/RTO Council asserts that ISOs and RTOs will not be fairly represented in ERO and Regional Entity voting procedures based on one-person, one-vote. This is because a handful of ISOs and RTOs are responsible for a large fraction of the nation's load but constitute only a small percentage of the nation's utilities. Consequently, their importance and unique reliability concerns will not be fairly represented. ISO/RTO Council states that it previously expressed concerns that failure of the Commission to mandate a specific approach to ERO voting structure could lead to the inadequate representation of ISOs and RTOs. ISO/RTO Council asserts that the failure to mandate a specific approach to ERO voting structure has already adversely affected ISO and RTO interests, in that the North American Electric Reliability Council's (NERC) draft ERO application attempts to address this issue by placing ISOs and RTOs into the same voting category as Regional Entities.

Commission Conclusion

18. Order No. 672 requires that an ERO applicant assure fair stakeholder representation in ERO processes.[20] We agree that ISOs and RTOs, as system operators, are stakeholders and should be represented fairly in ERO processes. However, we will neither require nor forbid in our regulations any specific representation formula. To do so would limit the flexibility of the ERO and the Commission to change ERO Rules over time as needed to reflect changes in industry organization and other changes. We urge the ISO/RTO Council to raise its concerns regarding ISO and RTO representation with ERO

[9] SoCal Ed at 4–10.

[10] Order No. 672 at P 866.

[11] *Id.* at P 70.

[12] *Id.* at P 71–73.

[13] *Id.* at P 101.

[14] *Id.* at P 99.

[15] In fact, the precedent cited by SoCal Ed supports our approach. *See U.S. Telecom Ass'n* v. *F.C.C.*, 359 F.3d 554, 568 (D.C. Cir. 2004) (stating that ''a federal agency may turn to an outside entity for advice and policy recommendations, provided the agency makes the final decisions itself'').

[16] *Id.* at P 112.

[17] *Id.* at P 100.

[18] *See also, Id.* at P 99 and 866.

[19] *Id.* at P 152.

[20] *Id.*

applicants and, if necessary, with the Commission in our notice and comment proceeding to review ERO certification applications.

C. Reliability Standards

19. Consistent with section 215(d) of the FPA, Order No. 672 directs the ERO to file a proposed Reliability Standard or modification to a Reliability Standard with the Commission for review.[21] The Commission may approve a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In its review, the Commission will give due weight to the technical expertise of the ERO or a Regional Entity organized on an Interconnection-wide basis with respect to a Reliability Standard to be applicable within that Interconnection, except that the Commission may not defer to the ERO or a Regional Entity with respect to the effect of a Reliability Standard on competition.

20. Order No. 672 provides that the Commission shall remand a Reliability Standard that it disapproves in whole or in part and, when remanding, may set a deadline by which the ERO must submit a proposed revision to the Reliability Standard.[22] The Final Rule states that the Commission may direct the ERO to submit a proposed Reliability Standard that addresses a specific matter.

1. Reliability Standards Development

21. In its comments on the notice of proposed rulemaking, ISO/RTO Council stated that a Reliability Standard developed by the ERO should reflect the ''what'' and not the ''how'' of reliability, *i.e.*, that the ERO should develop a Reliability Standard specifying ''what'' is necessary to preserve reliability and implementation should be left to others. In response, the Final Rule explains:

* * * in certain limited situations there may be a good reason to leave implementation practices out of a Reliability Standard. In other situations, however, the ''how'' may be inextricably linked to the Reliability Standard and may need to be specified by the ERO to ensure the enforcement of the Reliability Standard. For some Reliability Standards, leaving out implementation features could: (1) Sacrifice necessary uniformity in implementation of the Reliability Standard; (2) create uncertainty for the entity that has to follow the Reliability Standard; (3) make enforcement difficult; and (4) increase the complexity of the Commission's oversight and review process. Accordingly, we leave it to the ERO to develop proposed Reliability Standards that appropriately balance reliability principles and implementation features.[23]

Requests for Rehearing

22. ISO/RTO Council asks the Commission to clarify the ERO's role in Reliability Standard setting and enforcement as opposed to implementation of Reliability Standards. It believes the Commission erred in allowing the ERO to develop proposed Reliability Standards that balance questions of reliability and implementation on a case-by-case basis because this gives the ERO too much authority and blurs the lines between standard setting—an ERO function—and standard implementation—a system operator function. ISO/RTO Council argues that the ERO should focus on the ''what'' of reliability, but not the ''how'' to ensure that the same Reliability Standards can be adopted for regions with and without organized electricity markets. ISO/RTO Council asserts that more conflicts are likely to arise between existing Reliability Standards and ISO or RTO tariffs if the ERO adopts detailed requirements for implementing the Reliability Standards. It also argues that NERC's draft certification application would have the ERO perform some functions best performed by system operators, a role for which the ERO is unlikely to have the knowledge or resources to carry out operational functions effectively.

Commission Conclusion

23. The Commission addressed this adequately in Order No. 672, explaining that, in some situations, some aspects of the implementation of a Reliability Standard may need to be part of the Reliability Standard itself.[24] As is public knowledge, NERC has over 100 candidate Reliability Standards it intends to file for approval. We continue to believe it is more appropriate to decide the issues raised by the ISO/RTO Council on a case-by-case basis for each proposed Reliability Standard than to make a generic ruling based on general theory. When we say we are leaving it to the ERO to develop a proposal we mean it do so subject to its Rules for obtaining broad stakeholder input. If an ISO, RTO or other entity has specific concerns, they should be raised in the ERO's Reliability Standard development process as we expect Reliability Standards to be developed that work effectively and can be implemented in all regions.[25] Accordingly, the Commission denies the RTO/ISO Council's request for rehearing to provide additional guidance to the ERO regarding this issue.

2. Notice and Comment

24. Order No. 672 states that, when the ERO files a proposed Reliability Standard, the Commission will provide notice and opportunity for comment except in ''extraordinary circumstances.'' [26]

Request for Rehearing

25. EEI asks the Commission to clarify that the notice and comment procedures that will apply to its review of a proposed Reliability Standard will comply with the notice and comment requirements of section 553 of the Administrative Procedure Act (APA).[27] It explains that, although section 215 of the FPA does not state that the Commission must provide notice and comment when reviewing a proposed Reliability Standard, notice and comment is required by section 553 of the APA. Further, EEI notes that, while the APA does not allow an exception to the notice and comment requirement for ''extraordinary circumstances,'' the APA does provide an exception when an agency for good cause finds that notice and comment procedures are ''impracticable, unnecessary, or contrary to the public interest.'' [28] EEI requests that the Commission clarify that ''extraordinary circumstances'' will be construed to have the same meaning as the exception provided in section 553(b)(B) of the APA.

Commission Conclusion

26. Like all federal agencies, the Commission is obligated to comply with the APA. Accordingly, the Commission clarifies that any decision by the Commission not to provide notice and comment when reviewing a proposed Reliability Standard will be made in accordance with the criteria established in section 553 of the APA.

3. No Deference on Competition

27. Consistent with section 215(d)(2) of the FPA, Order No. 672 states that the Commission will not defer to the ERO or a Regional Entity with respect to the

[21] *Id.* at P 38, 258.

[22] *Id.* at P 390, 408.

[23] *Id.* at P 260.

[24] *Id.*

[25] *See Id.* at P 331 (''[a] proposed Reliability Standard should be designed to apply throughout the interconnected North American Bulk-Power System, to the maximum extent this is achievable with a single Reliability Standard. The proposed Reliability Standard * * * should take into account * * * regional variations in market design if these affect the proposed Reliability Standard'').

[26] *Id.* at P 308.

[27] 5 U.S.C. 553 (2000).

[28] 5 U.S.C. 553(b)(B) (2000).

effect of a proposed Reliability Standard on competition.[29] The Final Rule, however, does not adopt a generic test to balance reliability and competition concerns in the absence of specific facts and, instead, states that the Commission will evaluate the effects of a proposed Reliability Standard on competition on a case-by-case basis.[30] Further, the Final Rule explains that, when reviewing a proposed Reliability Standard, the Commission will ensure that the proposal does not have the implicit effect of either favoring or thwarting bilateral or organized markets.

Request for Rehearing

28. ISO/RTO Council seeks rehearing or clarification regarding the Commission's decision not to adopt a generic test to balance reliability and competition concerns in the absence of specific facts. It maintains that failure to adopt such a test ''would be a legal error because it would effectively leave the Commission discretion to defer to the ERO on competition questions, which is prohibited under the FPA * * *.'' [31] ISO/RTO Council asks the Commission to provide clearer substantive guidance on how it will review the impact of a Reliability Standard on competition. It requests the Commission to revise its regulations to incorporate Order No. 672 Preamble language stating that a Reliability Standard will not be allowed to have the implicit effect of either favoring or thwarting bilateral or organized markets or unduly favor individual market participants. It further asks the Commission to specify that any Reliability Standard that has any effect on ISO or RTO market rules will be subject to de novo Commission review. In addition, the ERO should have the burden of demonstrating that a proposed Reliability Standard does not affect competition.

Commission Conclusion

29. ISO/RTO Council correctly notes that the Commission has a statutory obligation not to defer to the ERO with respect to the effect of a proposed Reliability Standard or a proposed modification to a Reliability Standard on competition. We will not do so. However, ISO/RTO Council has failed to explain why dealing with this issue on a case-by-case basis is inappropriate or declining to revise Commission regulations as requested is a legal error. Case-by-case consideration is particularly appropriate where an issue can arise in many different forms and factual situations. The Commission concluded that a case-by-case approach is appropriate here and noted that ''[n]o single definition [of competition] appears sufficient to cover all the relevant bases for evaluating a proposed Reliability Standard's effect on competition.'' [32] ISO/RTO Council insists that the Commission must add to its regulations, but does not explain how the failure to adopt its suggestions is unlawful or amounts to Commission deference to the ERO on competition issues. Section 215(d)(2) prohibits such deference. Accordingly, the ISO/RTO Council has failed to establish the error of law it asserts, and its request for rehearing or clarification is denied on this issue.

4. Commission Remand of a Proposed Reliability Standard

30. Consistent with section 215(d)(4) of the FPA, Order No. 672 provides that the Commission may remand to the ERO for further consideration a proposed Reliability Standard or proposed modification to a Reliability Standard that the Commission disapproves in whole or in part. In the Final Rule, the Commission explains that ''[w]e will either accept or remand a proposed Reliability Standard. If we remand a proposed Reliability Standard or a proposed modification to a Reliability Standard, we intend to specify our concerns so that the ERO can address them.'' [33]

31. Further, the Final Rule provides that the Commission, when remanding a proposed Reliability Standard, may set a deadline by which the ERO must resubmit the proposed Reliability Standard with revisions that address the reason for the remand.[34] The Final Rule explains that any necessary deadline will be established in a reasonable manner taking into consideration the complexity of the issue and will consider the time needed for a proposed revision to go through the ERO's process as well as any need to have an enforceable Reliability Standard in a timely manner.[35]

Requests for Rehearing

32. NRECA notes that the Commission stated that it ''would take appropriate action, for example, if the ERO or Regional Entity fails to comply with a Commission order requiring that a Reliability Standard be developed or modified as necessary to maintain reliability'' and also ''that failure to meet a Commission deadline [on remand of a Reliability Standard] would be considered a violation of the FPA.'' [36] NRECA expresses concern that ''such statements could unintentionally imply that the Commission could seek to treat a failure by the ERO or potentially a Regional Entity to adopt the exact text or substance of a Reliability Standard specified by the Commission as a violation of the FPA.'' [37] NRECA requests the Commission to clarify that it did not intend in the Final Rule to prescribe the text or substance of a Reliability Standard.

33. EEI requests that the Commission clarify that any deadlines it imposes on the ERO's consideration of proposed Reliability Standards on remand will respect the requirements that the ERO have an open process and that the Commission give due weight to the technical expertise of the ERO.

Commission Conclusion

34. We clarify that it is not our intent to prescribe the text or substance of a Reliability Standard. Our authority in this context is to ''remand to the [ERO] for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.'' [38] In the Final Rule, we stated that ''the Commission cannot change the Reliability Standard and must send the Reliability Standard to the ERO for modification.'' [39] Moreover, the Commission specifically stated that as part of the remand process, ''we intend to specify our concerns so that the ERO can address them.'' [40]

35. With regard to EEI's request for clarification, Order No. 672 already provides the assurance that EEI seeks.[41] Any necessary deadline will be established in a reasonable manner taking into account the complexity of the issue and will consider the time needed for a proposed revision to go through the ERO's process as well as any need to have an enforceable Reliability Standard in a timely manner. The Commission will respect the ERO's approved Reliability Standard development process, but in Order No. 672 the Commission also set out its expectation that the ERO will have sufficient flexibility in its process to consider matters expeditiously when necessary. As we explained in Order No. 672, an ERO applicant should

[29] Order No. 672 at P 40, 18 CFR 39.5(c)(3).

[30] *Id.* at P 376.

[31] ISO/RTO Council at 7.

[32] Order No. 672 at P 377.

[33] *Id.* at P 390.

[34] *Id.* at P 408–410.

[35] *Id.*

[36] NRECA Comments at 2 (citing Order No. 672 at P 441 and 765).

[37] *Id.* at 2–3.

[38] Section 215(d)(4) of the FPA.

[39] Order No. 672 at P 424.

[40] *Id.* at P 390.

[41] *Id.* at P 410.

propose an accelerated process for addressing a Reliability Standard that has been remanded with a specific deadline.[42]

D. Conflict of a Reliability Standard With a Commission Order

36. Section 215(d)(6) of the FPA requires that the Commission develop ''fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization.'' Consistent with this requirement, the Final Rule provides a process for a user, owner or operator of the transmission facilities of a Transmission Organization to notify the Commission of a possible conflict for timely resolution by the Commission.[43] The Transmission Organization is responsible for expeditiously notifying the Commission of the possible conflict.

37. Section 39.6(b) of the Commission's regulations provides that the Commission will determine within 60 days of a filing whether a conflict exists and, if so, resolve the conflict by directing the Transmission Organization to file a modification of the conflicting tariff ''pursuant to section 205 or section 206 of the Federal Power Act, as appropriate'' or direct the ERO to propose a modification to the conflicting Reliability Standard. Section 39.6(c) requires that the Transmission Organization continue to comply with the tariff until the Commission finds that a conflict exists, the Commission orders a change to such provision pursuant to section 205 or 206 of the FPA, and the order becomes effective.

Request for Rehearing

38. NYSRC seeks clarification or, in the alternative, rehearing on whether both sections 205 and 206 of the FPA should apply when the Commission undertakes to determine whether a Commission-approved function, rule, order, tariff, rate schedule, or agreement should change because it conflicts with an ERO Reliability Standard, or whether only section 206 should apply. NYSRC notes that section 215(d)(6) of the FPA refers only to section 206 and argues that the reference to section 205 in sections 39.6(b) and (c) of the Commission's regulations creates a discrepancy that, unless clarified, will result in confusion as to the legal standard applicable to such a determination by the Commission.

39. ISO/RTO Council requests that the Commission clarify that a user, owner or operator should consult with the ISO or RTO regarding a potential conflict between a Reliability Standard and a Commission-approved ISO or RTO tariff. It proposes that, in the event of a disagreement over a potential conflict, the ISO/RTO should submit the concern raised by the transmission user or owner along with its own comments on the issue. ISO/RTO Council also maintains that the ERO should be expected to identify any potential conflict with an existing ISO or RTO tariff when it submits a proposed Reliability Standard to the Commission, and that the Commission should revise its regulations to provide that any party proposing a revision to a tariff to eliminate a conflict with a Reliability Standard will bear the burden of persuasion.

Commission Conclusion

40. We grant rehearing in part and amend our regulations to provide that, if the Commission determines that a Commission-approved function, rule, order, tariff, rate schedule, or agreement should be revised because it conflicts with a Reliability Standard, the Commission may offer the Transmission Organization an opportunity to submit a revised term or condition of the tariff or other relevant document or may itself modify the tariff pursuant to section 206 of the FPA. The Commission will not, however, direct a Transmission Organization to make a filing pursuant to section 205 of the FPA, and we delete this provision from sections 39.6(b)(1) and (c) of our regulations. A public utility may voluntarily submit a revised tariff provision pursuant to section 205 to resolve the conflict. Thus, although section 215(d)(6) of the statute refers specifically to the Commission finding a conflict and ordering a change to a provision pursuant to section 206 of the FPA, a voluntary section 205 filing is always an option available to the Transmission Organization.

41. With regard to ISO/RTO Council's request for clarification or rehearing, we encourage any user, owner or operator that identifies a potential conflict between a Transmission Organization tariff and a Reliability Standard to consult with the Transmission Organization regarding the potential conflict. If the matter is not resolved informally, the Transmission Organization must expeditiously notify the Commission of the potential conflict. Further, we encourage the Transmission Organization to submit its own comments on the issue when it notifies the Commission, provided that the preparation of Transmission Organization comments causes no delay in notifying the Commission. The Transmission Organization may provide additional comments on the potential conflict during the notice and comment period on the matter. However, there is no need to revise our regulations to incorporate this level of detail.

42. Order No. 672 provides that the ERO should attempt to resolve such potential conflicts in the Reliability Standard development process.[44] We encourage the ERO, when submitting a proposed Reliability Standard to the Commission for review, to identify any potential conflict with a Transmission Organization tariff that could not be resolved and provide any information on the topic that may inform the Commission. However, it is not necessary to include this level of detail in the regulation text.

E. Enforcement of Reliability Standards

43. Section 215(e) of the FPA provides that the ERO or a Regional Entity that is delegated enforcement authority may impose a penalty on a user, owner or operator of the Bulk-Power System for a violation of a Reliability Standard. The Final Rule sets forth procedures pursuant to which the ERO or a Regional Entity may impose a non-monetary or monetary penalty, and procedures for Commission review of a penalty.[45] Also, the Commission itself may initiate an investigation, require compliance with or impose a penalty for non-compliance with a Reliability Standard.

1. ERO and Regional Entity Appeals Process

44. Order No. 672 finds that allowing an appeals process at the ERO or Regional Entity level is appropriate to ensure internal consistency in the imposition of penalties by the ERO or the Regional Entity.[46] Expressing concern that such a process should not result in a drawn-out series of sequential appeals, the Final Rule concludes that there should be a single appeal at either the ERO or the Regional Entity. An ERO applicant must propose in its certification application whether the appeal of a penalty imposed by a Regional Entity should be at the ERO or Regional Entity.

[42] *Id.*

[43] *Id.* at P 444, 18 CFR 39.6(a).

[44] *Id.* at P 444.

[45] 18 CFR 39.7.

[46] Order No. 672 at P 610–611.

Request for Rehearing

45. EEI requests that the Commission specify that all appeals of penalties, whether imposed by a Regional Entity or the ERO, should be at the ERO level. It states that having a single formal appeal at the ERO will ensure timely enforcement as well as consistency in interpretation of Reliability Standards and in the sanctions applied across Regional Entities. EEI also requests that the Commission clarify that each Regional Entity must have a process to resolve issues that arise in the course of implementation of its compliance enforcement program before final decision in a particular matter is reached by the Regional Entity. EEI maintains that this clarification is necessary to ensure that the enforcement process includes due process protections and procedures.

Commission Conclusion

46. Order No. 672 concludes that a single appeal at either the ERO or Regional Entity is appropriate to avoid duplication and delay, but allows an ERO applicant to propose in its application for certification whether the appeal of a penalty imposed by a Regional Entity should be at the ERO or Regional Entity.[47] EEI may raise its concerns in the ERO certification proceeding regarding the appropriate forum for such an appeal. Further, we note that Order No. 672 directs the ERO and Regional Entities to develop uniform due process procedures.[48] EEI's request for a process to resolve issues that arise in the course of a Regional Entity's compliance program is satisfied by this requirement. Accordingly, EEI's request for an additional requirement is not necessary and is denied.

2. Monetary Penalties

47. Both the statute and our regulations require that a penalty must bear a reasonable relationship to the seriousness of the violation. Order No. 672 requires the ERO to develop penalty guidelines that would provide a predictable, uniform and rational approach to the imposition of penalties.

48. Further, Order No. 672 concludes that it is appropriate for the entity investigating an alleged violation and imposing a penalty to receive any penalty monies that result from that investigation.[49] However, rather than allowing penalty monies to offset a specific program, such as a compliance or enforcement program, the Final Rule determines that, for an ERO or Regional Entity investigation, the entity conducting the investigation should receive the penalty monies as an offset against its next year's budget. Order No. 672 states that, ''[w]ith this approach, the monies represent a savings to those consumers responsible ultimately for paying the costs of the ERO or Regional Entity.'' [50]

49. In response to comments regarding the application of a penalty to an RTO or ISO, Order No. 672 concludes that:

> [w]hile we recognize that RTOs and ISOs have some unique characteristics, we do not believe a generic exemption from any type of penalty is appropriate for any entity, including an RTO or ISO. The ERO or Regional Entity determining whether to impose a penalty on an RTO or ISO may consider the entity's unique characteristics, as well as the nature of the violation, in determining an appropriate and effective sanction.
>
> Further, we do not decide generically whether an RTO or ISO may pass a monetary penalty through to its members or customers. We will consider such an issue on a case-by-case basis.[51]

Requests for Rehearing

50. ISO/RTO Council maintains that the Commission has not adequately addressed the concern that penalty monies could create an improper incentive for the ERO to over-collect penalties. It asserts that the Commission has not explained why it is willing to allow penalty monies to offset the enforcing entity's entire budget for implementing section 215 of the FPA rather than just the costs of a specific program, such as enforcement. ISO/RTO Council views the incentives as being the same in each case. It urges the Commission to adopt a clear rule requiring the ERO and Regional Entities to direct penalty monies received from U.S. entities to the U.S. Treasury.

51. New York ISO asserts that the Commission erred when it failed to establish that ISOs and RTOs should be subject to financial penalties imposed by the ERO or a Regional Entity only in ''extraordinary circumstances.'' It argues that, because ISOs, RTOs and reliability organizations are similarly situated in all material respects, it is arbitrary and capricious for the Commission to determine that reliability organizations will be subject to financial penalties only in extraordinary circumstances and not to do likewise in the case of ISOs and RTOs. New York ISO states that the Commission has failed to justify treating reliability organizations more favorably than ISOs and RTOs by refusing in Order No. 672 to provide that the latter as well as the former would be subject to financial penalties only in extraordinary circumstances.

52. New York ISO also contends that imposing a financial penalty that could render a not-for-profit ISO or RTO insolvent is inconsistent with the section 215(e) of the FPA and the Commission's own directive that a penalty must be proportionate to the offense. An ISO or RTO will, absent a pass-through, face insolvency if it is subject to a financial penalty.

53. Further, New York ISO asserts that the Commission's failure to establish that ISOs and RTOs should not be subject to financial penalties in connection with reliability violations committed by third parties within the ISO/RTO's control area is arbitrary and capricious, as well as inconsistent with due process, section 215(e) of the FPA, and the Commission's policy that penalties should be proportionate to the offender's misconduct. New York ISO notes that, while Order No. 672 agrees generally that an entity should not be punished for a violation outside of its control, the Order does not make a generic ruling on the issue and, rather, directs New York ISO to raise such concerns in the ERO stakeholder process. It asserts that failure to establish a ''bright line'' that insulates a party from penalty for a violation outside its control is arbitrary and capricious and violates due process.

54. SoCal Ed states that the Commission erred when it would not decide generically whether an RTO or ISO may pass a monetary penalty through to its members or customers. Like New York ISO, SoCal Ed points to the limited resources of ISOs and RTOs. It seeks rehearing on this issue and also argues that, in passing on costs, the ISO or RTO should determine whether particular members or customers are responsible for the penalty and obtain repayment from them.

Commission Conclusion

55. ISO/RTO Council does not explain why permitting penalty monies to offset the enforcing entity's entire section 215 budget creates an improper incentive for the ERO or a Regional Entity to overcollect penalties. Penalty monies would be received as an offset against the budget of the ERO and Regional Entities for discharging their statutory duties in the coming year. Unless the aggregate amount of penalties exceeds the entire ERO budget, the only beneficiaries of this policy are the entities that have reduced payments for next year's support of the ERO. Order No. 672 concludes that penalty monies

[47] *Id.* at P 611.

[48] *Id.* at P 494–495.

[49] *Id.* at P 626.

[50] *Id.* at P 627.

[51] Id. at P 634–635 (footnote omitted).

represent a savings to end users of electricity. ISO/RTO Council has not persuaded us that this approach creates an improper incentive for the ERO to impose excessive penalties. Further, we remind ISO/RTO Council that every penalty must be filed with the Commission, and the Commission is therefore in the position to detect and correct any possible incentive for overcollection. ISO/RTO Council's request for rehearing on this issue is, therefore, denied.

56. In response to New York ISO, while ISOs, RTOs and reliability organizations may be similarly situated in some respects, they differ in important respects regarding penalty liability. The most significant difference, highly relevant to this proceeding, is that the statute makes the ERO and Regional Entities responsible for establishing and enforcing Reliability Standards, while making users, owners and operators of the Bulk-Power System, including ISOs and RTOs, subject to penalties for failure to comply with those Reliability Standards. It is not arbitrary and capricious to treat all operators alike, including RTOs and ISOs, in terms of their liability for violation of a Reliability Standard. Nor is it arbitrary and capricious to treat the ERO or a Regional Entity that violates a Commission order differently, for penalty purposes, from an operator that violates a Reliability Standard. The statute specifically authorizes the imposition of a penalty on a user, owner or operator for the violation of a Reliability Standard. The Commission acknowledges in Order No. 672 the unique characteristics of ISOs and RTOs and agrees that, in determining a penalty, circumstances such as organizational structure or not-for-profit status will be considered.[52]

57. New York ISO and SoCal Ed argue that the Commission erred in denying a generic penalty exemption for RTOs and ISOs because in their view—absent the ability to pass the penalty through to members or customers—a monetary penalty would lead to the insolvency of such entities. The Commission is mindful of the special characteristics of RTOs and ISOs, including the resources they have at their disposal. However, we do not believe that Congress enacted a law that provided for Reliability Standards to be enforceable through penalties and neglected to mention that it intended to exempt system operators that operate the Bulk-Power System serving half or more of the electric load in the United States. We understand that penalties may be monetary or non-monetary and the difficulty that a large monetary penalty would pose for a not-for-profit organization. However, we will not by rule exempt these large and important system operators from monetary penalties for violation of Reliability Standards. The Commission directed New York ISO to raise its concern about the punishment of entities for violations outside their control in the ERO or Regional Entity stakeholder process because it is first necessary to determine whether a proposed Reliability Standard would have this effect.[53] Both New York ISO and SoCal Ed have failed to demonstrate the need for a generic exemption or a blanket pass-through provision, and their requests for rehearing on these points are therefore denied.

58. For the reasons discussed above, the Commission affirms its earlier decision and will not allow a generic pass through of monetary penalties for RTOs and ISOs. However, an individual RTO or ISO may propose a mechanism through a section 205 tariff filing to recover penalty monies imposed by the ERO or a Regional Entity.

59. Further, any concerns regarding a particular ERO applicant's proposed penalty imposition policies should be addressed in its ERO certification proceeding.

F. Funding of the Electric Reliability Organization

60. Order No. 672 directs an ERO candidate to propose a formula or method of funding addressing cost allocation and cost responsibility, along with a proposed mechanism for revenue collection for Commission consideration. Further, pursuant to the Final Rule, the ERO will fund the Regional Entities as well as approve their budgets, under the Commission's oversight. The ERO must file with the Commission its entire proposed annual budget for statutory and non-statutory activities, including the entire budgets of each Regional Entity. All entities within the Commission's jurisdiction pursuant to section 215(b) of the FPA are required to pay any ERO assessments, as set out in the ERO Rules approved by the Commission, in a timely manner reasonably designated by the ERO.

1. Activities to be Funded by End-Users

61. Order No. 672 concludes that section 215 of the FPA ''provides for federal authorization of funding limited to the development of Reliability Standards and their enforcement, and monitoring the reliability of the Bulk-Power System. However, the ERO or a Regional Entity is not precluded from pursuing other activities, funded from other sources.'' [54] Likewise, any funding that is approved and provided by the ERO to a Regional Entity would be limited to a Regional Entity's costs related to the delegated functions.[55] The Final Rule explains that, while neither the ERO nor a Regional Entity is precluded from pursuing other activities, activities not explicitly authorized under FPA section 215 may not be funded through the ERO.

62. Order No. 672 also determines that it is not necessary to provide in the Commission's regulations funding of a Regional Advisory Body. The Final Rule states that ''[s]uch bodies are voluntary organizations with members to be appointed by the Governor of each participating state or province. Each Regional Advisory Body is responsible for developing its own funding means.'' [56]

Requests for Rehearing

63. SoCal Ed states that restricting ERO and Regional Entity activities funded by end users to the development of Reliability Standards and their enforcement, and monitoring the reliability of the Bulk-Power System is too restrictive and that the ERO and the Regional Entities will have many more reliability-related functions. SoCal Ed states that it is not clear that, for example, the ERO and Regional Entities may be funded for costs associated with ''reliability centers'' and reliability assessments of the Bulk-Power System. SoCal Ed asks that the Commission allow end-user funding of all ERO and Regional Entity reliability activities.

64. Western Governors/CREPC, supported by the CPUC, asks the Commission to clarify whether Order No. 672, in the discussion of Regional Advisory Body funding, simply declines to guarantee that the budget of a Regional Advisory Body will be funded through section 215 mandatory reliability fees collected from end users or whether the Final Rule precludes the inclusion of a Regional Advisory Body budget in such mandatory fees. Further, Western Governors/CREPC seeks rehearing to the extent that the Commission intended to preclude funding of a Regional Advisory Body

[52] Consideration of such factors in determining an appropriate penalty is consistent with our Enforcement Policy. *See Enforcement of Statutes, Orders, Rules, and Regulations,* 113 FERC ¶ 61,068. *See also,* Order No. 672 at P 561, n. 158.

[53] Order No. 672 at P 636.

[54] *Id.* at P 202. Order No. 672 also discusses possible limitations on such other activities. *Id.*

[55] *Id.* at P 229.

[56] *Id.* at P 248.

through mandatory fees collected from end users. Western Governors/CREPC argues that precluding such funding would be inconsistent with section 215(c)(2)(B), which requires the ERO to have rules that allocate equitably reasonable dues, fees, and other charges among end users for all activities under that section. Western Governors/CREPC maintains that Regional Advisory Body activities under section 215(j) are covered by this requirement and that end users will benefit from those activities. Western Governors/CREPC also argues that making Regional Advisory Bodies responsible for their own funding would discourage the formation of such entities and reduce their effectiveness.

Commission Conclusion

65. With regard to SoCal Ed's request, we clarify that the ERO can collect a Commission-approved assessment of dues, fees or charges for all activities performed pursuant to section 215 of the FPA, which would include all activities pursuant to our regulations. The isolated preamble language cited by SoCal Ed was not intended to limit the scope of ERO activities that may be funded. Elsewhere in the preamble to Order No. 672, as well as the regulation text, the Commission distinguishes between statutory and non-statutory activities of the ERO, and indicates that statutory activities of the ERO should be funded through a Commission-approved assessment of dues, fees or charges, while non-statutory activities must be funded through other means.[57] We will consider what a permissible statutory activity is when we see a specific proposal.

66. In response to Western Governors/CREPC, we agree that neither the statute nor Order No. 672 provides explicitly for Commission-approved ERO funding of a Regional Advisory Body, nor does either explicitly preclude such funding. As Western Governors commented in response to our proposed rule, under the statute the Commission must establish a Regional Advisory Body if it meets the explicit statutory criteria. In response to this comment by Western Governors and others, Order No. 672 reflects this requirement. However, Western Governors/CREPC does not indicate what would be the nature or scope of the funding for the Regional Advisory Body that it would like to see codified in our regulations. Order No. 672 appropriately does not automatically provide for ratepayer funding for any Regional Advisory Body through section 215 of the FPA without an opportunity to consider the nature, size, and cost of Regional Advisory Body activities. We recognize that, in some regions, the governors may prefer to provide state funding for such a Body to ensure its independence from the entities it must advise, namely, the ERO, the Regional Entity, and the Commission.

67. Our approach in Order No. 672 is to codify the requirement to establish such a Body, upon petition, if it meets the statutory criteria, and to consider subsequently any funding request. In response to any such request, the Commission would consider what activities are covered by the requested funds. Any such request would have to specify, for example, whether the funding is just for the travel expenses of Regional Advisory Body members, or goes beyond that to include funding for other things (such as funding for state employees who support the members of the Regional Advisory Body, non-governmental employee staffing for the Regional Advisory Body itself, outside consultants or reliability experts, costs of any studies, or any other intended activities). Since this request would be part of the ERO's overall budget, we would be able to consider also the recommendation of the ERO and any relevant Regional Entity. These considerations are beyond the scope of this rulemaking and best considered with a specific application before us. For these reasons, we deny the request for rehearing of Order No. 672 but clarify that this denial is without prejudice to any possible future ERO request for Regional Advisory Body funding in its budget (including that portion of its budget that provides funding for the activities of the Regional Entities).

68. For example, one mechanism that the ERO may choose to consider is the funding of a Regional Advisory Body through the sharing of costs. The ERO could seek Commission approval of a ''matching'' program in which Commission-approved funding would be permitted in an amount up to that contributed by the relevant states to the Regional Advisory Body's budget for section 215 activities. The Commission will consider this or other proposed approaches to Regional Advisory Body funding on a case-by-case basis.

2. Allocation of ERO Costs

69. SoCal Ed contends that the Final Rule does not address its comment that RTOs and ISOs, if allocated section 215 reliability costs, should be required to amend their Commission-approved tariffs to provide a method for the allocation of such costs to end users in their footprint. It argues that failure to do this could deny RTO and ISO members due process and subject them to regulatory uncertainty.

Commission Conclusion

70. We agree with SoCal Ed that an RTO or ISO may need to amend its Commission-approved tariff to provide a method for the recovery of costs if it is allocated ERO costs. SoCal Ed is assuming that an RTO or ISO rather than a load-serving entity will be allocated such costs. Order No. 672 states that ''cost allocation and cost responsibility questions should be addressed first by the ERO and submitted together with a proposal for revenue collection for Commission approval.'' [58] Because we do not have a cost allocation proposal before us yet, it is premature for the Commission to consider whether to amend its regulations to require ISOs and RTOs to amend their tariff.

III. Information Collection Statement

71. Order No. 672 contains information collection requirements for which the Commission obtained approval from the Office of Management and Budget (OMB). Given that this Order on Rehearing makes only one minor revision to the regulation text of Order No. 672 and other minor clarifications to Order No. 672, OMB approval for this order is not necessary. However, the Commission will send a copy of this order to OMB for informational purposes.

IV. Document Availability

72. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

73. From the Commission's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

74. User assistance is available for eLibrary and the FERC's Web site during

[57] *Id.* at P 197, 198, 228 and 18 CFR 39.4(b).

[58] *Id.* at P 242.

normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.referenceroom@ferc.gov*).

V. Effective Date

75. Changes to Order No. 672 made in this order on rehearing will become effective on May 18, 2006.

List of Subjects in 18 CFR Part 39

Administrative practice and procedure, Electric power, Penalties, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

■ In consideration of the foregoing, the Commission amends Chapter I, Title 18, *Code of Federal Regulations* to read as follows:

PART 39—RULES CONCERNING CERTIFICATION OF THE ELECTRIC RELIABILITY ORGANIZATION AND PROCEDURES FOR THE ESTABLISHMENT, APPROVAL, AND ENFORCEMENT OF ELECTRIC RELIABILITY STANDARDS

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

Authority: 16 U.S.C. 8240.

■ 2. In § 39.6, paragraphs (b)(1) and (c) are revised to read as follows:

§ 39.6 Conflict of a Reliability Standard with a Commission Order.

* * * * *

(b) * * *

(1) The Transmission Organization to file a modification of the conflicting function, rule, order, tariff, rate schedule, or agreement pursuant to section 206 of the Federal Power Act, as appropriate, or

* * * * *

(c) The Transmission Organization shall continue to comply with the function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission until the Commission finds that a conflict exists, the Commission orders a change to such provision pursuant to section 206 of the Federal Power Act, and the ordered change becomes effective.

[FR Doc. 06–3631 Filed 4–17–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. NHTSA–05–22265]

RIN 2127–AJ66

Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System Pursuant to a Personnel Security Investigation and Determination

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

ACTION: Final rule.

SUMMARY: This final rule announces that the amendments to the agency's National Driver Register (NDR) regulations that were published in an interim final rule to reflect changes made to the National Driver Register Act of 1982 by Section 1061 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375) will remain in effect with one minor change. The amendments authorize a Federal department or agency that investigates an individual for the purpose of determining the individual's eligibility to access national security information to request and receive information from the National Driver Register, upon request and consent of the individual. This final rule establishes the procedures for individuals to request and for the Federal department or agency to receive NDR information.

DATES: This final rule becomes effective on June 19, 2006.

FOR FURTHER INFORMATION CONTACT: For program issues: Mr. Sean McLaurin, Chief, National Driver Register, NPO–122, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–4800. For legal issues: Mr. Roland (R.T.) Baumann III, Attorney-Advisor, Office of the Chief Counsel, NCC–113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–1834.

SUPPLEMENTARY INFORMATION:

I. Background

A. National Driver Register

The National Driver Register (NDR) is a central file of information on individuals whose license to operate a motor vehicle in a State has been denied, revoked, suspended, or canceled, for cause, or who have been convicted of certain serious traffic-related violations in a State, such as racing on the highway or driving while impaired by alcohol or other drugs. The NDR was designed to prevent such individuals from obtaining a driver's license in another State, using a device known as the Problem Driver Pointer System (PDPS).

The PDPS consists of a list of problem drivers (with certain identifying information) contained in ''pointer'' records. These records ''point'' to the State where the substantive adverse records about the driver can be obtained. The PDPS system is fully automated and enables State driver licensing officials to determine instantaneously whether another State has taken adverse action against a license applicant.

B. National Driver Register Act of 1982

The NDR Act of 1982, as amended, 49 U.S.C. 30301, *et seq.*, authorizes State chief driver licensing officials to request and receive information from the NDR for driver licensing and driver improvement purposes. When an individual applies for a driver's license, for example, these State officials are authorized to request and receive NDR information to determine whether the applicant's driver's license has been withdrawn for cause or the applicant has been convicted of specific offenses in another State. Because the NDR is a nationwide index, State chief driver licensing officials need only submit a single inquiry to obtain this information.

State chief driver licensing officials also are authorized under the NDR Act to request NDR information on behalf of other NDR users for specific transportation safety purposes. The NDR Act authorizes the following entities to receive NDR information for limited transportation purposes: The National Transportation Safety Board and the Federal Highway Administration for accident investigation purposes; employers and prospective employers of motor vehicle operators; the Federal Aviation Administration (FAA) regarding any individual who holds or has applied for an airman's certificate; air carriers regarding individuals who are seeking employment with the air carrier; the Federal Railroad Administration (FRA) and employers or prospective employers of locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document. The Act also allows

individuals to learn whether information about themselves is on the NDR file and to receive any such information.

The NDR statute allows the head of a Federal department or agency authorized to receive information regarding an individual from the NDR to request and receive such information from the Secretary of Transportation. 49 U.S.C. 30305(b)(11). This provision, by its operation, affords direct access to the NDR to identified Federal departments and agencies (through NHTSA), without the need to submit an inquiry to a State chief driver licensing official. In practice, virtually all Federal departments or agencies with specific access provisions have submitted inquiries directly to NHTSA.

C. Recent Amendment to National Driver Act of 1982

On October 28, 2004, Public Law 108–375 amended the NDR Act of 1982. Section 1061 of Public Law 108–375 allows ''[a]n individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive Order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive Order, [to] request the chief driver licensing official of a State to provide [NDR] information about the individual * * * to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment in a position requiring access to national security information.'' The agency published an interim final rule on September 2, 2005 (70 FR 52296), amending the NDR regulations, 23 CFR part 1327, to incorporate procedures governing access to NDR information to assist in personnel security investigations.

II. Procedures for Requesting and Receiving NDR Information for Personnel Security Investigations

A. Interim Final Rule

The interim final rule provided that the procedures that a Federal department or agency performing personnel security investigations of individuals must follow to receive NDR information are similar to those followed by the FAA, the FRA, and the U.S. Coast Guard in checking their applicants for employment or certification. Specifically, the interim final rule amended the regulatory sections at 23 CFR 1327.6 and 1327.7 to set forth procedures that a Federal agency must use to request NDR information directly from the agency.

The interim final rule explained that the Federal department or agency may not, itself, initiate a request for NDR information. Rather, the individual subject to a personnel security investigation must do so. The interim final rule stated that to initiate a request, the individual must either complete, sign and submit a request to the chief driver licensing official of a State for an NDR file search or authorize the Federal department or agency to request the chief driver licensing official to conduct the NDR file search by providing a written and signed consent. Just as in NDR requests for traffic safety purposes, the request or written consent must state that NDR records are being requested; state specifically who is authorized to receive the records; be dated and signed by the individual; and state that it is recommended (but not required) that the Federal department or agency verify matches with the state of record. Consistent with a specific statutory restriction concerning personnel security investigations, it must also state that the authorization is valid only during the performance of the security investigation.

In accordance with Public Law 108–375, the interim final rule amended the NDR regulation at 23 CFR 1327.5 to provide that a Federal department or agency also may request NDR information through a State chief driver licensing official. Since all 50 States and the District of Columbia currently participate in the NDR PDPS, the interim final rule provided procedures that States must follow to accept NDR inquiries from a Federal department or agency for personnel security investigations.

To make clear that a covered personnel security investigation is limited to an investigation for the purpose of assisting in the determination of eligibility for access to national security information or for Federal employment in a position requiring access to national security information, the interim final rule also added a definition of ''personnel security investigation'' to 23 CFR 1327.3.

B. Request for Comments

The agency explained that publication as an interim final rule, without prior notice and opportunity for comment, was necessary to permit individuals subject to background investigations for security clearances to submit requests to the NDR and Federal departments or agencies to receive NDR information as soon as possible. The changes made to the regulation in the interim final rule were minor and simply reflected the statutory amendments enacted by Public Law 108–375. The changes were nearly identical to existing regulatory procedures being followed by the States, by airmen, by seamen/merchant mariners, and by others in the field of transportation safety, which were previously subjected to notice and opportunity for comment.

Although the agency indicated that no further regulatory action was necessary on its part to make the changes effective, it provided a 60-day comment period for interested parties to present data, views and arguments on the interim final rule. Those comments were due on November 1, 2005. The interim final rule explained that the agency would consider and respond to all comments and, if appropriate, would make further amendments to the applicable provisions of 23 CFR part 1327. No comments were received. Accordingly, the final rule adopts the interim final rule subject to a single change to correct a citation error that occurred in section 1327.5(d)(2) of the regulatory text.

III. Statutory Basis for This Rule

The final rule implements a NDR access provision mandated by section 1061 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). The NDR Act of 1982 (Pub. L. 97–364) provides general authority to issue regulations regarding access to the PDPS.

IV. Regulatory Analyses and Notices

A. Executive Order 12988 (Civil Justice Reform)

This action does not have any preemptive or retroactive effect. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

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

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determinations on whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The agency has considered the impact of this action under Executive Order 12866 and determined that it is not

significant. The action is also not significant under the Department of Transportation's regulatory policies and procedures. The final rule implements amendments contained in Public Law 108–375 providing NDR access to another group of NDR individuals—individuals who are subject to personnel security investigations. Because Public Law 108–375 provides specific NDR access to Federal departments or agencies performing personnel security investigations and because the NDR Act allows Federal agencies with specific access provisions to submit them directly to the Secretary of Transportation (by delegation, to NHTSA), this action will not increase significantly the number of NDR inquiries processed by State driver licensing officials. Most, if not all, such inquiries will likely be submitted to NHTSA. Accordingly, a full regulatory evaluation is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 5 U.S.C. 601–612) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify that the action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is not required.

D. Paperwork Reduction Act

There are reporting requirements contained in the regulation that this final rule is amending that are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The final rule does not change the reporting requirements for participating States or the procedures to be followed by individuals who request NDR information. These requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3500, *et seq.*). These requirements have been approved through July 30, 2006, under OMB No. 2127–0001.

E. National Environmental Policy Act

The agency has reviewed this action for the purposes of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and has determined that it would not have a significant impact on the quality of the human environment.

F. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed 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 $100 million or more (adjusted annually for inflation) in any one year. The final rule may require that some State driver licensing officials process additional inquiries submitted to them for purposes of personnel security investigations. However, because the statute allows this type of inquiry to be submitted directly to the Secretary of Transportation (by delegation, to NHTSA), we do not anticipate that States will face a significant increase in NDR requests and, therefore, in associated costs. Most, if not all, such requirements will likely be submitted to NHTSA. Accordingly, this action does not require an assessment under that law.

G. Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. Accordingly, a Federalism Assessment is not required.

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

The agency has analyzed this action under Executive Order 13175, and has determined that the action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

I. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This final rule is not subject to E.O. 13045 because it is not ''economically significant'' as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

If you have any comments about the Plain Language implications of this final rule, please address them to the person listed in the **FOR FURTHER INFORMATION CONTACT** heading.

K. Regulation Identifier Number (RIN)

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

L. 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 23 CFR Part 1327

Highway safety, Intergovernmental relations, and Reporting and recordkeeping requirements.

■ Accordingly, the interim final rule amending 23 CFR part 1327, which was published at 70 FR 52296 on September 2, 2005, is adopted as a final rule, with the following change:

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

■ 1. The authority citation for part 1327 continues to read as follows:

Authority: Pub. L. 97–364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

■ 2. Section 1327.5 is amended by revising paragraph (d)(2) to read as follows:

§ 1327.5 Conditions for becoming a participating State.

* * * * *

(d) * * *

* * * * *

(2) Any request made by a Federal department or agency may include, in lieu of the actual information described in paragraphs (d)(1)(iii) through (v) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid only for the duration of the personnel security investigation, and specifically stated that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

* * * * *

Issued on: April 12, 2006.

Jacqueline Glassman,

Deputy Administrator.

[FR Doc. 06–3663 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Docket No. OAG 113; AG Order No. 2811–2006]

Office of the Attorney General; Establishment of the Office on Violence Against Women

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule updates the Department of Justice (DOJ) organizational regulations to reflect the establishment of the Office on Violence Against Women (OVW) as a separate and distinct office within the DOJ. OVW carries out the duties of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Pub. L. 103–322) and the Violence Against Women Act of 2000 (division B of Pub. L. 104–386), and any other duties otherwise authorized by law, or assigned to it or delegated to it by the Attorney General. This rule sets forth the duties of the Director of OVW. This rule also reflects the continued applicability to OVW of the National Environmental Policy Act of 1969 (NEPA) regulations that apply to components of the Office of Justice Programs (OJP), and which were therefore previously applied to OVW when it was part of OJP.

DATES: This rule is effective April 18, 2006.

FOR FURTHER INFORMATION CONTACT: Marnie Shiels, Attorney Advisor, Office on Violence Against Women, 810 7th Street, NW., Washington, DC 20531; Telephone: (202) 307–6026; Fax: (202) 307–3911.

SUPPLEMENTARY INFORMATION: Section 402(3) of the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. 107–273, Division A, Title IV, 116 Stat.1758 (Nov. 2, 2002)), provided for the establishment of OVW as a separate and distinct office within the Department of Justice, to be headed by a director, appointed by the President, by and with the advice and consent of the Senate. The Director of OVW is responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of OVW. Specifically, the Director is responsible for carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Pub. L. 103–322) and the Violence Against Women Act of 2000 (division B of Pub. L. 104–386), and exercising such other powers and functions as may be vested in the Director pursuant to 42 U.S.C. 3796gg *et seq.*, or by delegation of the Attorney General, 42 U.S.C. 3796gg–0–42 U.S.C. 3796gg–0b. Under the authority of the 21st Century Department of Justice Appropriations Authorization Act, the Attorney General directed the separation of OVW from OJP, its former parent organization within the Department.

Because OVW was formerly an office within OJP, regulations applicable to OJP were applicable to OVW. This rule reflects the continued applicability to OVW of certain procedures issued pursuant to the NEPA, found in 28 CFR part 61, Appendix D, which are applicable to OJP (the regulation refers to the Office of Justice Assistance, Research and Statistics, which was the predecessor to OJP), and were, therefore, applicable to OVW before it was separated from OJP. No substantive changes are being made to the regulation, and the continued applicability of the regulation to OVW will not add or remove any substantive rights or obligations of OVW grantees or cooperative agreement recipients. It is only because of the reorganization of the Department of Justice that the NEPA regulation, by its express terms, makes no reference to OVW. This rule clarifies that the NEPA regulation will continue to apply to OVW. OVW effectuates other regulatory requirements through grant conditions with which the grantees agree to comply.

Administrative Procedure Act 5 U.S.C. 553

This rule is a rule of agency organization and is therefore exempt from the notice requirement of 5 U.S.C. 553(b). This rule is effective upon publication.

Executive Order 12866

This action has been drafted and reviewed in accordance with Executive Order 12866 Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management, and personnel as described by Executive Order 12866 section 3(d)(3) and, therefore, is not a ''regulation'' or ''rule'' as defined by that Executive Order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

Executive Order 13132

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. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a ''major rule'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect

on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a ''rule'' for purposes of the reporting requirement of 5 U.S.C. 801.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis was not required to be prepared for this final rule since the Department was not required to publish a general notice of proposed rulemaking for this matter.

List of Subjects in 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

■ Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301, 28 U.S.C. 509 and 510, Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

§ 0.1 [Amended]

■ 2. Revise § 0.1 by adding at the end of the list under ''Offices'' the title ''Office on Violence Against Women.''

■ 3. Add Subpart U–2 to Part 0, to read as follows:

Subpart U–2—Office on Violence Against Women

Sec.
0.122 Office on Violence Against Women.

§ 0.122 Office on Violence Against Women.

(a) The Director, Office on Violence Against Women, under the general authority of the Attorney General, shall:

(1) Exercise the powers and perform the duties and functions described in section 402(3) of title IV of the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. 107–273); and

(2) Perform such other duties and functions relating to such duties as may be authorized by law or assigned or delegated by the Attorney General, consistent with constitutional limits on the Federal Government's authority to act in this area.

(b) Departmental regulations set forth in 28 CFR part 61, Appendix D, applicable to the Office of Justice Programs, shall apply with equal force and effect to the Office on Violence Against Women, with references to the Office of Justice Assistance, Research and Statistics, and its components, in such regulations deemed to refer to the Office on Violence Against Women, as appropriate.

Dated: April 12, 2006.

Alberto R. Gonzales,

Attorney General.

[FR Doc. 06–3673 Filed 4–17–06; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 64

[DoD–2006–OS–0022]

[RIN 0790–AH92]

Management and Mobilization of Regular and Reserve Retired Military Members

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This rule prescribes uniform policy and guidance governing the peacetime management of retired military personnel, both Regular and Reserve, in preparation for their use during a mobilization. It impacts non-DoD organizations that have DoD-related missions, such as the Department of Homeland Security and the Selective Service System, and non-DoD organizations that have North Atlantic Treaty Organization-related missions, under agreements with those non-DoD organizations and advises all federal agency managers of the possible use of military retirees who may be in their employment as civilians.

DATES: This rule is effective April 18, 2006. Comments must be received by June 19, 2006.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Daniel Kohner, 703–693–7479, *Dan.Kohner@osd.mil.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR part 64 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof:

or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The impact of this DoD policy is to offer federal agencies the opportunity to identify civilian positions that could be filled by military retirees during times of war or national emergency, and to coordinate those possible requirements with the DoD. This policy does not impact small entities.

Public Law 96–511, ''Paperwork Reduction Act (44 U.S.C. Chapter 35)''

It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 64

Military personnel.

■ For the reasons set forth in the preamble, 32 CFR part 64 is revised to read as follows:

PART 64—MANAGEMENT AND MOBILIZATION OF REGULAR AND RESERVE RETIRED MILITARY MEMBERS

Sec.

Authority: 10 U.S.C. 688, 973, and 12301(a).

§ 64.1 Purpose.

This part implements 10 U.S.C. 688, 973, 12301(a), and 12307 by prescribing uniform policy and guidance governing the peacetime management of retired Regular and Reserve military personnel preparing for their use during a mobilization.

§ 64.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is not operating as part of the Navy by agreement with the Department of Homeland Security), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to as the ''DoD Components''). The term ''Military Services,'' as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard. The term ''Secretary concerned,'' refers to the respective Secretaries of the Military Departments and the Secretary of Homeland Security for the Coast Guard when it is not operating as part of the Navy. (b) This part also applies to non-DoD organizations that have DoD-related missions, such as the Department of Homeland Security and the Selective Service System, and non-DoD organizations that have North Atlantic Treaty Organization-related missions, under agreements with those non-DoD organizations.

§ 64.3 Definitions.

(a) *Key employee.* Any Reservist or any military retiree (Regular or Reserve) identified by his or her employer, private or public, as filling a key position.

(b) *Key position.* A civilian position, public or private (designated by an employer and approved by the Secretary concerned), that cannot be vacated during war, a national emergency, or mobilization without seriously impairing the capability of the parent agency or office to function effectively, while meeting the criteria for designating key positions as outlined in Department of Defense Directive 1200.7.[1]

(c) *Military retiree categories.* (1) *Category I.* Non-disability military retirees under age 60 who have been retired fewer than 5 years.

(2) *Category II.* Non-disability military retirees under age 60 who have been retired 5 years or more.

(3) *Category III.* Military retirees, including those retired for disability, other than categories I or II retirees (includes warrant officers and healthcare professionals who retire from active duty after age 60).

(d) *Military retirees or retired military members.* (1) Regular and Reserve officers and enlisted members who retire from the Military Services under 10 U.S.C. Chapters 61, 63, 65, 1223, 367, 571, or 573, and 14 U.S.C. Chapters 11 and 21.

(2) Reserve officers and enlisted members eligible for retirement under one of the provisions of law in § 64.3(d) who have not reached age 60 and who have not elected discharge or are not members of the Ready Reserve or Standby Reserve (including members of the Inactive Standby Reserve).

(3) Members of the Fleet Reserve and Fleet Marine Corps Reserve under 10 U.S.C. 6330.

§ 64.4 Policy.

(a) It is DoD policy that military retirees be ordered to active duty as needed to perform such duties as the Secretary concerned considers necessary in the interests of national defense as described in 10 U.S.C. 12301 and 688.

(b) The DoD Components and the Commandant of the U.S. Coast Guard shall plan to use as many retirees as necessary to meet national security needs.

(c) The military retirees ordered to active duty may be used according to guidance prescribed by the Secretary concerned as follows:

(1) To fill shortages or to augment deployed or deploying units and activities or units in the Continental United States, Alaska, and Hawaii supporting deployed units.

(2) To release other military members for deployment overseas.

(3) Subject to the limitations of 10 U.S.C. 973, Federal civilian workforce shortages in the Department of Defense, the U.S. Coast Guard, or other Government entities.

(4) To meet national security needs in organizations outside the Department of Defense with Defense-related missions, if the detail outside the Department of Defense is approved according to DoD Directive 1000.17.[2]

(5) To perform other duties that the Secretary concerned considers necessary in the interests of national defense.

(d) Military retirees shall be ordered to active duty with full pay and allowances. They may not be used to fill mobilization billets in a non-pay status.

(e) Military retirees serving on active duty may be reassigned to meet the needs of the Military Service.

§ 64.5 Responsibilities.

(a) The Assistant Secretary of Defense for Reserve Affairs and the Deputy Under Secretary of Defense (Military Personnel Policy) (DUSD(MMP)), under the Under Secretary of Defense for

[1] Copies may be obtained from *http://www.dtic.mil/whs/directives.*

[2] See § 64.3(b).

Personnel and Readiness, shall provide policy guidance for the management and mobilization of DoD military retirees.

(b) The Secretaries of the Military Departments and the Commandant of the U.S. Coast Guard shall ensure plans for the management and mobilization of military retirees are consistent with this rule.

(c) The Directors of the Defense Agencies, the Secretary of Homeland Security, the Director of the Selective Service System, and Heads of Federal Agencies, shall, by agreement, assist in identifying military and Federal civilian wartime positions that are suitable to be filled by military retirees. They shall also process those requirements according to Departmental policy, including any appropriate coordination under Department of Defense Directive 1000.17,[3] before the positions are filled by the Military Services. The Secretary of the Military Department shall retain the right to disapprove the request if no military retiree is available.

(d) The Secretaries of the Military Departments, or designees, shall:

(1) Prepare plans and establish procedures for mobilization of military retirees according to this rule.

(2) Determine the extent of military retiree mobilization requirements based on existing inventories and inventory projections for mobilization of qualified Reservists in an active status in the Ready Reserve, including Individual Ready Reserve and the Inactive National Guard (when placed in an active status), or the Standby Reserve.

(3) Develop procedures for identifying retiree Categories I and II and conduct screening of retirees according to Department of Defense Directive 1200.7.[4]

(4) Maintain necessary records on military retirees and their military qualifications. Maintain records for military retiree Categories I and II, including retirees who are key employees, and their availability for mobilization, civilian employment, and physical condition. Data shall be

(5) Advise military retirees of their duty to provide the Military Services with accurate mailing addresses and any changes in civilian employment, military qualifications, availability for service, and physical condition.

(6) Pre-assign retired members, when determined appropriate and as necessary.

(7) Determine refresher training requirements.

[3] See § 64.3(b).

[4] See § 64.3(b).

Dated: April 11, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–3658 Filed 4–17–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF ENERGY

48 CFR Part 950

Extraordinary Contractual Actions

CFR Correction

In Title 48 of the Code of Federal Regulations, Chapters 7 to 14, revised as of Oct. 1, 2005, on page 368, part 950 is corrected by removing sections 950.7000 and 951.7001, and reinstating sections 950.7000 and 950.7001 in their place to read as follows:

§ 950.7000 Scope of subpart.

This subpart describes the established policies concerning indemnification of DOE contractors against public liability for a nuclear incident arising out of or in connection with the contract activity.

[49 FR 12039, Mar. 28, 1984, as amended at 56 FR 57827, Nov. 14, 1991]

§ 950.7001 Applicability

The policies and procedures of this subpart shall govern DOE's entering into agreements of indemnification with recipients of a contract whose work under the contract involves the risk of public liability for a nuclear incident or precautionary evacuation.

[49 FR 12039, Mar. 28, 1984, as amended at 56 FR 57827, Nov. 14, 1991]

[FR Doc. 06–55515 Filed 4–17–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 041206A]

Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and ''Other Flatfish'' by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 13, 2006, through 1200 hrs, A.l.t., July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI is 164 metric tons as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the BSAI.

''Other flatfish'' includes Alaska plaice, as well as all other flatfish species except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, flathead sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5

U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 12, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 12, 2006.

James P. Burgess,

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

[FR Doc. 06–3676 Filed 4–13–06; 3:20 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 74
Tuesday, April 18, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH86

List of Approved Spent Fuel Storage Casks: FuelSolutions™ Cask System Revision 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the BNG Fuel Solutions Corporation (FuelSolutions™) cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 4 to the Certificate of Compliance. Amendment No. 4 would revise Technical Specification (TS) requirements related to periodic monitoring during storage operations. Specifically, the amendment would revise the TS to permit longer surveillance intervals for casks with heat loads lower than the design basis heat load and permit visual inspection of the cask vent screens or measurement of the cask liner temperature to satisfy the periodic monitoring requirements that govern general design criteria for spent fuel storage casks. TS 3.3.1 would be deleted to remove daily monitoring requirements. TS 3.3.2 would be revised for the W21 and W74 canisters to permit either visual inspection of vent screens or liner thermocouple temperature monitoring. Also, TS 5.3.8 would add a section to the Periodic Monitoring Program which establishes intervals for periodic monitoring that are less than the time required to reach the limiting short-term temperature limit. This program would establish administrative controls and procedures to assure that the licensee will be able to determine when corrective action is required. In addition, the amendment would update editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation and make other administrative changes.

DATES: Comments on the proposed rule must be received on or before May 18, 2006.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH86) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays [telephone (301) 415–1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers at the NRC's Public Document Room (PDR), O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML053420606 (CoC), ML053420632 (TS–W100/W150), ML053420626 (TS–W21), ML053420617 (TS–W74), and ML053420638 (SER).

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment No. 4 to CoC No. 1026 and does not include other aspects of the FuelSolutions™ cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on July 3, 2006. However, if the NRC receives significant adverse comments by May 18, 2006, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a

substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1026 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1026.

Initial Certificate Effective Date: February 15, 2001.

Amendment Number 1 Effective Date: May 14, 2001.

Amendment Number 2 Effective Date: January 28, 2002.

Amendment Number 3 Effective Date: May 7, 2003.

Amendment Number 4 Effective Date: July 3, 2006.

SAR Submitted by: BNG Fuel Solutions Corporation.

SAR Title: Final Safety Analysis Report for the FuelSolutions™ Spent Fuel Management System.

Docket Number: 72–1026.

Certificate Expiration Date: February 15, 2021.

Model Number: WSNF–220, WSNF–221, and WSNF–223 systems; W–150 storage cask; W–100 transfer cask; and the W–21 and W–74 canisters.

* * * * *

Dated at Rockville, Maryland, this 3rd day of April, 2006.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E6–5705 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 915

[No. 2006–04]

RIN 3069–AB31

Federal Home Loan Bank Director Elections

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its rules to assist each Federal Home Loan Bank (Bank) in having a board of directors whose members possess the range of skills and experience best suited to administer the affairs of the Bank. The proposed rule is intended to enhance the corporate governance of each Bank by more closely aligning the experience and skills of individual directors with the expertise the Bank has identified as appropriate to enhance the board of directors in providing overall board management of the Bank.

DATES: The Finance Board will accept written comments on the proposed rule on or before June 2, 2006.

Comments: Submit comments by any of the following methods: E-mail: *comments@fhfb.gov*.

Fax: 202–408–2580.

Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street NW, Washington DC 20006, ATTENTION: Public Comments.

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to the Finance Board at *comments@fhfb.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Federal Housing Finance Board. Proposed Rule: Federal Home Loan Bank Director Elections. RIN Number 3069–AB31. Docket Number 2006–04.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the Finance Board Web site at *http://www.fhfb.gov/Default.aspx?Page=93&Top=93*.

FOR FURTHER INFORMATION CONTACT: John P. Kennedy, General Counsel, *kennedyj@fhfb.gov* or 202–408–2983; or Thomas P. Jennings, Senior Attorney Advisor, Office of General Counsel, *jenningst@fhfb.gov* or 202–408–2553. You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Congress has delegated to the Finance Board broad authority to fulfill its statutory mandates. Section 2B of the Federal Home Loan Bank Act (Bank Act) states that the Finance Board has the power ''[t]o supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as

are necessary from time to time to carry out the provisions of this chapter [*i.e.*, Chapter 11 of Title 12, *codified* at 12 U.S.C. 1421–1449].'' 12 U.S.C. 1422b(a)(1).

Historically, until the enactment of the Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act),[1] the Bank Act necessitated that the Finance Board be involved in the corporate governance practices of the Banks, typically by requiring Finance Board approval of a host of Bank practices. As a result of the enactment of the Modernization Act, the Finance Board devolved the last vestiges of corporate governance responsibilities, leaving those responsibilities with the Banks and their boards of directors.[2] Shortly thereafter, the Finance Board adopted a new part 917 (12 CFR part 917), which sets forth the powers and responsibilities of both the directors and senior management of the Banks.[3]

The primary mandate to the Finance Board is to ''ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.'' 12 U.S.C. 1422a(a)(3)(A). Within this broad authority, Congress also specifically authorized the Finance Board to ''prescribe such rules and regulations as it may deem necessary or appropriate for the nomination and election of directors of Federal home loan banks * * *'' 12 U.S.C. 1427(d).

II. Issues Addressed

The Finance Board believes that the board of directors of a Bank is one of the most important elements in maintaining the safety and soundness of the Bank. Carrying out the duties and responsibilities of directors, as more fully set forth in part 917, is a critical part of the running of a safe and sound Bank. Having well qualified and active directors is essential to enable the Bank to adopt appropriate policies and to oversee the proper execution of the day-to-day operational duties of management and other Bank personnel. In order to do so effectively, members of the board of directors of a Bank need to have the skills and experience necessary to understand the business of the Bank. Directors who have the appropriate skills generally are less hesitant to take an active role in adopting and overseeing the implementation of corporate practices and procedures designed to ensure the long-term success of a Bank. One way the Finance Board can help ensure the safety and soundness of the Banks is to use its regulatory authority to enable the Banks to establish a process whereby capable and skilled persons may be nominated and elected to their boards of directors, so that each Bank's board of directors will possess the aggregate skills needed to provide strong oversight.

In general, the election process begins with a notice from the Finance Board to each Bank informing the Bank of the number of elective directorships. *See* 12 CFR 915.3(c). Thereafter, each Bank determines the number of votes that each member may cast. *See* 12 CFR 915.5. Then each Bank provides its members with a written notice of election and receives nominations for elective directorships from members that are entitled to vote. *See* 12 CFR 915.6. Nominees who meet the eligibility requirements set forth in § 915.7 are included on ballots prepared for each state for which an elective directorship is to be filled, and each Bank mails the ballots to eligible voting members within that state. *See* 12 CFR 915.8. The proposed rule would allow, but not require, more Bank involvement in the election process.

Section 915.9 sets forth certain prohibitions on actions to influence director elections. These prohibitions, for the most part, are carryovers from when the Federal Home Loan Bank Board regulated the Banks, before the Modernization Act and the devolvement of corporate governance responsibilities to the Banks. The proposed rule would revise the prohibitions to correspond more closely with the changed responsibilities of the Finance Board and the Banks.

The Finance Board is proposing this rule to allow the Banks to play a more active role in the process of nominating and electing persons to its board of directors, with the goal of having the best qualified board of directors possible. The end result should be improved corporate governance of all the Banks.

III. Proposed Rule Amendments

Member involvement in the election process starts when the members receive a written notice from their Bank pursuant to § 915.6. The Finance Board proposes to add a new paragraph, § 915.6(a)(3), to allow each Bank to include with that notice a brief statement describing the skills and experience that the Bank has identified, pursuant to new § 915.9(a), as most likely to add strength to its board of directors. Under present § 915.6, the Banks have no specific authorization to inform the members about what it perceives to be its needs at the board of directors level. In the absence of specific information about the needs of its Bank, a member has little basis on which to make a nomination which will match the needs of the Bank.

Sending a brief statement to the members of what the Bank perceives to be its needs at the board level should enable the members to nominate candidates that they perceive as having qualities that match the Bank's needs. A Bank would be allowed to send such a statement only if, on or before the written election notice has been sent to the members, the Bank's board of directors has made a determination, pursuant to proposed new § 915.9(a), of the needs of the Bank at the board of directors level. Members would continue to be free to nominate persons as they see fit. No nominee otherwise eligible for election would be excluded from a ballot based on whether or not the Bank perceives the nominee to have any of the skills or experience that the Bank has included in the brief statement sent with the written notice. The Finance Board seeks comments on whether providing such information at the nomination stage of the election process, as opposed to some other time, will best serve the interests of the Banks and their members.

The Finance Board proposes to modify § 915.8(a)(1) to allow each Bank, as part of the information on each ballot about each nominee, to describe briefly that nominee's skills and experience. The Finance Board believes that voting members, by having a description of the skills and experience of the nominees, will be better informed when those members face voting decisions. At present, the Banks have no specific authorization to include on the ballots any information about a nominee's qualifications. Some Banks and members have expressed a desire to have such information at the time of voting, and the Finance Board believes that this is an appropriate means of providing such information to the members. The Finance Board seeks comments on whether it is appropriate to require each Bank to provide information about the skills and experience needed by the Bank and, if so, whether some other means or place for providing the information would be more appropriate.

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[1] The Modernization Act is Title VI of the Gramm-Leach-Bliley Act, Pub. L. 106–102, 133 Stat. 1338 (Nov. 12, 1999).

[2] *See* Resolution No, 2000–09, *published at* 65 FR 13663 (March 14, 2000) (available electronically in the Finance Board's FOIA Reading Room under ''Resolutions'': *http://www.fhfb.gov/Default.aspx?Page=59&ListYear=2000&ListCategory=9#9|2000*).

[3] *See* Resolution No, 2000–14, *published at* 65 FR 25274 (May 1, 2000) available electronically in the Finance Board's FOIA Reading Room under ''Resolutions'': *http://www.fhfb.gov/Default.aspx?Page=59&ListYear=2000&ListCategory=9#9|2000*).

The Finance Board also proposes to add a new § 915.8(b) to allow each Bank to include with each ballot a brief statement describing the skills and experience that the Bank has identified pursuant to new § 915.9(a). This statement may or may not be the same statement provided pursuant to § 915.6(a)(3). The Finance Board believes that sending a statement with the ballots will provide valuable information to a Bank's voting members at a time when the members are most in need of information in order to make voting decisions. The Banks would be authorized, but not required, to send such a statement at this time. Members would be free to consider the information in their decision-making process, as they see fit.

The Finance Board is proposing to revise § 915.9 substantially. The Finance Board is proposing to add a new § 915.9(a) to allow each Bank, if it so chooses, to conduct an annual assessment of the skills and experience which, if present in new directors, would enhance the capabilities of the board of directors. If, in the assessment process, particular skills or experiences are identified, each Bank may, as part of its announcement of elections, notify its members of the identified skills and experience. The Finance Board is proposing to include skills or experience in the areas of financial management and/or financial accounting, hedging, risk management, capital markets, disclosures required of issuers of securities, and housing finance as examples of what a Bank might determine to be appropriate skills or experience to add to its board of directors. A Bank would be allowed to identify these or other skills or experience, or it could decide not to identify any skills or experience, as it sees fit.

The existing prohibition in § 915.9(a) against taking action to influence votes would become § 915.9(c) and would be revised to make the prohibition no longer applicable to directors, officers, attorneys, employees, and agents of the Finance Board. Initially, the Finance Board took an active part in the election process. Effective December 30, 1998, with the adoption of final revisions to part 932 (now part 915), the Finance Board transferred the administration of elections to the Banks. As a result, restrictions on actions of Finance Board directors, officers, attorneys, employees, and agents no longer serve the purpose that they once did.

Section 915.9(b) would be revised to make this paragraph consistent with the other changes to § 915.9. The prohibitions with respect to incumbent Bank directors would not change substantially. Incumbent Bank directors may act in their individual capacities to support any person for a position as an elective director. Whether or not the Bank, through its board of directors, has taken any of the actions authorized by these proposed rules, an incumbent Bank director may not indicate that he or she is representing the views of the Bank or its board of directors. The specific prohibition on an incumbent Bank director representing the views of the Finance Board and directors, officers, attorneys, employees, or agents of the Finance Board or of the Bank would be deleted, but an incumbent Bank director would be subject to the prohibitions on director actions to influence votes, as set forth in proposed § 915.9(c), other than those actions allowed under § 915.9(a) and (b).

The Finance Board also is proposing to remove any reference to prohibitions on a member's actions by deleting the provisions of § 915.9(a)(2) from new § 915.9(c). If this prohibition were to remain in § 915.9(c) as revised, its only effect would be to prevent a member from suggesting that any Bank director, officer, attorney, employee, or agent supports a particular individual for an elective office. Because, under proposed § 915.9(b), a Bank director could support a particular candidate in his or her individual capacity, prohibiting a member from suggesting that a Bank director supports a particular candidate serves no useful purpose. Because Bank officers, attorneys, employees, and agents are prohibited from supporting particular individuals for elective office, the Finance Board believes that prohibiting a member from suggesting that Bank officials support particular individuals is unnecessary. Moreover, the Finance Board does not want these rules to be perceived as discouraging members from participating actively in the election process.

The collective effect of these changes should be to enable each Bank to focus on its needs at the board of directors level and to communicate those needs to the members that are entitled to nominate and vote on directors. The penultimate result should be identifying nominees whose skills and experience are more closely aligned to the needs of the Bank. The ultimate result should be the election of directors with the best skills and experience to manage the affairs of the Bank.

The Finance Board seeks comments on any aspect of the proposed rule. Specific considerations include whether the Banks should be required to take any of the actions that are authorized but not required by the proposed rule, and whether the Banks should be allowed to do more in the election process than authorized by the proposed rule.

IV. Paperwork Reduction Act

The proposed rule would have no substantive effect on any collection of information covered by the Paperwork Reduction Act of 1995 (PRA). *See* 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted this proposal to the Office of Management and Budget for review.

V. Regulatory Flexibility Act

The proposed rule would apply only to the Banks, which do not come within the meaning of ''small entities'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 915

Banks, Banking, Conflict of interests, Elections, Federal home loan banks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Finance Board proposes to amend 12 CFR part 915 as follows:

PART 915—BANK DIRECTOR ELIGIBILITY, APPOINTMENT, AND ELECTIONS

1. The authority citation for part 915 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432.

2. Amend § 915.6, by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5), respectively, adding a new paragraph (a)(3), and revising redesignated paragraph (a)(4) to read as follows:

§ 915.6 Elective director nominations.

(a) * * *

(3) At the election of the Bank, if, on or before the date the Bank provides the written notice, the Bank has determined, pursuant to § 915.9, which skills and experience are most likely to add strength to the board of directors, a brief statement describing such skills and experience;

(4) An attachment indicating the name, location, and FHFB ID number of every member in the member's voting state, and the number of votes each such member may cast for each directorship to be filled in the election, as

determined in accordance with § 915.5; and

* * * * *

3. Amend § 915.8, by revising paragraph (a)(1), redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively, and adding a new paragraph (b) to read as follows:

§ 915.8 Election process.

(a) * * *

(1) An alphabetical listing of the names of each nominee for the member's voting state, the name, location, and FHFB ID number of the member each nominee serves, the nominee's title or position with the member, the number of elective directorships to be filled by members in that voting state in the election, and, at the election of the Bank, a brief description of the nominee's skills and experience;

* * * * *

(b) *Statement on skills and experience.* A Bank may prepare and mail with each ballot a brief statement describing the elective director skills and experience the Bank has determined are most likely to add strength to the board of directors, if the Bank has made such a determination pursuant to § 915.9.

* * * * *

4. Revise § 915.9 to read as follows:

§ 915.9 Actions impacting director elections.

(a) *Banks.* Each Bank, acting through its board of directors, may conduct an annual assessment of the skills and experience possessed by the members of its board of directors as a whole and may determine whether the capabilities of the board would be enhanced through the addition of persons with particular skills and experience. If the board of directors determines that the Bank could benefit by the addition to the board of directors of persons with particular qualifications, such as in financial management/accounting, hedging, risk management, capital markets, securities disclosure requirements, or housing finance, it may identify those qualifications and so inform the members as part of the announcement of elections.

(b) *Incumbent Bank directors.* A Bank director acting in his or her personal capacity may support the nomination or election of any person for an elective directorship, provided that no Bank director purports to represent the views of the Bank or its board of directors in doing so.

(c) *Prohibition.* Except as provided in paragraphs (a) and (b) of this section, no director, officer, attorney, employee, or agent of a Bank may:

(1) Communicate in any manner that a director, officer, attorney, employee, or agent of a Bank, directly or indirectly, supports the nomination or election of a particular person for an elective directorship; or

(2) Take any other action to influence votes for a directorship.

Dated: April 12, 2006.

By the Board of Directors of the Federal Housing Finance Board.

Ronald A. Rosenfeld,

Chairman.

[FR Doc. 06–3690 Filed 4–17–06; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2006–24496; Directorate Identifier 2005–NM–141–AD]

14 CFR Part 39

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 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 Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD would require repetitive inspections to detect cracks in the vertical beam webs of the body station (BS) 178 bulkhead, and corrective actions if necessary. This proposed AD also would require a terminating modification for the repetitive inspections. This proposed AD results from reports of numerous cracks in the vertical beam webs. We are proposing this AD to prevent fatigue cracks in certain vertical beam webs, which could result in loss of structural integrity of the BS 178 bulkhead, and consequently could impair the operation of the control cables for the elevators, speed brakes, and landing gear, or could cause the loss of cabin pressure.

DATES: We must receive comments on this proposed AD by June 2, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6430; fax (425) 917–6590.

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–2006–24496; Directorate Identifier 2005–NM–141–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in

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

Discussion

We have received several reports of numerous cracks in the vertical beam webs at buttock lines (BL) 5.7 and 17.0 of the body station (BS) 178 bulkhead on Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, line numbers 1 through 3132 inclusive. Five cracks nearly severed the upper web of the BL 17.0 vertical beam. One crack severed the lower web of the BL 17.0 vertical beam. The cracks initiate from holes in the web of the vertical beams and at fastener locations common to the forward and aft chords of the vertical beams. These airplanes have accumulated between 15,556 and 64,881 total flight cycles. The cracks occur as a result of structural fatigue due to cabin pressure loads. Fatigue cracks in the vertical beam webs at BL 5.7 and 17.0 of BS 178 bulkhead, if not detected and corrected, could result in loss of structural integrity of the bulkhead, which could impair the operation of the control cables for the elevators, speed brakes, and landing gear, or could cause the loss of cabin pressure.

Other Relevant Rulemaking

We have previously issued AD 2000–05–29, amendment 39–11639 (65 FR 14834, March 20, 2000), applicable to Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, line numbers 1 through 2,737 inclusive. That AD requires repetitive inspections to detect fatigue cracking of the web, vertical chords, and side chords of the forward pressure bulkhead, and repair if necessary. That AD also provides for certain optional preventative modifications (reference Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999), which, if done, ends the repetitive inspection requirements for the affected areas.

In addition, we have previously issued AD 2001–02–01, amendment 39–12085 (66 FR 7576, January 24, 2001), applicable to Boeing Model 737–300, –400, and –500 series airplanes, line numbers 2,738 through 3,071 inclusive. That AD requires repetitive inspections to detect fatigue cracking in the vertical chords and side chords of the forward pressure bulkhead, and repair if necessary. That AD also requires certain preventative modifications (reference Boeing Alert Service Bulletin 737–53A1208, dated May 6, 1999), which ends the repetitive inspection requirements for the affected areas.

For certain airplanes, accomplishing the preventative modification in this proposed AD may affect accomplishing the preventative modifications specified as optional in AD 2000–05–29 and required by AD 2001–02–01. See ''Effect of Accomplishing Concurrent Requirements'' section for further information.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005. The service bulletin describes procedures for repetitive high frequency eddy current (HFEC) and detailed inspections to detect cracks in the BS 178 vertical beam webs, and corrective actions if necessary. The corrective actions include repairing or replacing any cracked vertical beam web and associated parts with a new vertical beam web and associated parts. The service bulletin also describes procedures for a preventative modification (*i.e.*, repairing or replacing the vertical beams at BL 5.7 and 17.0 of the BS 178 bulkhead), which ends the repetitive inspections. For certain airplanes, Boeing Service Bulletin 737–53A1225 recommends accomplishing concurrently the terminating preventative modifications specified in Boeing Alert Service Bulletin 737–53A1173 or 737–53A1208, as applicable, due to common access and structure.

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

FAA's Determination and Requirements of the Proposed AD

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

Difference Between Proposed AD and Service Information

Boeing Service Bulletin 737–53A1225 specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Effect of Accomplishing Concurrent Requirements

Operators who have not done the preventative modifications specified in AD 2000–05–29 (reference Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999) or required by AD 2001–02–01 (reference Boeing Alert Service Bulletin 737–53A1208, dated May 6, 1999), as applicable, as of the effective date of this AD, must do those preventative modifications concurrently with the preventative modification of this proposed AD in accordance with Boeing Service Bulletin 737–53A1225, Revision 1. We realize that the concurrent requirements of this proposed AD will force some operators to do the preventative modifications required by AD 2001–02–01 early and to do the optional preventative modification specified in AD 2000–05–29. However, accomplishing the applicable preventative modifications together is necessary to avoid repeated disassembly and re-assembly of common parts, which increases the likelihood of additional assembly errors.

Costs of Compliance

There are about 3,132 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle.	4	$80	None	$320, per inspection cycle.	1,172	$375,040, per inspection cycle.
Preventative Modification.	240	80	Between $960 and $13,620 depending on kit purchased.	Between $20,160 and $32,820 depending on configuration.	1,172 (720 airplanes have had the preventative modification incorporated).	Between $14,515,200 and $23,630,400.

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):

Boeing: Docket No. FAA–2006–24496; Directorate Identifier 2005–NM–141–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 2, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, –200C, –300, –400, –500 series airplanes, certificated in any category; as identified in Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005.

Unsafe Condition

(d) This AD results from reports of numerous cracks in the vertical beam webs. We are issuing this AD to prevent fatigue cracks in certain vertical beam webs, which could result in loss of structural integrity of the body station (BS) 178 bulkhead, and consequently could impair the operation of the control cables for the elevators, speed brakes, and landing gear, or could cause the loss of cabin pressure.

Compliance

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

Repetitive Inspections

(f) At the applicable times specified in Table 1 of this AD, do a high frequency eddy current (HFEC) inspection and detailed inspection to detect cracks in the BS 178 vertical beam webs, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005.

TABLE 1.—COMPLIANCE TIMES

For airplanes on which—	Inspect—	And repeat the HFEC and detailed inspections thereafter at—
(1) An HFEC or a detailed inspection specified in Boeing Service Bulletin 737–53A1225, dated October 19, 2000, has not been done as of the effective date of this AD.	Before the accumulation of 15,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever occurs later.	Intervals not to exceed 6,000 flight cycles.
(2) An HFEC or detailed inspection specified in Boeing Service Bulletin 737–53A1225, dated October 19, 2000, has been done before the effective date of this AD.	Within 6,000 flight cycles since the last HFEC inspection, or within 1,200 flight cycles since the last detailed inspection, whichever occurs later.	Intervals not to exceed 6,000 flight cycles.

Corrective Actions

(g) If any crack is detected during any inspection required by paragraph (f) of this AD, before further flight, repair or replace the vertical beam web and associated parts with a new vertical beam web, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005, except as provided by paragraph (h) of this AD.

(h) If any damage is beyond the scope of the service bulletin or structural repair manual, before further flight, repair the damaged vertical beam web in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or using a method approved in accordance with paragraph (l) of this AD.

Terminating Preventative Modification

(i) Before the accumulation of 50,000 total flight cycles, or within 25,000 flight cycles after the effective date of this AD, whichever occurs later, repair or replace the vertical beams at buttock lines (BL) 5.7 and 17.0 of the BS 178 bulkhead, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005. Accomplishing the repair or replacement ends the repetitive inspections required by paragraph (f) of this AD.

(j) Actions done before the effective date of this AD in accordance with Boeing BOECOM M–7200–01–00546, dated March 1, 2001, are acceptable for compliance with the requirements of paragraph (i) of this AD.

Concurrent Requirements

(k) For Group 1 airplanes identified in Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005: Concurrently with the requirements of paragraph (i) of this AD, unless already done before the effective date of this AD, do the preventative modifications of the center web, vertical chords, and side chord areas, including the side chord areas at water line 207, of the forward pressure bulkhead, specified in paragraph (c) of AD 2000–05–29, amendment 39–11639 (reference Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999).

(l) For Group 2 airplanes identified in Boeing Service Bulletin 737–53A1225, Revision 1, dated April 14, 2005: Concurrently with the requirements of paragraph (i) of this AD, but no later than the time specified in AD 2001–02–01, amendment 39–12085, do the preventative modifications of the vertical and side chord areas of the forward pressure bulkhead required by paragraph (c) of AD 2001–02–01 (reference Boeing Alert Service Bulletin 737–53A1208, dated May 6, 1999).

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle 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.

Issued in Renton, Washington, on April 4, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–5723 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2006–23999]

14 CFR Part 382

RIN 2105–AD41

Nondiscrimination on the Basis of Disability in Air Travel—Accommodations for Individuals Who Are Deaf, Hard of Hearing, or Deaf-Blind

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Extension of comment period on proposed rule.

SUMMARY: The Department is extending through June 24, 2006, the period for interested persons to submit comments to its proposed rule on accommodations for individuals who are deaf, hard of hearing, or deaf-blind.

DATES: Comments must be received by June 24, 2006. Comments received after this date will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number [OST–2005–23999] by any of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov* (follow the instructions for submitting comments); (2) Web site: *http://dms.dot.gov* (follow the instructions for submitting comments on the DOT electronic docket site); (3) Fax: 1–202–493–2251; (4) Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001; or (5) Hand Delivery: To the Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

You must include the agency name and docket number [OST–2005–23999] or the Regulatory Identification Number (RIN) for this notice at the beginning of your comment. 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 section of this document. You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Blane A. Workie, Office of Assistant General Counsel for Aviation Enforcement and Proceedings, 400 7th Street, SW., Room 4116, Washington, DC 29590. Phone: 202–366–9342. TTY: 202–366–0511. Fax: 202–366–7152. E-mail: *blane.workie@dot.go*.

SUPPLEMENTARY INFORMATION: On February 23, 2006, the Department of Transportation (DOT or Department) issued a notice of proposed rulemaking (NPRM) that proposed to amend 14 CFR Part 382 (Part 382), the rule that implements the Air Carrier Access Act (ACAA), to provide for additional accommodations for air travelers who are deaf, hard of hearing or deaf-blind. *See* 71 FR 9285. The NPRM would apply to U.S. air carriers, to foreign air carriers for their flights into and out of the United States, to airport facilities located in the U.S. that are owned, controlled or leased by carriers, and to aircraft that serve a U.S. airport.

On March 16, 2006, the European Civil Aviation Conference (ECAC) requested an extension of the comment period, in order to permit it to gather expert opinion from many sources on the ''complex'' issues addressed in the NPRM. It requested an extension of at least a few weeks from the original comment closing date of April 24, 2006. This request was supported by the Air Carrier Association of America (ACAA), the Air Transport Association (ATA), the National Air Carrier Association (NACA), and the Regional Airline Association (RAA). The carrier associations further requested that the comment period for the NPRM be extended to June 24, 2006, to consider ''the multiple and complicated technical and operational issues raised by the NPRM (for domestic and international operations) and the accompanying initial regulatory assessment.''

The Department concurs that an extension of the comment period is

necessary to allow intergovernmental organizations such as ECAC as well as members of industry sufficient time to analyze the impact of the proposed rule and is granting a 60-day extension, which we expect will result in more thorough comments to the docket than might otherwise be possible. Accordingly, the Department finds that good cause exists to extend the comment period on the proposed rule from April 24, 2006, to June 24, 2006.

Issued in Washington, DC this 11th day of April, 2006, under authority assigned to me by 14 CFR 385.17 (c).

Neil Eisner,

Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation.

[FR Doc. E6–5717 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–9X–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1193 and 1194

[Docket No. 2006–1]

Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to establish advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its intent to establish an Advisory Committee (Committee) to make recommendations for revisions and updates to accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. The Access Board requests applications from interested organizations for representatives to serve on the Committee.

DATES: Applications should be received by May 18, 2006.

ADDRESSES: Applications should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Fax number (202) 272–0081. Applications may also be sent via electronic mail to the Access Board at the following address: *creagan@access-board.gov.*

FOR FURTHER INFORMATION CONTACT: Timothy Creagan, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0016 (Voice); (202) 272–0082 (TTY). Electronic mail address: *creagan@access-board.gov.*

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1996, the Telecommunications Act of 1996 was enacted. The Architectural and Transportation Barriers Compliance Board (Access Board) [1] was given the responsibility for developing accessibility guidelines for telecommunications equipment and customer premises equipment in conjunction with the Federal Communications Commission. The Board was also instructed to review and update the guidelines periodically. The Board published the guidelines on February 3, 1998. 63 FR 5608 (February 3, 1998); 36 CFR part 1193. The guidelines were based on recommendations from a Telecommunications Access Advisory Committee that the Board had created.

On August 7, 1998, the Workforce Investment Act of 1998, which includes the Rehabilitation Act Amendments of 1998, was signed into law. Section 508 of the Rehabilitation Act Amendments generally requires that when Federal departments or agencies develop, procure, maintain, or use electronic and information technology, they must ensure that the technology is accessible to people with disabilities, unless an undue burden would be imposed on the department or agency. Section 508 required the Access Board to publish standards setting forth a definition of electronic and information technology and technical and functional performance criteria for such technology. In developing the standards, the Board was instructed to consult with various Federal agencies [2], the electronic and information technology industry, and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities. The Board was also required to periodically review and, as appropriate, amend the standards to reflect technological advances or changes in electronic and information technology. The Board published the standards on December 21, 2000. 65 FR 80500 (December 21, 2000); 36 CFR part 1194. The standards were based on recommendations from an Electronic and Information Technology Access Advisory Committee that the Board had created to assist it in developing the standards.

It has been over eight years since the Board issued the Telecommunications Act Accessibility Guidelines and over five years since the Electronic and Information Technology Accessibility Standards were issued. Technology has changed during that time. Additionally, several organizations have asked the Board to update its Electronic and Information Technology Accessibility Standards so that they are harmonized with efforts taking place around the globe. The telecommunications provisions in the Electronic and Information Technology Accessibility Standards are based on and are consistent with the Telecommunications Act Accessibility Guidelines. Therefore, updating and revising the Electronic and Information Technology Accessibility Standards and the Telecommunications Act Accessibility Guidelines could be done together.

Advisory Committee

At its November 9, 2005 meeting, the Access Board voted to form a Federal Advisory Committee (Committee) to revise and update its Telecommunications Act Accessibility Guidelines and Electronic and Information Technology Accessibility Standards in one rulemaking and that the committee should include representation from other countries and international standards setting organizations in addition to other groups. The Access Board will begin the process of updating its Telecommunications Act Accessibility Guidelines and Electronic and Information Technology Accessibility Standards by establishing an Advisory Committee. The establishment of the Committee is in the public interest and

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; the General Services Administration; and the United States Postal Service.

[2] The Access Board is required to consult with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate.

will assist the Board in meeting its obligation for broad consultation with Federal agencies, the telecommunications and electronic and information technology industry, organizations representing individuals with disabilities, and others in the update and revision of the guidelines and standards. The Committee will make recommendations to the Access Board on issues such as:

- Types of products to be covered;
- Barriers to the use of such products by persons with disabilities;
- Solutions to such barriers, if known, and research on such barriers;
- Harmonization with international standards efforts in this area; and
- Contents of the revised and updated guidelines and standards.

The Committee will be expected to present a report with its recommendations to the Access Board within 10 months of the Committee's first meeting. The Access Board requests applications for representatives of the following interests for membership on the Committee:

- Federal agencies;
- The telecommunications and electronic and information technology industry, including manufacturers;
- Organizations representing the access needs of individuals with disabilities;
- Representatives from other countries and international standards setting organizations; and
- Other organizations affected by these accessibility guidelines and standards.

The number of Committee members will be limited to effectively accomplish the Committee's work and will be balanced in terms of interests represented. Organizations with similar interests are encouraged to submit a single application to represent their interest. Although the Committee will be limited in size, there will be opportunities for the public to present information to the Committee, participate through subcommittees, and to comment at Committee meetings.

Applications should be sent to the Access Board at the address listed at the beginning of this notice. The application should include the name of the organization; person who will represent the organization (and an alternate); title; address, telephone number, and e-mail address; a statement of the interests represented; and a description of the representative's qualifications, including engineering, technical, and design expertise and knowledge of making telecommunications products or electronic and information technology accessible to individuals with disabilities. Committee members will not be compensated for their service. The Access Board may, at its own discretion, pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. They will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The first meeting of the Committee is tentatively scheduled for September 6–7, 2006 in Arlington, VA. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. All Committee meetings will be held in the Washington, DC metropolitan area. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least 15 days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

Availability of Copies and Electronic Access

Single copies of this notice may be obtained at no cost by calling the Access Board's automated publications order line (202) 272–0080, by pressing 2 on the telephone keypad and then 1. Please record your name, address, telephone number and request the advisory committee notice. Persons using a TTY should call (202) 272–0082. This notice is available in alternate formats upon request. Persons who want this notice in an alternate format should specify the type of format (cassette tape, Braille, large print, or ASCII disk). This notice is also available on the Board's Web site (*http://www.access-board.gov*).

Lawrence W. Roffee,

Executive Director.

[FR Doc. E6–5761 Filed 4–17–06; 8:45 am]

BILLING CODE 8150–01–P

POSTAL SERVICE

39 CFR Part 111

New Standards for Mailing Sharps and Other Regulated Medical Waste

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing new standards for mailing sharps and other regulated medical waste containers. Our proposal includes changes to the packaging, the package testing, and the process for authorizing and suspending authorization.

DATES: We must receive your comments on or before May 18, 2006.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bert Olsen, 202–268–7276.

SUPPLEMENTARY INFORMATION: Customers requesting authorization to mail sharps and other medical waste containers must submit to the Postal Service the results of package testing performed by an independent testing facility. In the past, we have found that container testing methods were not applied consistently. This proposal provides pass/fail criteria to support uniform testing methods for all sharps and medical waste containers and new standards to enhance the integrity of these mailpieces.

In many cases, we authorize containers for vendors who distribute them to third parties. This proposal would require that vendors provide the name and address of their distributors, and update that information on a quarterly basis. We also clarify that vendors, as part of the application process, must accept responsibility for the containers they distribute and cover disposal or cleanup costs if spills occur while the containers are in our possession.

All currently authorized sharps and other regulated medical waste containers will maintain their authorization until it expires: 24 months from the most recent approval, or when a change is made to the container or mailpiece. Customers applying for authorization or reauthorization after the effective date of this change must follow the new standards.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comment on the following proposed revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM),

incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We provide the new standards below. We propose to implement these standards on July 6, 2006.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

10.0 Hazardous Materials

* * * * *

10.17 Infectious Substances (Hazard Class 6, Division 6.2)

* * * * *

[Revise title of 10.17.7 to read as follows:]

10.17.7 Sharps Medical Waste and Regulated Medical Waste

[Replace ''distributor or manufacturer'' with ''vendor'' throughout 10.17.7.]

* * * * *

[Revise the authorization information in item a1 to read as follows:]

1. An irrevocable and continual $50,000 surety bond or letter of credit. The surety bond or letter of credit serves as proof of sufficient financial responsibility to cover disposal costs if the vendor or its distributors cease doing business before all its waste container systems are disposed of or to cover cleanup costs if spills occur while the containers are in USPS possession. The surety bond or letter of credit must be issued in the name of the vendor seeking the authorization and must name the USPS as the beneficiary. Vendors who market their containers to distributors are responsible for disposal and cleanup costs for those containers.

[Add new item a2 to read as follows; renumber items a3 through a8 as items a4 though a9:]

2. A list of distributors, including firm name, address, and phone number.

Vendors must provide this list to the USPS on a quarterly basis and when a distributor is added or removed.

* * * * *

[Revise item a4 to add ''name'' and ''phone number,'' to read as follows:]

4. The name, address, and phone number of each storage and disposal site.

* * * * *

[Add text at the end of item a9 to read as follows:]

9. * * * and verification that the merchandise return service (MRS) permit fee and accounting fee have been paid.

[Add new item a10 to read as follows:]

10. The post office or postage due unit where the containers are delivered.

* * * * *

[Revise the package testing information in item b1 by adding a new last sentence to read as follows:]

1. * * * Package testing results must show that the primary container was not penetrated by its contents during package testing and that the primary container can maintain its integrity at temperatures as low as 0 °F and as high as 120 °F.

[Revise item b2 to read ''4 mil'' in the third sentence:]

2. * * * If one of the components is a plastic bag, it must be at least 4 mil in thickness and be used in conjunction with a fiberboard box. * * *

[Revise the fourth sentence in item b3 to read as follows:]

3. * * * Fiberboard boxes with interlock bottom flaps are not permitted as outer shipping containers. * * *

[Add two new sentences at the end of item b4 as follows:]

4. * * * The secondary container system must consist of a fiberboard box inside a secured plastic bag. Package testing results must show that the secondary container can be turned upside down for 5 minutes without evidence of leakage after placing 150 ml of deionized water into the secondary box.

[Revise item b5 to read as follows:]

5. Each mailpiece must not weigh more than 25 pounds. The container's maximum allowable weight must be printed on the outside of the box and on the assembly and closure instructions included with each mailpiece. The mailpiece must be tested at the maximum allowable weight identified by the vendor.

* * * * *

[Add a new sentence at the end of item c1 to read as follows:]

1. * * * Place the label on the top or on a side of the container.

[Add a new sentence at the end of item c2 to read as follows:]

2. * * * The symbol must be at least 3 inches high and 4 inches wide.

* * * * *

[Add new item c7 to read as follows:]

7. Vendors must retrieve mailpieces held at processing facilities due to improper labeling, such as no return address, or due to improperly completed shipping papers.

* * * * *

[Revise item d to read as follows:]

d. Package Testing. Vendors must submit to the manager, Mailing Standards (see 608.8 for address) package testing results from an independent testing facility for each package for which the vendor is requesting authorization. In addition, vendors must submit package testing results from an independent testing facility when the design of a container system changes or every 24 months, whichever occurs first. The test results must show that if every mailpiece prepared for mailing were subject to the environmental and test conditions in 49 CFR and the additional test requirements in 10.17.7e, there would be no release of the contents to the environment and no significant reduction in the effectiveness of the packaging. The Postal Service may require proof of accreditation or other documentation to support the credentials of an independent testing facility.

[Add new item e to read as follows:]

e. Testing Criteria. Each mailpiece must pass each of the tests described below:

1. *Leak-proof test.* One primary receptacle must withstand the test in 49 CFR 178.604. The test must be conducted on the primary receptacle with the lid in place, without the secondary and outer packaging. The test duration must be at least 5 minutes and must be conducted at 20 kPa (3 psi). The pass/fail criterion is: No leakage of air from anywhere other than the closure of the primary receptacle. Air leakage at the closure is not considered a failure if the primary receptacle passes the test for water tightness as determined by placing 50 ml of deionized water into the primary receptacle, securing the closure, and then turning the container on its side and observing for any evidence of leakage. Any evidence of water leaking from the primary receptacle is a failure.

2. *Stacking test.* One mailpiece must withstand the test in 49 CFR 178.606. The dynamic compression test must be conducted on the empty, unsealed mailpiece assembled for mailing,

without the primary receptacle(s). The test mass is the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions. A compensation factor of 1.5 must be used to compute the test load, based on the vendor-identified weight. The pass/fail criteria are: No buckling of the sidewalls sufficient to cause damage to the contents in the primary container, and in no case does the deflection exceed 1 inch.

3. *Vibration test.* One mailpiece filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.608. The test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions. The test sample is prepared as it would be for mailing. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle.

4. *Wet drop test.* Five mailpieces filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(e). Each test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. Each mailpiece is prepared as it would be for mailing and subjected to the water spray as described in the test. A separate, untested mailpiece is used for each drop orientation: Top, longest side, shortest side, and corner. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may penetrate into or through the body or lid of any primary receptacle.

5. *Cold drop test.* Five mailpieces filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(f). Each test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. Each mailpiece is prepared as it would be for mailing and chilled as described in the test. A separate, untested mailpiece is used for each drop orientation: Top, longest side, shortest side, and corner. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may penetrate into or through the body or lid of any primary receptacle.

6. *Impact test.* One mailpiece filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(h). The test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. The mailpiece is prepared as it would be for mailing. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may penetrate into or through the body or lid of any primary receptacle.

7. *Puncture-resistant test.* Package testing results must show that the primary container was not penetrated by its contents during all of the previous testing.

8. *Temperature test.* Package testing results must show that each primary receptacle maintained its integrity when exposed to temperatures as low as 0 °F and as high as 120 °F.

9. *Absorbency test.* Package testing results must show that the primary receptacle(s) contain enough absorbent material to absorb three times the total liquid allowed within the primary receptacle in case of leakage. Absorbency is determined by pouring 150 ml of deionized water into the primary receptacle(s), then turning the receptacle(s) upside down and observing for any evidence of free liquid not absorbed on contact. Any evidence of free liquid is a failure.

10. *Watertight test.* Package testing results must show that no leakage occurred when 50 ml of deionized water was placed into the secondary box, a plastic bag was secured around the box with a tie closure, and the entire secondary container was turned upside down for 5 minutes.

[Add new item f to read as follows:]

f. Suspension of Authorization.

1. The Postal Service may suspend an authorization based on information that a mailpiece no longer meets the standards for mailing sharps medical waste and regulated medical waste containers, or that the mailpiece poses an unreasonable safety risk to Postal Service employees or the public. The suspension can be made immediately, making the mailpiece nonmailable immediately. The vendor may contest a decision to suspend authorization by writing to the manager, Mailing Standards (see 608.8 for address) within 7 days from the date of the letter of suspension. The appeal should provide evidence demonstrating why the decision should be reconsidered. Any order suspending authorization remains in effect during an appeal or other challenge.

2. Vendors notified that their authorization to mail sharps or other regulated medical waste is suspended must immediately:

a. Recall all identified containers.

b. Notify all customers that they cannot mail the identified containers.

c. Suspend sales and distribution of all identified containers.

d. Collect the identified containers from distributors, consumers, and the Postal Service without using the mail and in accordance with all Federal and State regulations.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E6–5695 Filed 4–17–06; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, and 271

[EPA–HQ–RCRA–2001–0032; FRL–8159–3]

RIN 2050–AE21

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comment.

SUMMARY: This notice announces the availability of additional information on the electronic manifest (e-manifest) project. Specifically, subsequent to EPA's proposal to develop a nearly paperless electronic approach for implementing the manifest requirements, EPA's Office of Solid Waste held a two-day public meeting to discuss and obtain public input on a national e-manifest system. The purpose of the meeting was to discuss with stakeholders our rulemaking progress and to solicit their input and preferences on the development and implementation of the e-manifest project. EPA also presented material on alternative information technology (IT) approaches to the e-manifest, including a centralized approach under which EPA would host a web-based national

system. As a result of these discussions and subsequent analysis of possible means to fund the development and operation of an e-manifest system, EPA now believes that a centralized, national e-manifest system is the preferred approach as we proceed with the rulemaking authorizing the use of electronic manifests. EPA will consider the data obtained from the public meeting and any new data from public comments received on this notice in making a final decision on whether to develop a national electronic manifest (e-manifest) system. Because the Agency expects to go final based on the comments it receives on this notice, as well as other comments received, any party interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before June 19, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2001–0032 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *rcra-docket@epa.gov.*
- Fax: 202–566–0272
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Resource Conservation and Recovery Act (RCRA) Docket, 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of 3 copies.
- Hand Delivery: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. 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–RCRA–2001–0032. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *www.regulations.gov,* your e-mail address will be captured automatically 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 docket are listed in the *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 *www.regulations.gov* or in hard copy at the Resource Conservation and Recovery Act (RCRA) 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 Resource Conservation and Recovery Act (RCRA) Docket is (202) 566–0270. Copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For further information regarding specific aspects of this document, contact Richard LaShier, Office of Solid Waste, (703) 308–8796, *lashier.rich@epa.gov,* or Bryan Groce, Office of Solid Waste, (703) 308–8750, *groce.bryan@epa.gov.* Mail inquiries may be directed to the Office of Solid Waste, (5304W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

A. Does This Rule Apply to Me?

This rule would affect up to 139,000 entities in at least 45 industries involved in shipping approximately 12 million tons of RCRA hazardous wastes annually (non-wastewaters and wastewaters), using between 2.4 and 5.1 million EPA Uniform Hazardous Waste Manifests (EPA Form 8700–22 and continuation sheets EPA Form 8700–22A). These entities include, but are not limited to: Hazardous waste generators; transporters; treatment, storage and disposal facilities (TSDFs); federal facilities; state governments; and governmental enforcement personnel dealing with hazardous waste transportation issues. If you have any questions regarding the applicability of this rule to a particular entity, consult the people listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA 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 on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is 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.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

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.

Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

Describe any assumptions and provide any technical information and/or data that you used.

If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

Provide specific examples to illustrate your concerns, and suggest alternatives.

Explain your views as clearly as possible.

Make sure to submit your comments by the comment period deadline identified.

The contents of today's notice are listed in the following outline:

I. Background of E-Manifest System

A. May 2001 Proposed Rule Standards and Approach

On May 22, 2001, EPA published a notice of proposed rulemaking (NPRM) aimed at reducing the manifest system's paperwork burden on users, while enhancing the effectiveness of the manifest as a tool to track hazardous waste shipments from the site of generation to treatment, storage, or disposal facilities (TSDFs). The proposed rule included proposed manifest system reforms of two distinct types: (1) Revisions to the manifest form itself and the procedures for using the form; and (2) revisions to the paper-based manifest system aimed at replacing it with a nearly paperless electronic approach for completing, signing, transmitting and storing manifests, and tracking hazardous waste shipments (hereafter, e-manifest). The proposed e-manifest regulation represented a decentralized approach in which EPA would issue several information technology (IT) standards, and private parties such as waste management firms and IT vendors would develop and market their own e-manifest systems complying with EPA's standards. The proposed standards addressed such areas as Electronic Data Interchange (EDI) transaction sets and mapping conventions, Extensible Markup Language (XML) representations of the manifest, electronic signature methods, and computer security standards that were viewed as necessary to ensure trustworthy systems and data that would be free from tampering or corruption. Significantly, under the proposed rule approach, EPA's role would be limited to the development of the e-manifest standards, and the Agency would not have had any role in developing an IT system or in collecting electronic manifests.

EPA explained in the 2001 proposed rule that it did not collect paper manifests from the public, nor did it intend in 2001 to create either a centralized reporting system for electronic manifests, nor a national data base for tracking manifest data. While the Agency desired to foster the development of electronic manifest systems by issuing national standards that would guide the system development efforts of private parties, EPA did not envision playing a role with respect to electronic manifesting that was any different from the standard-setting role the Agency had played in the past with respect to the Uniform Manifest paper form. However, public comments criticized the decentralized approach in our proposed rule and instead stated that the e-manifest system would be unreliable without a nationally centralized approach under which EPA would develop a single national IT system to host e-manifest services. Most stakeholders who attended our two-day public meeting in May 2004 also favored a centralized system for tracking hazardous waste shipments and transmitting/storing manifest data.

B. Comments on the Proposal

EPA received 64 sets of public comments in response to the May 22, 2001 proposed rule from hazardous waste generators, transporters, waste management firms, consultants, an information technology vendor and ten state hazardous waste management agencies. Commenters generally supported our goals of further standardizing the manifest form elements and reducing variability among the manifests that authorized RCRA State agencies currently distribute. However, there were a substantial number of comments that took issue with our proposed decentralized approach to the e-manifest, particularly with respect to the technical detail and prescriptiveness of the proposed regulatory standards, and the proposed rule's assumption that the regulated industry and IT vendors could or would develop private e-manifest systems adhering to EPA's standards. Other comments criticized the decentralized approach, because it was not viewed as being cost-effective and, therefore, only a few entities might be able to develop private systems, and these likely would be inconsistent with one another. Several of these commenters expressed the need for a nationally centralized approach, under which EPA would take on a more ambitious role by developing a single national IT system to host e-manifest services. The commenters believed that a national web-based system would provide a more consistent, secure, and cost-effective platform for e-manifest services. They also believed that a national system would offer greater benefits to users and regulators, such as one-stop manifest reporting, more effective oversight and enforcement of the manifest requirements, nearly real-time tracking services for waste shippers and receivers, and the possible consolidation of duplicative State and Federal systems now in place to collect and manage manifest data and similar waste receipt data collected for biennial reporting purposes. They believed that a centralized e-manifest approach would result in the development of a consistent, interoperable and secure IT system that would offer more benefits than would result from the operation of several decentralized private systems.

The comments addressing the e-manifest proposal raised significant substantive issues that, in our opinion, required further analysis and stakeholder outreach prior to adopting a final approach. Therefore, in developing final actions on the May 2001 proposed rule, EPA separated the e-manifest from the form revisions portion of the rulemaking. We announced our final rule approach with respect to the manifest form revisions in the March 4, 2005 **Federal Register** (70 FR 10776).

C. Stakeholder Meeting To Discuss Centralized Alternatives

EPA announced in the **Federal Register** that the Office of Solid Waste was holding a two-day public meeting on May 19–20, 2004, to discuss and obtain public input on the e-manifest issue (69 FR 17145, April 1, 2004). The purpose of this meeting was to engage interested stakeholders in an exchange of ideas aimed at helping us identify how best to proceed with selecting and implementing the future direction of the e-manifest. The two-day meeting provided us with invaluable information, all of which is available in the docket to today's notice. Specifically, we heard from the attendees at the meeting that there is a strong consensus in favor of implementing a centralized e-manifest system. However, views varied on whether a national system should be privately or publicly hosted and funded or developed as a joint public/private venture. For instance, some stakeholders suggested that EPA design and operate both the e-manifest ''front end'' interface that would supply and process manifests during the movement of waste shipments in transportation, as well as the ''back end'' repository component of the system that would collect and archive official copies of completed manifests. Others favored an approach where the e-manifest ''front end'' interface might be designed, funded, and operated by a private consortium. The consortium then would look to EPA to clarify what is necessary

to constitute a valid electronic manifest transaction (*e.g.*, by defining the legal and performance standards for such a system, as well as the auditing requirements) and perhaps to develop and operate the ''back end'' repository.

Second, all the attendees of the meeting believed that a central service provider, whether it be EPA, a private entity, or a public/private combination, must be reliable and trusted if a centralized e-manifest system is to be successful. The stakeholders expect a trustworthy system operated with minimal downtime so that it would not disrupt or inconvenience waste handler operations. They also noted that a governance structure enabling regular interactions between the user community, the IT vendor, and government interests would be necessary to ensure that the system is developed and operated in a manner that meets the needs and expectations of all affected interests.

Third, stakeholders from the user community who attended the meeting emphasized that a centralized e-manifest system should be optional and, thus, able to accommodate those manifest users who want to continue to use paper manifests in the future. On the other hand, the IT vendor community would prefer to have EPA mandate that users access the centralized e-manifest system to complete and transmit all their manifests, particularly if the vendor community will be asked to bid on a centralized e-manifest system development contract, so that there would be greater certainty for the vendor attempting to price e-manifest services, based on the size of the e-manifest market and expected volumes of use. (**Note:** See discussion in Section I.D for further explanation of this.) EPA, at this time, believes that the savings to be realized by those users who complete significant quantities of manifests will provide sufficient incentives for these users to commit to the e-manifest voluntarily, without a mandate from EPA that might be disruptive to or cause hardship for other users. EPA recognizes that a key ingredient in any procurement process where the vendor community will be bidding on such a task that leads to the development and successful operation of the centralized e-manifest system will be a dialogue between the user community and the vendors bidding on the task. This dialogue is necessary to develop mutual understandings about likely levels of usage and likely e-manifest transmission volumes, so that the vendor may accurately project these parameters and price its services accordingly.

Nevertheless, the Agency specifically solicits comments on whether the use of the e-manifest should be mandatory or voluntary. In providing comments, we ask that you include your rationale and any supporting data regarding this matter. In addition, we also solicit comment from the states, as well as other stakeholders, as to whether a centralized e-manifest system that is voluntary will require the states to maintain two separate manifest systems, and, if so, what concerns or problems this may raise.

Finally, and most significantly, the user community indicated at the May 2004 stakeholder meeting that it is willing to help fund the establishment and operation of an e-manifest system through the payment of reasonable service or transactional fees for e-manifest services. Stakeholders stated that they would be willing to pay reasonable service fees as the means to fund the establishment of a national e-manifest system, if they could be assured that the collected fees would be earmarked to the payment of the e-manifest system costs only, and not deflected to other program accounts or costs. Stakeholders also stated that they expect service fee arrangements, including the collection of any such fees and the reporting of expenditures, to be handled in a very transparent manner so that stakeholders can be assured that they are receiving value for the fees they contribute to the system. The full proceedings for this meeting have been posted on our EPA Web site at *http://www.epa.gov/epaoswer/hazwaste/gener/manifest/e-man.htm.* Comments from stakeholders about a centralized e-manifest system have been submitted to the RCRA docket (EPA Docket (Docket ID No. EPA–HQ–RCRA–2001–0032)), which can be found at *http://www.epa.gov/edocket.*

Since the May 2004 stakeholder meeting, we have been exploring whether there is a way for EPA to proceed with the development of a nationally-centralized e-manifest system, as well as exploring in more detail the design and performance requirements of any such system. While the notion of a centralized e-manifest system has strong appeal to states and industry, it would require adequate funding to build and operate.

In 2000 to 2002, we estimated the initial start-up cost for the design, development and installation, plus the future annual operating and maintenance (O&M) cost, for a ''centralized'' e-manifest IT system procurement. This cost estimate is based on a benefit-cost analysis conducted by Logistics Management Institute, Inc. (LMI). LMI's study is dated September 20, 2002, and is available for public review (with accompanying spreadsheet file) in the docket cited above in the **ADDRESSES** section. This study is an expansion of LMI's October 2000 initial benefit-cost study in support of our May 22, 2001 proposed rule for the e-manifest (*http://www.epa.gov/epaoswer/hazwaste/gener/manifest/pdf/cba-rprt.pdf*). The 2002 LMI study estimated the benefits and costs associated with three alternative e-manifest data flow configurations (i.e., electronic system options), all involving hosting the e-manifest on EPA's existing CDX computer hub (*http://www.epa.gov/cdx*), and connecting the central e-manifest system electronically to industrial facilities and to state governments via EPA's partnership National Environmental Information Exchange Network (NEIEN; *http://www.exchangenetwork.net*), which is operational in 38 states as of October 2005. The estimated cost for e-manifest system start-up ranges from $2.0 million to $7.0 million in the initial year, plus $0.8 million to $3.2 million per year for future annual operation and maintenance (O&M). In addition to this system cost, industrial facilities are expected to spend upwards of $60.2 million to $68.8 million, and state governments upwards of $2.3 million to $3.1 million, in start-up costs for modifying existing IT systems to process e-manifests (assuming 100% participation in the centralized e-manifest system). Industrial facilities and state governments also may spend upwards of $32.2 million to $37.0 million in annual future costs for apportionment of a fraction of existing business IT system costs for e-manifesting purposes. Although there appear to be substantial initial and recurring annual costs associated with e-manifesting, the expected average annual reduction in paperwork burden for handling the current paper manifest forms that e-manifest will provide industrial facilities and state governments is expected to offset these costs by a net annual savings upwards of $103 million per year.

While an e-manifest would lead to significant savings, EPA recognizes, as described above, that startup and maintenance costs of a centralized e-manifest system could require considerable funds. EPA believes that the costs of this system should be shared by entities that will benefit from it. Therefore, EPA has been examining various user-fee and other IT funding alternatives within the context of OSW's May 2004 stakeholder meeting (*http://*

www.epa.gov/epaoswer/hazwaste/gener/manifest/present/funding.pdf).

D. Collaboration With GSA and Stakeholders After May 2004

One approach the Agency explored closely as a means to fund and implement the centralized e-manifest system was the Share-in-Savings (SiS) contract approach that was authorized under the E-Government Act of 2002 (E-Gov Act). We consulted with the General Services Administration (GSA), which managed the E-Gov Act Share-in-Savings program, on a possible procurement action that might have enabled the centralized e-manifest system to be developed and operated for EPA by an IT vendor under a ''Share-in-Savings'' (SiS) type contract (*http://www.gsa.gov/shareinsavings*). The SiS IT contracting mechanism was authorized under the E-Gov Act of 2002 on a provisional basis as an innovative tool for Federal agencies to develop new IT systems with little direct Federal investment. The premise of the SiS contracting approach was that the IT vendor awarded an SiS contract would build the IT system at the vendor's initial expense, and then recover its costs and profit from the cost savings or enhanced revenue that results to the sponsoring agency from the new IT system. With this approach, for example, the successful e-manifest IT contractor would have incurred the initial financial risk and outlay to build the centralized e-manifest system to meet EPA's performance objectives, and then would have recovered its costs and earned its agreed profit from the revenue stream generated by the service fees paid by the users for manifest transactions.

GSA established an SiS contract vehicle (i.e., blanket purchase agreement or BPA) under which GSA qualified six IT vendors to compete for Federal IT projects during FY 2005. While EPA was very interested in initiating a procurement action under the GSA Share-in-Savings BPA during FY 2005, we and GSA concluded that the procurement action should not proceed until there was in place a final rule authorizing the use of electronic manifests. Unfortunately, the initial Congressional authorization for the SiS program expired on September 30, 2005, and it does not now appear that the authority for this program will be extended. While the expiration of the SiS program introduces some uncertainty about the funding arrangements for the national e-manifest system, the Agency is aware that some Congressional representatives are considering legislative proposals that would provide the Agency with the authority, including perhaps user fee authority, to implement a centralized e-manifest system. Thus, we are proceeding with this regulatory action so that we can proceed in the future with the necessary contract actions that would lead to the development of a national e-manifest system, provided that appropriate authorizing legislation is enacted in the interim. Should the necessary authorizing legislation not materialize, EPA could decide to adopt a final e-manifest rule that is based on the proposed rule approach, if we determine that such an approach is better than no e-manifest system, or another approach that is not dependent on new federal funding legislation being authorized. EPA's current schedule would have its final regulation authorizing the use of electronic manifests in place in time to enable us to award a contract in FY 2007, assuming any legislation needed to address the funding of e-manifest is enacted within that timeframe.

II. The Agency's General Approach to a Centralized E-Manifest System

Based on information provided at the May 2004 public meeting and discussions with our stakeholders during and subsequent to this meeting, EPA believes that the vast majority of stakeholders support an e-manifest system. They also prefer a consistent national framework for supplying, preparing, transmitting and maintaining e-manifests. Stakeholders attending the public meeting also indicated that they are willing to pay fees for their electronic manifest transactions in order to develop and maintain a centralized e-manifest system.

EPA agrees with the position, from commenters to the May 2001 proposal and from stakeholder participants in the May 2004 public meeting, that a centralized e-manifest system is the preferred approach for developing an electronic manifest system. First, we are concerned that the user participation in the decentralized approach for an e-manifest system is limited to some extent by the customers' relationships to firms that elect to establish e-manifest systems. There should not be similar concerns about user participation in the centralized e-manifest system since it would be developed to serve all interested users, and participation would be open to all those with Internet access who choose to access the system or who deal with waste handlers who provide access to the system.

Second, our preferred approach is the more effective means to address concerns that arise under the decentralized approach about the potential inability of different systems to operate with each other, as well as other concerns that arise regarding whether data from these different systems can be exchanged and processed consistently. A final rule adopting a decentralized e-manifest approach would require, among other things, rigorous standards to address the consistent processing and interoperability issues posed by multiple vendors' systems. Such an approach would likely involve a process to evaluate the various systems to determine if they are in compliance with our interoperability and system security standards. In contrast, a centralized approach would not need to address interoperability concerns, as the development of a single, national e-manifest system would ensure the consistency of the processing, completion, and transmission of electronic manifests. Moreover, the centralized approach would simplify the execution of system and data security with respect to e-manifests, as the necessary security requirements could be addressed within the national e-manifest procurement process, rather than as detailed regulatory standards that would have to be met by the various vendors who might develop systems under the decentralized approach.

Third, other capabilities and enhancements could be realized through a centralized e-manifest system that are not possible under a decentralized approach. For instance, a centralized e-manifest system could be designed to store electronic manifest data centrally in a national data repository, so that manifest users and regulators could extract the stored manifest data to develop analyses from that data. Such a national data repository could collect manifest data from both domestic and transboundary waste movements, and it could also become a basis for easing the production of reports under RCRA biennial reporting requirments (the Hazardous Waste Report) and other reports that are required under authorized state programs. The manifest users who now must incur the burden and expense of supplying paper copies of manifest forms through the mail to individual authorized states could instead submit their manifest copies one time electronically to one centralized hub system, which would distribute copies as needed to interested states through their nodes on the Exchange Network. In addition to this one-stop submission feature, the users may be able to maintain their official copies of

manifest records on secure storage sites on the national system, rather than continuing to retain manifest copies locally. We believe that the centralized collection of manifest copies by the e-manifest system would also afford advantages to RCRA inspectors by providing a simple and efficient means for accessing and inspecting manifest records electronically.

Therefore, today's notice announces that EPA's preferred approach, at this time, for proceeding with the e-manifest rule is to develop a centralized web-based IT system that EPA will host on its IT architecture. This national system likely would be funded, in whole or in part, by service fees that would be paid to EPA or its contractor. This notice discusses a conceptual design of the nationally-centralized e-manifest system and requests comment on our approach.

Today, we are announcing that EPA intends to develop a final rule to authorize the use of electronic manifests that are created and transmitted through the use of a centralized e-manifest system. EPA will consider the comments received pursuant to this notice, along with comments on the e-manifest proposal in the May 2001 proposed rule and the May 2004 Stakeholder meeting, as we prepare a final rule on the e-manifest. The final rule would amend existing manifest regulations which require manifests to be created only as paper forms. These regulatory changes would be necessary to ensure that electronic manifests are as valid as the traditional paper manifests that are signed with ink and manually processed and transmitted. The usage of EPA's national e-manifest system to obtain and process valid electronic manifests would be the key component of the final rule.

EPA believes that as a result of this change in approach for the e-manifest system, the final regulation authorizing the use of electronic manifests would be much simpler than the regulation suggested by the May 2001 proposed rule. The final rulemaking will be constrained in its scope to authorizing the use of electronic manifests created and transmitted in the national system, and to several other key policy issues that must be resolved prior to implementation. EPA thus expects to limit, as far as possible, the subject matter of the final rule on electronic manifesting to the key policy issues associated with authorizing the use of electronic manifests and with implementing the electronic manifest as a means of tracking hazardous waste shipments and recording and transmitting waste shipment information. EPA believes it is far more sensible to address the more detailed technical system design and performance requirements for the centralized e-manifest system within the contracting process than to codify performance requirements and other technical matters within the rulemaking process. We also recognize that State participation and input during the planning stage of the e-manifest development process is critical, because there will be significant implementation issues associated with moving to an electronic manifest system. EPA will work closely with our State partners as we develop both the final rulemaking and the detailed system design and performance requirements.

A. Conceptual Design of the E-Manifest

The centralized e-manifest system will include the necessary applications and components to supply, complete, electronically sign, transmit, and retain electronic manifests. The centralized e-manifest system that will be developed initially will provide only the core services necessary to manage the basic waste shipment tracking and waste data collection functions of the manifest process, including manifest creation, completion, signing, routing and communication services (i.e., services required to create, view, update, transmit, and close manifests) and the collection, distribution, and archiving of official manifest records. In accordance with requests expressed by stakeholders in the May 2004 public meeting, the system initially will not support any more advanced reporting or business integration services. The system would be designed with scalability so that additional EPA reporting functions (e.g., Biennial Report integration or transboundary waste reporting), or additional commercial services that may be desired by users could be added as future upgrades. The development of the e-manifest system will use a web services-oriented architecture and will be hosted on EPA's CDX (*http://www.epa.gov/cdx*) and NEIEN architecture. The CDX would act as the Agency's central reporting hub for receiving, processing, and routing the in-bound electronic manifests to waste shipment management entities and to state governments. As the e-manifest would be hosted within our CDX/Exchange Network architecture, the submission of e-manifests to the national system would be governed by the standards and procedures included in EPA's Cross Media Electronic Reporting Rule (CROMERR), which EPA published in the **Federal Register** on October 13, 2005 (70 FR 59847). The CROMERR Rule provides the legal and policy framework for electronic reporting to the CDX hub, and will address such matters as user registration, user authentication, execution of electronic signatures, and the procedures for producing records of electronic manifest submissions.

We believe that the use of a services-oriented architecture involving web services applications will enable a high level of interoperability with users' legacy and future system investments. Thus, EPA plans to develop the e-manifest applications in conformance with Internet ''web services'' standards which now are supported by CDX. Also, schemas (i.e., models for describing the structure of information within a document to allow machine validation of document structure) and stylesheets developed in the Extensible Mark-up Language (XML) will be the means EPA will use for the electronic exchange of e-manifest data, and these XML documents will conform to the data elements of the hazardous waste manifest (EPA Form 8700–22) and continuation sheet (EPA Form 8700–22A) that EPA recently announced in the March 4, 2005 Form Revisions final rule (70 FR 10776).

EPA further will develop the e-manifest applications with the appropriate access controls to ensure that only authorized users may enter the system, complete and sign manifests, and access manifest data. We plan to limit access to particular manifest records and related data to only those entities that are involved with the handling of a waste shipment, as well as to RCRA regulators. The centralized e-manifest system also will support, as far as possible, the provision of reliable and uninterrupted manifest services to the user community and will adopt necessary measures and controls that meet EPA and Federal policies for protecting information security, privacy, and confidential business information (CBI).

The Federal regulations concerning CBI are found at 40 CFR Part 2. Confidential business information obtained under the Resource Conservation and Recovery Act is handled in accordance with 40 CFR Part 2, and will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in 40 CFR Part 2. Anyone wishing to claim that some or all of the information provided in their Uniform Hazardous Waste Manifest is confidential business information must make this claim at the time the manifest is transmitted electronically to EPA. Claims of confidentiality must be specific: The generator, transporter, or designated

facility must clearly indicate which manifest item number is being declared confidential (e.g., Item 18a.). Any information not claimed as confidential when being submitted will not be treated as confidential business information.

III. Request for Comments

EPA requests comments on the approach described in today's notice for electronically completing and transmitting manifests through a national, centralized e-manifest system. EPA will consider the comments received pursuant to this notice, along with comments on the e-manifest proposal in the May 2001 proposed rule and the May 2004 Stakeholder meeting, as it prepares a final rule on the e-manifest.

Dated: April 11, 2006.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E6–5745 Filed 4–17–06; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 71, No. 74
Tuesday, April 18, 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

April 12, 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 Utilities Service

Title: 7 CFR Part 1728, Electric Standards and Specifications for Materials and Construction.

OMB Control Number: 0572–0131.

Summary of Collection: The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended, (RE Act) in Sec. 4 (7 U.S.C. 904) authorizes and empowers the Administrator of the Rural Utilities Service (RUS) to make loans in the several States and Territories of the United States for rural electrification and the furnishing and improving of electric energy to persons in rural areas. RUS' Administrator is authorized to provide financial assistance to borrowers for purposes provided in the RE Act by guaranteeing loans made by the National Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies. These loans are for a term of up to 35 years and are secured by a first mortgage on the borrower's electric system. Manufacturers, wishing to sell their products to RUS electric borrowers, request RUS consideration for acceptance of their products and submit letters of request with certifications as to the origin of manufacture of the products and include certified data demonstrating their products' compliance with RUS specifications.

Need and Use of the Information: RUS will collect information to evaluate the data to determine that the quality of the products is acceptable and that their use will not jeopardize loan security. The information is closely reviewed to be certain that test data; product dimensions and product material compositions fully comply with RUS technical standards and specifications that have been established for the particular product. Without this information, RUS has no means of determining the acceptability of products for use in the rural environment.

Description of Respondents: Business or other for-profit.

Number of Respondents: 38.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 2,000.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–5754 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 12, 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.

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displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR Part 1944–N—Housing Preservation Grants.

OMB Control Number: 0575–0115.

Summary of Collection: The Rural Housing Service (RHS) is authorized to make grants to eligible applicants to provide repair and rehabilitation assistance so that very low- and low-income rural residents can obtain adequate housing. Such assistance is made by grantees to very low- and low-income persons, and to co-ops. Grant funds are used by grantees to make loans, grants, or other comparable assistance to eligible homeowners, rental unit owners, and co-ops for repair and rehabilitation of dwellings to bring them up to code or minimum property standards. These grants were established by Public Law 98–181, the Housing Urban Rural Recovery Act of 1983, which amended the Housing Act of 1949 (Pub. L. 93–383) by adding section 533, 42 U.S.C. S 2490(m), Housing Preservation Grants.

Need and Use of the Information: An applicant will submit a ''Statement of Activity'' describing its proposed program. RHS will collect information to determine eligibility for a grant to justify its selection of the applicant for funding; to report program accomplishments and to justify and support expenditure of grant funds. RHS uses the information to determine if the grantee is complying with its grant agreement and to make decisions regarding continuing with modifying, or terminating grant assistance. If the information were not collected and presented to RHS, the Agency could not monitor the program or justify disbursement of grant funds.

Description of Respondents: Not-for-profit institutions; business or other for-profit; individuals or households; State, local or tribal government.

Number of Respondents: 2,423.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 11,678.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–5755 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 12, 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.

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Agricultural Research Service

Title: Electronic Mailing List Subscription Form—Water Quality Information Center.

OMB Control Number: 0518–NEW.

Summary of Collection: The National Agricultural Library's Water Quality Information Center (WQIC) currently maintains Enviro-News, an on-line announcement list. The proposed voluntary ''Electronic Mailing List Subscription Form'' would give individuals interested in the subject area of water quality and agriculture an opportunity to receive and post messages to this list. The Electronic Mailing List Subscription will be available for completion on-line at the Web site of the Water Quality Information Center. The authority for the National Agricultural Library to collect the information can be found at CFR, Title 7, Volume 1, Part 2 Subpart K, § 2.65 (92).

Need and Use of the Information: The information requested on the form includes: Name, e-mail address, job title, work affiliation, and topics of interest. Data collected using the form will help WQIC determine a person's eligibility to join the announcement list. In order to make sure people have a significant interest in the topic area, it is necessary to collect the information. WQIC will use the collected information to approve subscription for a water quality and agriculture on-line announcement list.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, local, or tribal government.

Number of Respondents: 750.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 13.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–5757 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 13, 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.

Forest Service

Title: Special Use Administration.

OMB Control Number: 0596–0082.

Summary of Collection: Several statutes authorize the Forest Service (FS) to issue and administer authorizations for use and occupancy of National Forest System (NFS) lands and require the collection of information from the public for those purposes including Title 5 of the Federal Land Policy and Management Act of 1976 (FLPMA, Pub. L. 94–579), the Organic Administration Act of 1897, (16 U.S.C. 551); the National Forest Ski Area Permit Act (16 U.S.C. 497b); section 28 of the Mineral Leasing Act (30 U.S.C. 185); the National Forest Roads and Trails Act (FRTA, 16 U.S.C. 532–538); section 7 of the Granger-Thye Act (16 U.S.C. 480d); the Act of May 20, 2000 (16 U.S.C. 460–6d); and the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801–6814). Forest Service regulations implementing these authorities, found at Title 36, Code of Federal Regulations, Section 251, Subpart B (36 CFR 251, Subpart B), contain information collection requirements, including submission of applications, execution of forms, and imposition of terms and conditions that entail information collection requirements, such as the requirement to submit annual financial information; to prepare and update an operating plan; to prepare and update a maintenance plan; and to submit compliance reports and information updates.

Need and Use of the Information: The information collected is evaluated by the FS to ensure that authorized uses of NFS lands are in the public interest and are compatible with the agency mission. The information helps the agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy Act and program administration. There are six categories of information collected: (1) Information required from proponents and applicants to evaluate proposals and applications to use or occupy NFS lands; (2) information required from applicants to complete special use authorizations; (3) annual financial information required from holders to determine land use fees; (4) information required from holders to prepare and update operating plans; (5) information required from holders to prepare and update maintenance plans; and (6) information required from holders to complete compliance reports and information updates.

Description of Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal Government; State, local or tribal government.

Number of Respondents: 76,780.

Frequency of Responses: Reporting: On occasion; Quarterly.

Total Burden Hours: 155,554.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–5758 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Termination of the Upland Cotton User Marketing Certificate (Step 2) Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces the termination of the Upland Cotton User Marketing Certificate Program, commonly referred to as the Step 2 Program.

DATES: The effective date of the action announced by this notice is August 1, 2006.

FOR FURTHER INFORMATION CONTACT: Timothy R. Murray, Cotton Program Manager, Warehouse and Inventory Division, Farm Service Agency, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD). Telephone: (202) 720–6215. Electronic mail: *Tim.Murray@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1103 of the Deficit Reduction Act of 2005 (Pub. L. 109–171) repeals the authorizing language found in Section 136 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236) in its entirety, and amends Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7937) eliminating the Upland Cotton User Marketing Certificate Program. The Commodity Credit Corporation is notifying all interested parties.

The effective date of this repeal is August 1, 2006. Therefore, upland cotton used domestically, or exported under the terms and conditions of the Upland Cotton Domestic User/Exporter Agreement after July 31, 2006, will not be eligible for payment under the Upland Cotton User Marketing Certificate Program.

Signed at Washington, DC, on April 4, 2006.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6–5751 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Commodity Partnerships for Risk Management Education (Commodity Partnerships Program)

Announcement Type: Availability of Funds and Request for Application for Competitive Cooperative Partnership Agreements—Initial.

Catalog of Federal Domestic Assistance Number (CFDA): 10.457.

Dates: Applications are due June 2, 2006.

Executive Summary: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $5.0 million for Commodity Partnerships for Risk Management Education (the Commodity Partnerships Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The

program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 40 cooperative partnership agreements will be funded, with no more than four in each of the ten designated RMA Regions. The maximum award for any of the 40 cooperative partnership agreements will be $150,000. Recipients of awards must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project.

This Announcement Consists of Eight Parts:

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F)).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that ''* * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools.''

E. Purpose

The purpose of the Commodity Partnership Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

- The kinds of risks addressed by existing and emerging risk management tools;
- The features and appropriate use of existing and emerging risk management tools; and
- How to make sound risk management decisions.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $5,000,000 is available in fiscal year 2006 to fund up to 40 cooperative partnership agreements. The maximum award will be $150,000. It is anticipated that a maximum of four agreements will be funded for each designated RMA Region. Applicants should apply for funding under that RMA Region where the educational activities will be directed.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to award

recipients for use in broadening the size or scope of awarded projects if agreed to by the recipient. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2006.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within their Region.

Billings, MT Regional Office: (MT, WY, ND, and SD).
Davis, CA Regional Office: (CA, NV, UT, AZ, and HI).
Jackson, MS Regional Office: (KY, TN, AR, LA, and MS).
Oklahoma City, OK Regional Office: (OK, TX, and NM).
Raleigh, NC Regional Office: (ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, WV, VA, and NC).
Spokane, WA Regional Office: (WA, ID, OR, and AK).
Springfield, IL Regional Office: (IL, IN, OH, and MI).
St. Paul, MN Regional Office: (MN, WI, and IA).
Topeka, KS Regional Office: (KS, MO, NE, and CO).
Valdosta, GA Regional Office: (AL, GA, SC, FL, and Puerto Rico).

Applicants must designate in their application narratives the RMA Region where educational activities will be conducted and the specific groups of producers within the region that the applicant intends to reach through the project. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. This requirement is not intended to preclude producers from areas that border a designated RMA Region from participating in that region's educational activities. It is also not intended to prevent applicants from proposing the use of certain informational methods, such as print or broadcast news outlets, that may reach producers in other RMA Regions.

D. Maximum Award

Any application that requests Federal funding of more than $150,000 will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Recipient Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the award recipient will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.
- Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.
- Document all educational activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Assist in the selection of subcontractors and project staff.
- Collaborate with the recipient in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the recipient in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the recipient on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the recipient in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being

considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applicants that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements.* Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed $150,000.

3. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''

4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived.

Part IV—Provide a ''Statement of Non-financial Benefits.'' (Refer to Section III, Eligibility Information, C. Other—Non-financial Benefits, above).

5. ''Statement of Work,'' Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

C. Submission Dates and Times

Applications Deadline: June 2, 2006. Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Incomplete or late application packages will not receive further consideration.

D. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage, or entertainment;

g. Pay costs incurred prior to receiving a partnership agreement;

h. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

E. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 25 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

F. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

G. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Services should allow for the extra security handling time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 5720, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

H. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (located at the beginning of this RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

I. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Commodity Partnerships Program will be evaluated within each RMA Region according to the following criteria: Priority—maximum 10 points.

The applicant can submit projects that are not related to Priority Commodities. However, priority is given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Project Benefits—maximum 35 points.

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the total number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—maximum 15 points.

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—maximum 15 points.

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated RMA Region. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the RMA Region; and (c) that a substantial effort has been made to partner with organizations that can meet the needs of producers.

Project Management—maximum 15 points.

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Past Performance—maximum 10 points.

If the applicant has been a recipient of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have

consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the recipient on project performance as indicated in Section II, G.

The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—maximum 15 points.

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs; and
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 60. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2007, whichever is later.

After a partnership agreement has been signed, RMA will extend to award recipients, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower than other applications in an RMA Region, or applications that propose to deliver education to groups of producers in an RMA Region that are largely similar to groups reached in a higher ranked application.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-selected Representative

Applicants awarded partnership agreements will be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop

insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

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

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of a application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded partnership agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the recipient is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that recipients submit Form RD 400–4, Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post-Award Conference

RMA requires that project leaders attend a post-award conference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

C. Reporting Requirements

Award recipients will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Recipients will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''
- A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''
- A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, 1400 Independence Ave., SW., Stop 0808, Room 5720, Washington, DC 20250–0808, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements.*

VIII. Other Information

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

A DUNS number is a unique nine-digit sequence recognized as the

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

B. Required Registration With the Central Contract Registry for Submission of Proposals

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

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.458 (Crop Insurance Education in Targeted States), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC on April 10, 2006.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E6–5752 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Commodity Partnerships for Small Agricultural Risk Management Education Sessions (Commodity Partnerships Small Sessions Program)

Announcement Type: Announcement of Availability of Funds and Request for Application for Competitive Cooperative Partnership Agreements—Initial.

Catalog of Federal Domestic Assistance Number (CFDA): 10.459.

Dates: Applications are due June 2, 2006.

Executive Summary: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $500,000 for Commodity Partnerships for Small Agricultural Risk Management Education Sessions (the Commodity Partnerships Small Sessions Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 50 cooperative partnership agreements will be funded, with no more than five in each of the ten designated RMA Regions. The maximum award for any cooperative partnership agreement will be $10,000. Recipients of awards must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). Prospective applicants should carefully examine and compare the notices for each program.

This announcement consists of eight parts:

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Small Sessions Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that ''* * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools''.

E. Purpose

The purpose of the Commodity Partnership Small Session Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

- The kinds of risks addressed by existing and emerging risk management tools;
- The features and appropriate use of existing and emerging risk management tools; and
- How to make sound risk management decisions.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $500,000 is available in fiscal year 2006 to fund up to 50 cooperative partnership agreements. The maximum award for any agreement will be $10,000. It is anticipated that a maximum of five agreements will be funded in each of the ten designated RMA Regions.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to award recipients for use in broadening the size or scope of awarded projects if agreed to by the recipient. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2006.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within the Region.

Billings, MT Regional Office: (MT, WY, ND, and SD)
Davis, CA Regional Office: (CA, NV, UT, AZ, and HI)
Jackson, MS Regional Office: (KY, TN, AR, LA, and MS)
Oklahoma City, OK Regional Office: (OK, TX, and NM)
Raleigh, NC Regional Office: (ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, WV, VA, and NC)
Spokane, WA Regional Office: (WA, ID, OR, and AK)
Springfield, IL Regional Office: (IL, IN, OH, and MI)
St. Paul, MN Regional Office: (MN, WI, and IA)
Topeka, KS Regional Office: (KS, MO, NE, and CO)
Valdosta, GA Regional Office: (AL, GA, SC, FL, and Puerto Rico)

Applicants must designate in their application narratives the RMA Region where educational activities will be conducted and the specific groups of producers within the region that the applicant intends to reach through the project. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. This requirement is not intended to preclude producers from areas that border a designated RMA Region from participating in that region's educational activities. It is also not intended to prevent applicants from proposing the use of certain informational methods, such as print or broadcast news outlets, that may reach producers in other RMA Regions.

D. Maximum Award

Any application that requests Federal funding of more than $10,000 for a project will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Recipient Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the award recipient will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate

informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.

• Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using the instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.

• Document all educational activities conducted under the cooperative partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

• Assist in the selection of subcontractors and project staff.

• Collaborate with the recipient in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.

• Collaborate with the recipient in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.

• Collaborate with the recipient on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.

• Conduct an evaluation of the performance of the recipient in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or cooperative partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a cooperative partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the cooperative partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.

2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs''. Federal funding requested (the total of direct and indirect costs) must not exceed $10,000.

3. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs''.

4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 2 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RME Form–2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 2 pages will be reviewed.

- No smaller than 12-point font size.
- Use an easily readable font face (e.g., Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed only on one side of paper.
- Unbound, held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived.

Part IV—Provide a ''Statement of Non-financial Benefits''. (Refer to Section III, Eligibility Information, above).

5. ''Statement of Work'', Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

C. Submission Dates and Times

Applications Deadline: June 2, 2006. Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Incomplete or late application packages will not receive further consideration.

D. Intergovernmental Review

Not applicable.

E. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Alcohol, food, beverage or entertainment;

g. Pay costs incurred prior to receiving a cooperative partnership agreement;

h. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

F. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 25 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships Small Sessions Program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

G. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

H. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Services should allow for the extra security handling time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC area requires.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 5720, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

I. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov,* click on ''Find Grant Opportunities'', click on ''Search Grant Opportunities,'' and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

J. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until after the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an

acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Commodity Partnerships Small Sessions Program will be evaluated within each RMA Region according to the following criteria:

Priority—Maximum 10 Points

The applicant can submit projects that are not related to Priority Commodities. However, priority will be given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Project Benefits—Maximum 25 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—Maximum 15 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Past Performance—Maximum 10 Points

If the applicant has been a recipient of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the recipient on project performance as indicated in Section II, G. The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs; and
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or that are incomplete will not receive further consideration. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager

of FCIC. The panel's report will include the recommended applicants to receive cooperative partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 45. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms, and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2007, whichever is later.

After a partnership agreement has been signed, RMA will extend to award recipients, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower that other applications in an RMA Region, or applications that are highly similar to a higher-scoring application in the same RMA Region. Highly similar is an application that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded cooperative partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-Selected Contractor

Applicants awarded cooperative partnership agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any contractor selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

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

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded cooperative partnership agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any

Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application, are available at the address, and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Award recipients of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the recipient is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires award recipients to submit Form RD 400–4, Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Teleconference

RMA requires that project leaders participate in a post award teleconference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility.

C. Reporting Requirements

Award recipients will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Recipients will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities''.
- A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''
- A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace''.
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, Washington, DC 20250–0808, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements.*

VIII. Other Information

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

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

B. Required Registration With the Central Contract Registry for Submission of Proposals

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

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on April 10, 2006.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E6–5753 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Crop Insurance Education in Targeted States (Targeted States Program)

Announcement Type: Announcement of Availability of Funds and Request for Application for Competitive Cooperative Agreements—Initial.

Catalog of Federal Domestic Assistance Number (CFDA): 10.458.

Dates: Applications are due June 2, 2006.

Executive Summary:

The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $4.5 million to fund cooperative agreements under the Crop Insurance Education in Targeted States program (the Targeted States Program).

The purpose of this cooperative agreement program is to deliver crop insurance education and information to U.S. agricultural producers in certain States that have been designated as historically underserved with respect to crop insurance. The states, collectively referred to as Targeted States, are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. A maximum of 15 cooperative agreements will be funded, one in each of the 15 Targeted States. Recipients of awards must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships) CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships for Small Agricultural Risk Management Education Sessions). Prospective applicants should carefully examine and compare the notices for each program.

This Announcement Consists of Eight Parts:

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Targeted States Program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (Act).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 524(a)(2) of the Act. This section authorizes funding for the establishment of crop insurance education and information programs in States that have historically been underserved by the Federal crop insurance program. In accordance with the Act, the fifteen States designated as ''underserved'' are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming (collectively referred to as ''Targeted States'').

C. Project Goal

The goal of the Targeted States Program is to ensure that farmers and ranchers in the Targeted States are sufficiently informed so as to take full advantage of existing and emerging crop insurance products.

D. Purpose

The purpose of the Targeted States Program is to provide farmers and ranchers in Targeted States with education and information to be able to understand:

- The kinds of risk addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk;
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools; and
- How to make informed decisions on crop insurance prior to the sales closing date deadline.

II. Award Information

A. Type of Award

Cooperative Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $4,500,000 is available in fiscal year 2006 to fund up to 15 cooperative agreements, a maximum of one agreement for each of the Targeted States. The maximum funding amount anticipated for each Targeted State's agreement is as follows. Applicants should apply for funding for that Targeted State where the applicant intends on delivering educational activities.

Maine	$225,000
New Hampshire	173,000
Vermont	226,000
Connecticut	225,000
Rhode Island	157,000
Massachusetts	209,000
New York	617,000
New Jersey	272,000
Pennsylvania	754,000
Maryland	370,000
Delaware	261,000
West Virginia	209,000
Nevada	208,000
Utah	301,000
Wyoming	293,000
Total	4,500,000

Funding amounts were determined by first allocating an equal amount of $150,000 to each Targeted State. Remaining funds were allocated on a pro rata basis according to each Targeted State's share of 2000 agricultural cash receipts relative to the total for all Targeted States. Both allocations were totaled for each Targeted State and rounded to the nearest $1,000. In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manager of FCIC, be allocated pro-rata to State award recipients for use in broadening the size or scope of awarded projects within the Targeted State if agreed to by the recipient.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2006.

C. Location and Target Audience

Targeted States serviced by RMA Regional Offices are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for Targeted States projects conducted within the respective Regions.

Billings, MT Regional Office: (WY).

Davis, CA Regional Office: (NV and UT).

Raleigh, NC Regional Office: (ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, and WV).

Applicants must designate in their application narrative the Targeted State where crop insurance educational activities for the project will be delivered. Applicants may apply to deliver education to producers in more than one Targeted State, but a separate application must be submitted for each Targeted State.

D. Maximum Award

Any application that requests Federal funding of more than the amount listed above for a project in a given Targeted State will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Recipient Tasks

In conducting activities to achieve the purpose and goal of this program in a designated Targeted State, the award recipient will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; (c) inform producers of the crop insurance sales closing dates prior to the deadline; and (d) inform producers and agribusiness leaders in the designated Targeted State of training and informational opportunities.
- Deliver crop insurance training and informational opportunities to agricultural producers and agribusiness professionals in the designated Targeted State in a timely manner in order for producers to make informed decisions prior to the crop insurance sales closing dates deadline. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on crop insurance tools and decisions.
- Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through three of RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Assist in the selection of subcontractors and project staff.
- Collaborate with the recipient in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the recipient in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the recipient on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the recipient in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of crop insurance education for farmers and ranchers within a Targeted State. Individuals are eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (*e.g.*, debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being

considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Targeted States Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements.* Applicants may also request application materials from: Lon Burke, USDA-RMA-RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

2. A completed and signed OMB Standard Form 424-A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed the maximum level for the respective Targeted State, as specified in Section II, Award Information.

3. A completed and signed OMB Standard Form 424-B, ''Assurances, Non-constructive Programs.''

4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the second evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived.

Part IV—(Not required for Targeted States Program).

5. ''Statement of Work,'' (Form RME–2), which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

C. Submission Dates and Times

Applications Deadline: June 2, 2006. Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Incomplete or late application packages will not receive further consideration.

D. Funding Restrictions

Cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative agreement application;

e. Fund political activities;

f. Alcohol, food, beverage, or entertainment;

g. Pay costs incurred prior to receiving a cooperative agreement;

h. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

E. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 25 percent reimbursement of the funds awarded under the cooperative agreement. One goal of the Targeted States Program is to maximize the use of the limited funding available for crop insurance education for Targeted States. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

F. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative agreement.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

G. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date.

Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 5720, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

H. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov,* click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

I. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Targeted States program will be evaluated within each Targeted State according to the following criteria:

Project Benefits—Maximum 35 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the total number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—Maximum 25 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—Maximum 15 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated Targeted State. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the Targeted State; and (c) that a substantial effort has been made to partner with organizations that can meet the needs of producers.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective Targeted State. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective Targeted State will receive higher rankings.

Past Performance—Maximum 10 Points

If the applicant has been a recipient of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current Federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the recipient on project performance as indicated in Section II, G.

The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects

proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs; and
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration. Applications that meet announcement requirements will be sorted into the Targeted State in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within a Targeted State, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the Targeted State according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative agreements for each Targeted State. Funding will not be provided for an application receiving a score less than 60. An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative agreements with those applicants. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2007, whichever is later.

After a cooperative agreement has been signed, RMA will extend to award recipients, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores below 60, or applications with evaluation scores that are lower than those of other applications in a Targeted State.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded cooperative agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-Selected Contractor

Applicants awarded cooperative agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any contractor selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

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

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the

fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

When an application results in a cooperative agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded cooperative agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the recipient is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et. seq.*), 7 CFR part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that recipients submit Form RD 400–4, Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference to become fully aware of cooperative agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

C. Reporting Requirements

Award recipients will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Recipients will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''
- A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''
- A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements/.*

VIII. Other Information

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

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

B. Required Registration With the Central Contract Registry for Submission of Proposals

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

C. Related Programs

Funding availability for this program may be announced at approximately the

same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC on April 10, 2006.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E6–5756 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Mt. Baker-Snoqualmie Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The North Mt. Baker-Snoqualmie Resource Advisory Committee (RAC) will meet at the Mt. Baker Ranger District Office in Sedro Woolley, Washington. The first meeting will include electing this year's chairperson, followed by reviewing proposed Title II projects. The second meeting will be to complete the review, and prioritize proposal to recommend for FY 2007.

DATES: Tuesday, May 9, and Friday, May 19, 2006. Both meetings will be from 9 a.m. until 4 p.m.

ADDRESSES: Mt. Baker Ranger District Office, 810 State Route 20, Sedro Woolley, Washington.

FOR FURTHER INFORMATION CONTACT: Jon Vanderheyden, Designated Federal Official, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, Mt. Baker Ranger District, 810 State Route 20, Sedro Woolley, WA 9824–1263 (phone: 360–856–5700 extension 201).

SUPPLEMENTARY INFORMATION: All North Mt. Baker-Snoqualmie RAC meetings are open to the public. Interested citizens are encouraged to attend. The North Mt. Baker-Snoqualmie RAC reviews project proposals, and makes recommendations to the Forest Supervisor for projects to be funded by Title II dollars, under Public Law 106–393, H.R. 2389. The Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

Dated: April 10, 2006.

Allen Gibbs,

Acting Designated Federal Official.

[FR Doc. 06–3656 Filed 4–17–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 13–2006]

Foreign-Trade Zone 230—Piedmont Triad Area, North Carolina Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Piedmont Triad Partnership, grantee of FTZ 230, requesting authority to expand its zone in the Piedmont Triad area adjacent to the Winston-Salem Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 7, 2006.

FTZ 230 was approved on March 11, 1998 (Board Order 956, 63 FR 13836, 3/23/98). The zone project currently consists of six sites (3,831 acres) in the Piedmont Triad area: *Site 1* (188 acres)—within the 206-acre Lexington Business Center, Hargrave Road and Business Interstate 5, Lexington (Davidson County); *Site 2* (2,800 acres)—Piedmont Triad International Airport, adjacent to U.S. 68 and U.S. 421, Greensboro (Guilford County); *Site 3* (267 acres, 3 parcels)—within the East High Point I–85/I–74 Industrial Corridor in High Point (Davidson County): Parcel 1 (47 acres)—located at Elon Place and Kivett Drive; Parcel 2 (110 acres)—located at 3301–3334 Kivett Drive; and, Parcel 3 (110 acres)—Kivett Drive Industrial Park, Kivett Drive and I–85; *Site 4* (78 acres)—Salem Business Park, Interstate 40, U.S. Highway 52 and U.S. Highway 311, Winston-Salem (Forsyth County); *Site 5* (125 acres)—Westwood Industrial Park, adjacent to U.S. Highway 52, Mt. Airy (Surry County); and, *Site 6* (373 acres)—Mount Airy-Surry County Industrial Park, McKinney Road, Mt. Airy.

The applicant is now requesting authority to expand the zone to include ten sites (517 acres) in the area: *Proposed Site 7* (131 acres)—SouthPoint Business Park, 125 Quality Drive, Mocksville (Davie County); *Proposed Site 8* (9 acres, 2 parcels)—TST Logistics warehouse facilities located at 533 North Park Avenue (Site 8A—7 acres) and 673 Gilmer Street (Site 8B—2 acres) in Burlington (Alamance County); *Proposed Site 9* (107 acres)—within the 112-acre Piedmont Corporate Park, located on National Service Road which runs parallel to Interstate 40, High Point (Guilford County); *Proposed Site 10* (149 acres)—within the 163-acre Premier Center located on NC Highway 68 at the intersection of Premier Drive and Interstate 40, High Point; *Proposed Site 11* (32 acres)—Eagle Hill Business Park consists of four lots located at 4183, 4189, 4193 and 4197 Eagle Hill Drive, High Point; *Proposed Site 12* (39 acres)—Federal Ridge Business Park consists of six lots located at 4300, 4328, 4336, 4344, 4380 and 4388 Federal Drive, High Point; *Proposed Site 13* (23 acres)—Green Point Business Park consists of four lots located at 4500, 4501, 4523 and 4524 Green Point Drive, High Point; *Proposed Site 14* (21 acres)—Lowell's Run located at 4487 Premier Drive, High Point; *Proposed Site 15* (4 acres)—TST Logistics warehouse facility, 1941 Haw River Hopedale Road, Haw River (Alamance County); and, *Proposed Site 16* (2 acres)—TST Logistics warehouse facility, 821 West Center Street, Mebane (Alamance County).

The applicant is also requesting authority to remove Site 3–Parcel 2 (110 acres) from zone status due to changed circumstances (new Site 3 total—157 acres). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB-Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is June 19, 2006. Rebuttal comments in response to material submitted during

the foregoing period may be submitted during the subsequent 15-day period (to July 3, 2006).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce, Export Assistance Center, 342 North Elm Street, First Floor, Greensboro, NC 27401.

Dated: April 7, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–5777 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 12–2006]

Foreign-Trade Zone 148—Knoxville, TN, Area Application for Reorganization/Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Industrial Development Board of Blount County, grantee of Foreign-Trade Zone 148, requesting authority to reorganize and expand FTZ 148 in the Knoxville, Tennessee, area, adjacent to the Knoxville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 6, 2006.

FTZ 148 was approved on June 28, 1988 (Board Order 384, 53 FR 26095, 7/11/88), and expanded on August 21, 2003 (Board Order 1294, 68 FR 52385, 9/3/03). The zone project currently consists of the following sites: *Site 1* (46 acres)—within the Bill Mullins Warehouse Park, Prosser Road, Knoxville (Knox County); *Site 2* (5 acres)—Blount County Industrial Park, State Route 321 (one mile west of State Route 129), Maryville; *Site 2A* (27,000 sq. ft.)—McGhee Tyson Airport, State Route 129, Alcoa (Blount County); *Site 3* (7 acres)—Valley Industrial Park, State Route 62 and Union Valley Road, Oak Ridge (Anderson County); and, *Site 4* (54 acres)—within the CoLinx warehousing facilities, 1536 Genesis Road, Crossville (Cumberland County).

The application is requesting authority to reorganize and expand the general-purpose zone project as follows: Sites 1, 2 and 3 would be deleted; Site 2A would become Site 1; and, Site 4 would become Site 2. Three new sites would be added: *Proposed Site 3* (190 acres)—Partnership Park South located on Partnership Way in Maryville (Blount County); *Proposed Site 4* (13 acres)—within the 15-acre Heritage Center, East Technology Park, 2010 Highway 58, Oak Ridge (Roane County); and, *Proposed Site 5* (71 acres, 2 parcels)—within Eagle Bend Industrial Park located on J.D. Yarnell Industrial Parkway in Clinton (Anderson County). No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the addresses below:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is June 19, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 3, 2006.)

A copy of the application and accompanying exhibits will be available during this time for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce, Export Assistance Center, 17 Market Square, #201, Knoxville, TN 37902–1405.

Dated: April 7, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–5778 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE.

International Trade Administration

[A–580–816]

Corrosion Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department ofCommerce.

FOR FURTHER INFORMATION CONTACT: Victoria Cho at (202) 482–5075, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Background

On September 28, 2005, the U.S. Department of Commerce (''Department'') published a notice of initiation of the administrative review of the antidumping duty order on corrosion resistant carbon steel flat products from Korea, covering the period August 1, 2004 to July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). The preliminary results of this review are currently due no later than May 3, 2006.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245-day period to issue its preliminaryresults by up to 120 days.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable for the following reasons. This review covers six companies, and to conduct the sales and cost analyses for each requires the Department to gather and analyze a significant amount of information pertaining to each company's sales practices, manufacturing costs and corporate relationships. Given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time

period for issuing the preliminary results of review by 100 days. Therefore, the preliminary results are now due no later than August 11, 2006. The final results continue to be due 120 days after publication of the preliminary results.

Dated: April 11, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–5776 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act; Antidumping Measures Concerning Oil Country Tubular Goods from Argentina

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

DATES: *Effective Date:* March 16, 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 (Baker), (202) 482–0649 (James).

SUPPLEMENTARY INFORMATION:

Background

In November 2000, the Department of Commerce (''Department'') published its final results of the expedited sunset review on the antidumping duty order on Oil Country Tubular Goods (''OCTG'') from Argentina and other countries. *See Final Results of Expedited Sunset Reviews: Oil Country Tubular Goods from Argentina, Italy, Japan, and Korea*, 65 FR 66701 (Nov. 7, 2000) (''*Final Results*''). The Government of Argentina subsequently requested dispute resolution at the World Trade Organization (''WTO'') to consider, *inter alia*, its claims that the *Final Results* were inconsistent with the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (''AD Agreement''). In its final report, the panel found, *inter alia*, that the Department's original determination of dumping could not, by itself, represent a sufficient factual basis for concluding that dumping continued during the life of the order. Panel Report, *United States—Sunset Review of Antidumping Measures on Oil Country Tubular Goods From Argentina*, WT/DS268/R (issued July 16, 2004). The Panel also concluded that application of the ''deemed waiver'' provisions of the Department's regulations to Argentine exporters other than Siderca ''invalidated'' the Department's order-wide likelihood determination. *Id.* The United States did not appeal the Panel's finding concerning whether an original determination of dumping or continued collection of antidumping duties provided an adequate factual basis for finding likelihood, but did appeal the Panel's conclusions concerning the waiver provisions. The Appellate Body affirmed the Panel's conclusions concerning the waiver provisions and the Panel and Appellate Body reports were adopted on December 17, 2006. *See id.*; and Appellate Body Report, *United States—Sunset Review of Antidumping Measures on Oil Country Tubular Goods From Argentina*, WT/DS268/AB/R (issued Nov. 29, 2004).

Section 123 of the Uruguay Round Agreements Act (''URAA'') governs the process for changes to the Department's regulations where a dispute settlement panel and/or the Appellate Body finds a regulatory provision to be inconsistent with any of the WTO agreements. Consistent with section 123(g)(1) of the URAA, on October 28, 2005, the Department published amendments to its regulations related to sunset reviews to conform the existing regulations tot he United States' obligations under Articles 6.1, 6.2, and 11.3 of the Antidumping Agreement. *See Final Rule; Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (Oct. 28, 2005). That final rule, which was effective on October 31, 2005, amended the ''waiver'' provisions of the regulations governing treatment of interested parties who do not provide a complete substantive response to the Department's notice of initiation of a sunset review and clarifies the basis for parties' participation in a public hearing in an expedited sunset review.

After following the preliminary procedures required under section 129 of the URAA, by letter dated October 31, 2005, the United States Trade Representative (''USTR'') requested that the Department issue a determination under section 129(b) of the URAA that would render the Department's action in the sunset review not inconsistent with the recommendations and findings of the DSB. On December 16, 2005, the Department issued such a determination, and continued to determine that revocation of the order would be likely to lead to continuation or recurrence of dumping. *See* Decision Memorandum, ''Section 129 Determination: Final Results of Sunset Review, Oil Country Tubular Goods from Argentina,'' (Dec. 16, 2005).

Pursuant to section 129(b)(3) of the URAA, and following consultations with the Department and congressional committees, on March 16, 2006, USTR directed the Department to implement the Section 129 determination under section 129(b)(4) of the URAA.

Implementation

Accordingly, the Department is publishing this notice of its revised final results of sunset review with respect to OCTG from Argentina. Consistent with the recommendations and findings of the DSB, the revised final results reflect the Department's analysis of whether revocation of the order would be likely to lead to continuation or recurrence of dumping. A copy of the Decision Memorandum detailing the Section 129 determination is available online at *http://ia.ita.doc.gov*, and is also available in the Central Records Unit in room B–099 of the main Department building.

This notice of implementation is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: April 13, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–3742 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On April 6, 2006, in *Alloy Piping Products, Inc., Flowline Division, et al. v. United States*, Slip Op. 06–47, (''*Alloy Piping II*''), the Court of International Trade (''CIT'') affirmed the Department of Commerce's (''Department'') Final Results of Determination Pursuant to Remand (''*Remand Results*''), dated August 16, 2004. Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the Department will

continue to order the suspension of liquidation of the subject merchandise, where appropriate, until there is a ''conclusive'' decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct U.S. Customs and Border Protection (''CBP'') to liquidate all relevant entries from Ta Chen Stainless Steel Pipe, Ltd. (''Ta Chen'') and revise the cash deposit rates as appropriate.

EFFECTIVE DATE: April 18, 2006.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone; 202–482–3208, fax; 202–482–9089.

SUPPLEMENTARY INFORMATION:

Background

Following publication of the *Final Results*, Ta Chen filed a lawsuit with the CIT challenging the Department's findings in *Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan and Accompanying Issues and Decisions Memorandum; Final Results of 1998–1999 Administrative Review*, 65 FR 81827, 81830 (December 27, 2000) (''*Final Results*'').[1] In *Alloy Piping v. United States*, Slip Op. 04–46 (CIT 2004) (''*Alloy Piping I*''), the CIT instructed the Department to (1) reconsider the factual and legal basis for its determination concerning the alleged reimbursement agreement; and (2) reconsider its calculation of CEP[2] profit.

The Draft Final Results Pursuant to Remand (''Draft Results'') were released to parties on August 5, 2004. The Department received comments from interested parties on the Draft Results on August 9, 2004. There were no substantive changes made to the *Remand Results* as a result of comments received on the Draft Results. On August 16, 2004, the Department responded to the CIT's Order of Remand by filing the *Remand Results*. In the *Remand Results*, the Department reconsidered its decision concerning the reimbursement agreement and determined that the reimbursement agreement, in light of the new information submitted by Ta Chen on May 18, 2004, indicated that the reimbursement agreement did not apply for the June 1, 1998, through May 31, 1999, period, but was limited to the 1992–1994 period. The Department also reconsidered its CEP Profit calculation and determined that the CEP Profit equation is symmetric with regard to the imputed interest expenses such that the imputed interest expenses in the ''Total U.S. Expenses'' numerator are in fact reflected in recognized financial expenses in the ''Total Expenses'' denominator and the ''Total Actual Profit'' multiplier. Thus, the Department did not change Ta Chen's CEP Profit. As a result of the remand determination, the antidumping duty rate for Ta Chen was decreased from 12.84 to 6.42 percent.

On April 6, 2006, the CIT affirmed the Department's findings in the *Remand Results*. Specifically, the CIT upheld the Department's finding that Ta Chen was not reimbursing antidumping duties during the POR and that the Department's calculation of CEP profit was accurate. *See Alloy Piping II*. As noted above, this revision resulted in a change in Ta Chen's margin.

Suspension of Liquidation

The CAFC, in *Timken*, held that the Department must publish notice of a decision of the CIT or the CAFC which is not ''in harmony'' with the Department's final determination or results. Publication of this notice fulfills that obligation. The CAFC also held that the Department must suspend liquidation of the subject merchandise until there is a ''conclusive'' decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's April 6, 2006, decision, or, if that decision is appealed, pending a final decision by the CAFC. The Department will instruct Customs to revise cash deposit rates, as appropriate, and to liquidate relevant entries covering the subject merchandise in the event that the CIT's ruling is not appealed, or if appealed and upheld by the CAFC.

Dated: April 13, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–3743 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] The period of review is June 1, 1998, through May 31, 1999 (''POR'').

[2] Constructed Export Price

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On April 3, 2006, Wynndel Box & Lumber Co., Ltd. (''Wynndel''), filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Scope Ruling Regarding Entries Made Under HTSUS 4409.10.05 made by the United States Department of Commerce, International Trade Administration, respecting Certain Softwood Lumber Products from Canada. Notification of this final determination was received by the other Party on March 8, 2006. The NAFTA Secretariat has assigned Case Number USA–CDA–2006–1904–05 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on April 3, 2006, requesting panel review of the final determination described above.

The Rules provide that

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 3, 2006);

(b) a Party, investigating authority or interested person that does not file a

Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is May 18, 2006); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: April 12, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–5710 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041106A]

Marine Mammals; File Nos. 781–1824, 965–1821, 532–1822, 540–1811, 774–1714, 782–1719, 731–1774

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

ACTION: Notice; issuance of permits and amendments.

SUMMARY: Notice is hereby given that seven entities have been issued permits and amendments to conduct scientific research on marine mammal species and import marine mammal part specimens for scientific research purposes.

ADDRESSES: The permits 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;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Shane Guan or Kelsey Abbott, (301)713–2289.

SUPPLEMENTARY INFORMATION: Permits have been issued to the following entities:

Northwest Fisheries Science Center (NWFSC, Dr. M. Bradley Hanson, Principal Investigator), 2725 Montlake Blvd. East, Seattle, Washington 98112–2097 (Permit No. 781–1824);

Southwest Fisheries Science Center (SWFSC, Dr. Stephen B. Reilly, Principal Investigator), 8604 La Jolla Shores Drive, La Jolla, California 92037 (Permit No. 774–1714);

National Marine Mammal Laboratory, Alaska Fisheries Science Center (NMML, Dr. John L. Bengtson, Principal Investigator), 7600 Sand Point Way, NE., Seattle, Washington 98115–6349 (Permit No. 782–1719);

Dr. Robin W. Baird, Cascadia Research, 218 1/2 W. 4th Avenue, Olympia, Washington 98501 (Permit No. 731–1774);

Dr. David E. Bain, Friday Harbor Laboratories, University of Washington, 620 University Road, Friday Harbor, Washington 98250 (Permit No. 965–1821);

Center for Whale Research (CWR, Mr. Kenneth C. Balcomb III, Principal Investigator), 355 Smuggler's Cove Road, Friday Harbor, Washington 98250 (Permit No. 532–1822); and

Mr. John Calambokidis, Cascadia Research, Waterstreet Bldg., 218 1/2 W. 4th Avenue, Olympia, Washington 98501 (File No. 540–1811).

On January 6, 2006, notice was published in the **Federal Register** (71 FR 917) that requests for scientific research permits and amendments to take marine mammals had been submitted by the above-named organizations and individuals. The requested permits and amendments have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 781–1824 authorizes the NWFSC to conduct research to determine the abundance, distribution, movement patterns, habitat use, contaminant levels, prey, behavior, energetics, and stock structure of cetacean species in the eastern North Pacific off the coast of Washington, Oregon, and California. These studies will be carried out through vessel surveys, photo-identification from large and small vessels, biological sample collection, passive acoustic monitoring, and satellite/radio and data log/time-depth tagging and tracking. The permit authorizes NWFSC to take endangered blue whales (*Balaenoptera musculus*), fin whales (*Balaenoptera physalus*), humpback whales (*Megaptera novaeangliae*), sperm whales (*Physeter macrocephalus*), and Southern Resident killer whales (SRKW, *Orcinus orca*), as well as 15 non-ESA-listed cetacean species. The permit expires on April 14, 2011.

Permit No. 965–1821 authorizes Dr. David Bain to study killer whales, including the SRKW DPS. Dr. Bain's research is designed to examine killer whale distribution and movement patterns; diet and energetic requirements; reproduction and mortality patterns; health; social structure; and the effects of anthropogenic disturbances, including noise, on the whales. Research will focus on the inland waters of Washington with comparative data collected from central California to central Alaska. The permit expires on April 14, 2011.

Permit No. 532–1822 issued to the CWR authorizes annual photo-identification studies on SRKW throughout their range to monitor population size and demographics, movements and distribution, social structure, and individual health and body condition of these animals. CWR will also collect photo-identification data from other killer whale stocks that are encountered opportunistically, including the Eastern North Pacific Offshore stock, Eastern North Pacific Northern Resident stock, and the Eastern North Pacific Transient stock. This permit expires April 14, 2011.

Permit No. 540–1811 authorizes John Calambokidis to study marine mammals in the North Pacific Ocean including the waters off California, Oregon, and Washington. Mr. Calambokidis will: (1) use photo-identification activities to determine the abundance, movements, and population structure of cetaceans; (2) collect skin biopsies to determine sex and relatedness, and to evaluate stock structure of cetaceans; (3) conduct suction cup tagging activities to examine the diving behavior, feeding, movements, and vocal behavior of cetacean species; (4) conduct aerial, vessel, and shore-based surveys to examine distribution, abundance, habitat, and feeding behavior; and (5) to recover dead harbor seals for contaminant analysis. The permit

authorizes takes of five species of pinnipeds and 27 cetacean species, including humpback whales, blue whales, killer whales, fin whales, and gray whales (*Eschrichtius robustus*). The permit expires on April 14, 2011.

Permit No. 774–1714–04 issued to the SWFSC has been amended to allow takes of the recently ESA-listed SRKW DPS. The purpose of the research is to document the range of the SRKW within 300 nm of the California, Oregon, and Washington outer coasts, which are outside their relatively well studied distribution in inland and coastal waters. The research will be carried out opportunistically during SWFSC's line-transect surveys designed to provide data for Stock Assessment Reports on abundance and stock identity of all cetacean species in these areas. The permit expires on June 30, 2009.

Permit No. 782–1719–03 issued to the NMML has been amended to allow takes of SRKW. The amended permit authorizes NMML to opportunistically sample SRKW when encountered during stock assessment surveys. NMML may biopsy sample 10 SRKW (excluding calves and accompanying females) annually and may take up to 500 SRKW annually for photo-identification from vessel and aerial surveys and 500 SRKW annually by incidental harassment. The amended permit expires on June 30, 2009.

Permit No. 731–1774–01 issued to Dr. Robin Baird authorizes takes by close approach, including vessel approaches, aerial over-flights, and suction cup tagging of cetacean species in all U.S. and international waters in the Pacific, including Alaska, Washington, Oregon, California, Hawaii, and other U.S. territories. The permit now authorizes takes of SRKW by harassment during close approach for vessel and aerial surveys, photo-identification, behavioral observations, video and acoustic recordings, suction cup tagging, and incidental harassment. The research will primarily occur in the waters of Washington, but may also occur in the waters of California and Oregon. The amended permit expires on August 31, 2010.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of these permits and amendments, as required by the ESA, was based on a finding that such permits/amendments: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 12, 2006.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–5779 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

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

Agency: United States Patent and Trademark Office (USPTO).

Title: Public User ID Badging.

Form Number(s): PTO–2030, PTO–2224.

Agency Approval Number: 0651–0041.

Type of Request: Revision of a currently approved collection.

Burden: 1,097 hours annually.

Number of Respondents: 11,369 responses per year.

Avg. Hours Per Response: The USPTO estimates that it will take the public approximately 5 minutes (0.08 hours) to renew a security identification badge, including preparing and submitting the completed form. The USPTO estimates that it will take the public approximately 5 to 10 minutes (0.08 to 0.17 hours) to complete the other items in this collection, including the time to gather the necessary information, prepare the appropriate form, and submit the completed request.

Needs and Uses: The USPTO is required by 35 U.S.C. 41(i)(1) to maintain a Public Search Facility to provide patent and trademark collections for searching and retrieval of information. In order to manage the patent and trademark collections, the USPTO issues online access cards to customers who wish to use the electronic search systems at one of the Public Search Facilities. Under the authority provided in 41 CFR Part 102–81, the USPTO also issues security identification badges to members of the public who wish to use the facilities at the USPTO. The public uses this collection to request an online access card, a security identification badge, or to register for user training classes. This collection currently contains forms for the Application for Public User ID (Online Access Card) (PTO–2030), Security Identification Badges for Public Users (PTO–2224), and two user training application forms. The USPTO is updating this information collection to include the renewal of security identification badges, to delete the replacement fee for online access cards, and to revise the estimated annual responses in order to reflect current submissions. No new forms are being added to this collection.

Affected Public: Individuals or households, businesses or other for-profits, not-for-profit institutions, farms, the Federal Government, and state, local or tribal governments.

Frequency: On occasion with annual renewals for online access cards and security identification badges.

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

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

Copies of the above information collection proposal can be obtained by any of the following methods:

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–0041 copy request'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 18, 2006 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: April 12, 2006.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–5721 Filed 4–17–06; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Notice of Revision of Commission Policy Regarding the Listing of New Futures and Option Contracts by Foreign Boards of Trade That Have Received Staff No-Action Relief to Provide Direct Access to Their Automated Trading Systems From Locations in the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (Commission) is revising its policy that permits foreign boards of trade that provide direct access to their automated trading systems from locations in the U.S. pursuant to a Commission staff no-action letter to list certain additional futures and option contracts on the basis of a one business day notification and without obtaining supplemental no-action relief and, in its place, establishing a ten business day advance notification requirement.

EFFECTIVE DATE: The new notification requirement is effective immediately.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Telephone: 202–418–5492. E-mail: *dandresen@cftc.gov*.

SUPPLEMENTARY INFORMATION: On June 2, 1999, the Commission issued an order which, among other things, withdrew proposed rules that would have governed automated access to foreign boards of trade from the U.S. (June 2 Order) [1]. The June 2 Order also instructed the Commission staff to begin immediately processing no-action requests from foreign boards of trade seeking to place trading terminals in the United States, and to issue responses where appropriate, pursuant to the general guidelines included in the Eurex (DTB) no-action process,[2] or other guidelines established by the Commission.[3] Pursuant to those guidelines, foreign boards of trade were issued staff no-action letters permitting them, without obtaining contract market designation, to place in the U.S. electronic trading devices that provided direct access to the boards of trade (Foreign Terminal No-Action Letters). Foreign boards of trade that received Foreign Terminal No-Action Letters that wished to list additional futures and option contracts for trading through their U.S.-located trading systems were required to request in writing and receive supplemental no-action relief (Supplemental Relief) from Commission staff prior to doing so.

On June 30, 2000, the Commission issued the Statement of Policy of the Commodity Futures Trading Commission Regarding the Listing of New Futures and Option Contracts by Foreign Boards of Trade That Have Received Staff No-Action Relief to Place Electronic Trading Devices in the U.S. (Statement of Policy).[4] Pursuant to the Statement of Policy, foreign boards of trade that had received Foreign Terminal No-Action Letters and that wished to list additional futures and option contracts for trading through their U.S.-located trading systems were no longer required to obtain Supplemental Relief prior to doing so. Instead, the foreign board of trade was required to file the following with Commission staff no later than the business day preceding the initial listing of such futures and option contracts: (1) A copy of the initial terms and conditions of the additional futures and option contracts the foreign board of trade intended to list for trading through its U.S.-located electronic devices and (2) a certification from the foreign board of trade that it is in compliance with the terms and conditions of the Foreign Terminal No-Action Letter that it has received and that the additional futures and option contracts would be traded in accordance with such terms and conditions.[5]

The Commission is hereby rescinding the Statement of Policy and revising the advance notification requirement in light of its experience since the issuance of the Statement of Policy and in recognition of the fact that the listing of new products may raise previously unidentified regulatory issues. For example, certain foreign board of trade contracts directly accessible in the U.S. may be directly linked to a U.S. designated contract market's (DCM) prices and thus may create a need for enhanced market surveillance or additional information sharing with the foreign board of trade and/or its regulator to address market integrity issues with respect to the Commission's oversight of the DCM's contracts. The Statement of Policy, which permits contracts to be listed for trading through the U.S.-located trading system on a one-business day notice-only basis, may preclude ensuring that relevant regulatory issues are addressed prior to such listing and may undermine staff's ability to assess important surveillance issues, among other things, that need to be examined. Extending the advance notification period from one to ten business days would give Commission staff the opportunity to review the terms and conditions of proposed additional contracts to address any regulatory issues raised prior to the contract being made available for trading through the U.S.-located trading system.

Henceforth, foreign boards of trade that have received Foreign Terminal No-Action Letters that wish to list additional futures and option contracts for trading through their U.S.-located trading systems must notify the Division of Market Oversight (Division) ten business days prior to offering such contracts.[6] In its notification, the foreign board of trade need only submit a copy of the initial terms and conditions of the additional contracts and a certification that it is in compliance with the terms and conditions of the Foreign Terminal No-Action Letter that it has received and that the additional futures and option contracts would be traded in accordance with such terms and conditions. The foreign board of trade can list the additional futures and option contracts for trading ten business days after the date of receipt by the Commission of the notification, unless Commission staff notifies the foreign board of trade that additional time is needed to determine if there is a need, for example, for enhanced market surveillance or additional information sharing. Commission staff reviews of proposed additional contracts for which there may be a need to address such

[1] Access to Automated Boards of Trade, 64 FR 32829 (June 18, 1999).

[2] In February 1996, Commission staff issued no-action relief to Deutsche Terminborse (DTB), an automated international futures and options exchange headquartered in Frankfurt, Germany, that permitted DTB, subject to certain terms and conditions, to place computer terminals in the U.S. offices of its members for principal trading. See CFTC Interpretative Letter No. 96–28 (1996–1997 Transfer Binder) Comm. Fut. L. Rep. (CCH) para. 26,669 (Feb. 29. 1996). In June 1998, DTB merged with the Swiss Options and Financial Futures Exchange and DTB changed its name to Eurex Deutschland.

[3] 64 FR 32829, 32830 (June 18, 1999).

[4] 65 FR 41641 (July 6, 2000).

[5] The Statement of Policy did not apply to futures and option contracts that are covered by Section 2(a)(1)(B) of the Commodity Exchange Act (Act). Foreign boards of trade would continue to be required to seek and receive written supplemental no-action relief from Commission staff prior to offering such contracts through U.S.-located trading systems.

[6] Foreign boards of trade continue to be required to seek and receive written supplemental no-action relief from Commission staff prior to offering through U.S.-located trading systems futures and option contracts that are covered by Section 2(a)(1)(B) of the Act.

regulatory issues would be completed as expeditiously as possible.

The trading of all contracts through electronic trading devices that provide access to foreign boards of trade from within the U.S. continues to be subject to the terms and conditions of the Foreign Terminal No-Action Letter issued to the particular foreign board of trade. Included among those terms and conditions is the requirement that the foreign board of trade promptly provide the Division with written notice of any material change in the structure, operation or regulation of the foreign board of trade or its trading system. Further, this notice does not alter the analysis that Commission staff uses when considering requests for Foreign Terminal No-Action Letters, dictate the result of that analysis, or alter the authority of Commission staff to condition, modify, suspend, terminate, or otherwise restrict the no-action relief that it issues.

Issued in Washington, DC, on April 14, 2006 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–3733 Filed 4–17–06; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, May 5, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–3727 Filed 4–14–06; 10:35 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, May 12, 2005.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–3728 Filed 4–14–06; 10:35 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, May 19, 2005.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–3729 Filed 4–14–06; 10:35 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, May 26, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–3730 Filed 4–14–06; 10:35 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled CNCS Disaster Response Information Collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Mr. Hank Oltmann, (202) 606–6844 or by e-mail: *holtmann@cns.gov;* or Mr. Nathan Dietz, (202) 606–6663 or by e-mail: *Ndietz@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. Eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to Office of Information and Regulatory Affairs, Attn: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**: (a) By fax to: (202) 395–6974, Attention: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service; and (b) Electronically by e-mail to: *Rachel_F._Potter@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice, regarding the CNCS Disaster Response Information Collection, was published in the **Federal Register** on January 23, 2006. This comment period ended on March 24, 2006. No public comments were received from this notice.

Description

The Corporation for National and Community Service (CNCS) is requesting comments on plans to continue a data collection system to organize and manage information related to national service programs, participants, alums and unaffiliated volunteers interested in responding to disasters. The information collection tool is a brief web-based survey that includes a set of questions to be answered by representatives of current Corporation programs, grantees, or sponsors that are carrying out disaster relief and recovery efforts. Corporation staff will collect and analyze the responses. The information will be used by the Corporation in preparing its Annual Performance Reports as well as for responding to ad hoc requests from Congress, the public, media, and other interested parties.

Note: This data collection is designed so that it can be used for declared disasters in the future, as well as for the current Katrina/Rita Hurricane relief and recovery efforts.

Type of Review: Renewal with revisions of an information collection currently approved through emergency clearance.

Agency: Corporation for National and Community Service.

Title: Disaster Response Information Collection.

OMB Number: 3045–0114.

Agency Number: None.

Affected Public: Corporation for National and Community Service Programs/Grantees engaged in disaster activities.

Total Respondents: 350.

Frequency: No greater than once per month.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 400.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: April 12, 2006.

Mark Abbott,

Senior Advisor, Office of the Chief Operating Officer.

[FR Doc. E6–5714 Filed 4–17–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Assembled Hematin, Method for Forming Same and Method for Polymerizing Aromatic Monomers Using Same

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 7,022,420 B1 entitled ''Assembled Hematin, Method for Forming Same and Method for Polymerizing Aromatic Monomers Using Same'' issued April 4, 2006. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Arnold Boucher at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone; (508) 233–5431 or e-mail: *Arnold.Boucher@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR 404.

Brenda S. Bower,

Army Federal Register Liaison Officer.

[FR Doc. 06–3665 Filed 4–17–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.359A/B]

Notice Extending Full Application Deadline Date for the Early Reading First (ERF) Fiscal Year (FY) 2006 Competition

AGENCY: Office of Elementary and Secondary Education, Department of Education.

SUMMARY: On January 18, 2006, we published in the **Federal Register** (71 FR 2916) a notice inviting applications for the Early Reading First FY 2006 competition. The deadline date for eligible applicants to transmit their full applications for funding under this competition was May 8, 2006. Due to the reopening of the pre-application phase of the ERF FY 2006 competition, we now are extending the deadline date for full applications for the ERF FY 2006 competition to May 31, 2006 for all applicants invited to submit those applications.

This notice also clarifies the requirements for the submission of full applications under this competition. The new deadline date for applicants invited to submit full applications is:

Deadline for Transmittal of Full Applications: May 31, 2006 (by 4:30 p.m., Washington DC time).

Full applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov) unless you otherwise qualify for an exception to the electronic submission requirement. This includes applicants that previously submitted their pre-applications electronically through Grants.gov and applicants that previously submitted their pre-applications in paper format. For information (including dates and times) about how to submit your application, please refer to the **SUPPLEMENTARY INFORMATION** section in this notice.

We do not consider a full application that does not comply with the extended full application deadline and submission requirements announced in this notice.

Deadline for Intergovernmental Review: The deadline date for Intergovernmental Review under Executive Order 12372 is extended to July 31, 2006.

SUPPLEMENTARY INFORMATION:

a. Electronic Submission Requirements

All applicants that are invited to submit a full application for a grant under the ERF program—CFDA Number 84.359B must submit their full applications electronically using the Grants.gov Apply site at: *http://www.grants.gov* as specified in the January 18, 2006 **Federal Register** notice inviting applications (71 FR 2916) (Application Notice). This Application Notice is available at the following Web site: *http://www.ed.gov/legislation/FedRegister/announcements/2006-1/011806c.html.*

We will reject your full application if you submit it in paper format unless you are invited to submit a full application and you qualify for an exception to the electronic submission requirement for the full application as described in section IV.6.a. of the January 18, 2006 Application Notice (71 FR 2916). Those qualification requirements include, in part, that no later than two weeks *before the extended full application deadline date* (14 calendar days) you mail or fax a written statement to the Department as described in that notice explaining the basis for the exception.

Applicants that submitted the pre-application in paper format and therefore have not registered previously via Grants.gov must complete all of the

steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) Registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must provide on your full application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully a full application via Grants.gov.

b. Additional Application Information

1. Address to Request Application Package

You may obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain an application via the Internet, use the following Web address: *http://www.ed.gov/programs/earlyreading/applicant.html.*

To obtain a copy from ED Pubs, write or call the Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.359A/B.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in this notice.

2. Content and Form of Full Application Submission

All requirements concerning the content of the full application, including page-limit and limited appendices requirements, a competitive preference priority, and the selection criteria, together with the forms you must submit, are in the application package for this competition. Please also refer to the January 18, 2006 Application Notice (71 FR 2916) for further information governing this grant competition. This Application Notice is available at the following Web site: *http://www.ed.gov/legislation/FedRegister/announcements/2006-1/011806c.html*.

FOR FURTHER INFORMATION CONTACT: Jill Stewart, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C136, Washington, DC 20202–6132. Telephone: (202) 260–2533 or by e-mail: *Jill.Stewart@ed.gov*; or Rebecca Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C138, Washington, DC 20202–6132. Telephone: (202) 260–0968 or by e-mail: *Rebecca.Haynes@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 program contact person listed in this section.

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*.

Dated: April 12, 2006.

Henry L. Johnson,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E6–5782 Filed 4–17–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Environmental Management; Site-Specific Advisory Board; Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463), in accordance with Title 41, Section 102–3.65(a) of the Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Site-Specific Advisory Board is being renewed for a two-year period beginning May 16, 2006. The Environmental Management Site-Specific Advisory Board will provide advice and recommendations to the Assistant Secretary for Environmental Management (EM).

The Board provides the Assistant Secretary for EM with information, advice, and recommendations concerning issues affecting the EM program at various sites. These site-specific issues include clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities.

Furthermore, the renewal of the Environmental Management Site-Specific Advisory Board has been determined to be essential to the conduct of Department of Energy business and to be in the public interest in connection with the performance of duties imposed on the Department of Energy by law and agreement. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act, and rules and regulations issued in implementation of those Acts.

Further information regarding this Advisory Board may be obtained from Ms. Melissa A. Nielson at (202) 586–0356.

Issued in Washington, DC, on April 11, 2006.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. E6–5781 Filed 4–17–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–309]

Application To Export Electric Energy; Evergreen Wind Power, LLC

AGENCY: Office Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Evergreen Wind Power, LLC (Evergreen) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before May 18, 2006.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office Electricity Delivery and Energy Reliability (Mail Code OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–5860).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 20, 2006, the Office of Electricity Delivery and Energy Reliability (OE) of the Department of Energy (DOE) received an application from Evergreen to transmit electric energy from the United States to Canada. Evergreen is a limited liability company incorporated under the laws of the State of Delaware. Evergreen is indirectly owned and controlled by UPC Wind Partners, LLC. UPS Wind Partners, LLC is involved in the development, ownership, operation, and acquisition of wind generation in the United States. Evergreen has requested that an export authorization be issued with a 10-year term.

Evergreen is developing a 28-turbine wind generation facility, the Mars Hill Project, in Aroostook, Maine. The facility will be capable of producing 42 megawatts (MW), with a possible future expansion to 49.5 MW. Evergreen is in the process of negotiating power purchase agreements with several potential buyers; one is a Canadian entity in New Brunswick Province.

Evergreen proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Maine Public Service Company. The construction, operation, maintenance, and connection of the international transmission facilities to be utilized by Evergreen as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Evergreen application to export electric energy to Canada should be clearly marked with Docket EA–309. Additional copies are to be filed directly with Peter Gish, General Counsel, Evergreen Wind Power, LLC, 100 Wells Avenue, Suite 201, Newton, MA 02459, and David L. Schwartz, Natasha Gianvecchio, Sue Wang, Latham & Watkins LLP, 555 Eleventh Street, NW., Suite 1000, Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the program's Home Page at *http://www.fe.doe.gov/programs/electricityregulation/*. Upon reaching the Home page, scroll down and select ''Pending Proceedings.''

Issued in Washington, DC, on April 12, 2006.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E6–5780 Filed 4–17–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP06–280–000 and 001]

East Tennessee Natural Gas, LLC; Notice of Substitute Appendix C to Cashout Report and Refund Plan

April 11, 2006.

Take notice that on April 3, 2006, East Tennessee Natural Gas, LLC (East Tennessee) tendered for filing a substitute Appendix C to its annual cashout report filed on March 30, 2006, for the November 2004 through October 2005 period in accordance with Rate Schedules LMS–MA, LMS–PA, and PAL.

East Tennessee states that copies of the filing were mailed to all affected customers of East Tennessee and interested state commissions, as well as any parties on the official service list in the captioned proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5726 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–177–001 and 002]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

April 11, 2006.

Take notice that on April 3, 2006, replacing the March 30, 2006, filing in Docket No. RP06–177–001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised sheet to be effective five days after the date Iroquois notifies the Commission that it intends to implement Hub Service:

Substitute Second Revised Sheet No. 60E
Alternate Substitute Second Revised Sheet No. 60E
Original Sheet 60F

Iroquois states that it has learned that the revised tariff sheets (Substitute Second Revised Sheet No. 60E and Alt. Substitute Second Revised Sheet No. 60E) submitted in the March 30, 2006 compliance filing inadvertently contained the subject language in subsection (b) to section 5 of its General Terms & Conditions rather than subsection (a) to section 5.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5733 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199]

South Carolina Public Service Authority; Notice of Authorization for Continued Project Operation

April 11, 2006.

On November 20, 2000, South Carolina Public Service Authority, licensee for the Santee Cooper Hydroelectric Project No. 199, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations. Project No. 199 is located on the Santee and Cooper Rivers, in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, South Carolina.

The license for Project No. 199 was issued for a period ending March 31, 2006. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 199 is issued to South Carolina Public Service Authority for a period effective April 1, 2006 through March 31, 2007, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 1, 2007, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that South Carolina Public Service Authority of Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, South Carolina, is authorized to continue operation of the Santee Cooper Project No. 199 until such time as the Commission acts on its application for subsequent license.

Magalie Salas,

Secretary.

[FR Doc. E6–5729 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–114–000]

Southern Natural Gas Company; Notice of Application

April 11, 2006.

Take notice that on April 3, 2006, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP06–114–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, for authorization to abandon in place certain pipeline and appurtenant facilities in Douglas and Fulton County, Georgia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Southern proposes to abandon in place a small segment of its 20-inch North Main Loop Line commencing at milepost 435.8 to milepost 454.8 located in Douglas and Fulton Counties, Georgia. Southern states that abandonment of the 20 inch North Main Loop segment described in its application will not affect its ability to meet the firm requirements of its firm transportation customers.

Any questions regarding this application should be directed to Patricia S. Francis, Senior Counsel, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563 at (205) 325–7696.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: May 2, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5734 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR06–7–000]

Eighty-Eight Oil LLC, Complainant, v. Tesoro High Plains Pipeline Company, Respondent; Notice of Complaint

April 11, 2006.

Take notice that on April 10, 2006, pursuant to Rule 206 of the Commission's Rules of Practice and Procedures, 18 CFR 385.206 (2005), and the Commission's Rules of Practice Procedure Applicable to Oil Pipelines, 18 CFR 343.1(a), Eighty-Eight Oil LLC (Eighty-Eight) filed a complaint in reference to Tesoro High Plains Pipeline Company's (THPPC) denial of service to Eighty-Eight for the interstate transportation of crude oil under THPPC's FERC Tariff No. 3.

Eighty-Eight certifies that copies of the complaint were served on THPPC's counsel.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5728 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2503–085—South Carolina]

Duke Power, a Division of Duke Energy Corporation; Notice of Availability of Environmental Assessment

April 11, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for non-project use of project lands and waters at the Keowee-Toxaway Hydroelectric Project (FERC No. 2503), and has prepared an environmental assessment (EA) for the proposed non-project use. Duke Power is the licensee for the project. The project is located on the Little and Keowee Rivers in Oconee County, South Carolina.

In the application, Duke Power requests Commission authorization to lease to the Waterford Communities

Owners Association and Crescent Communities S.C., LLC 6.54 acres of project land for a commercial/residential marina. The proposed marina would consist of: (1) Three cluster docks with eight boat docking locations each, and one cluster dock with six boat docking locations for Waterford Ridge; (2) one cluster dock with fourteen boat docking locations, and two cluster docks with eight boat docking locations each for Waterford Farms; and (3) nine cluster docks with ten boat docking locations each for Waterford Pointe. The marina's docks would provide a total of 150 boat docking locations for the residents of the Waterford Communities. The EA contains the Commission staff's analysis of the probable environmental impacts of the proposal, and concludes that approving the licensee's application, with staff's recommended environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA is attached to a Commission order titled ''Order Modifying and Approving Non-Project Use of Project Lands and Waters,'' which was issued April 7, 2006, and is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the dock number (prefaced by P–), excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5731 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2503–086—South Carolina]

Duke Power, a Division of Duke Energy Corporation; Notice of Availability of Environmental Assessment

April 11, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for non-project use of project lands and waters at the Keowee-Toxaway Hydroelectric Project (FERC No. 2503), and has prepared an environmental assessment (EA) for the proposed non-project use. The project is located on the Little and Keowee Rivers in Oconee and Pickens Counties, South Carolina.

In the application, Duke Power (licensee) requests Commission authorization to lease two parcels of project land to Crescent Communities S.C, LLC, and the Waterside Crossing Owners Association, Inc. (applicants) for the construction and operation of: (1) Two marinas consisting of a total of 12 cluster docks with 117 total boat slips; (2) a boat pump-out station; and (3) an irrigation intake. The proposed facilities would serve the residents of Waterside Crossing subdivision, located on a cove on Lake Keowee in Oconee County, South Carolina. No dredging is proposed for this development. The EA contains the Commission staff's analysis of the probable environmental impacts of the proposal, and concludes that approving the licensee's application, with staff's recommended environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA is attached to a Commission order titled ''Order Modifying and Approving Non-Project Use of Project Lands and Waters,'' which was issued April 7, 2006, and is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the dock number (prefaced by P–), excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–5732 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2150–033]

Puget Sound Energy, Inc., Washington; Notice of Intent To Hold Public Meetings for the Baker River Hydroelectric Project

April 11, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a license for the Baker River Hydroelectric Project (FERC No. 2150–033), located on the Baker River in Whatcom and Skagit counties, Washington and has prepared a Draft Environmental Impact Statement (EIS) for the project. The project occupies 5,207 acres of lands within the Mt. Baker-Snoqualmie National Forest managed by the U.S. Forest Service.

Copies of the draft EIS are available for review in the Commission's Public Reference Branch or may be viewed on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You are invited to attend one or both public meetings we are holding to receive comments on the draft EIS. The time and location of these meetings are:

Date: Monday, May 1, 2006.

Time: 9 a.m.–5 p.m. (pst).

Place: U.S. Army Corps of Engineers District Office in Seattle, Washington.

Address: 4735 E. Marginal Way S., Seattle, Washington.

Room: Galaxy Meeting Room.

Date: Tuesday, May 2, 2006.

Time: 6 p.m.–9 p.m. (pst).

Place: Best Western Cotton Tree Inn.

Address: 2300 Market Street, Mt. Vernon, Washington.

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meetings will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. These meetings are posted on

the Commission's calendar located at: *http://www.ferc.gov/EventCalendar/EventsADay.aspx?Date=5/1/2006&CalendarID=0* along with other related information.

Whether, or not you attend one of these meetings, you are invited to submit written comments on the draft EIS. Comments should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All comments must be filed by May 30, 2006, and should reference Project No. 2150–033. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's Web site at *http://www.ferc.gov* under the e-Library link.

The Commission staff will consider comments made on the draft EIS in preparing a final EIS for the project. Before the Commission makes a licensing decision, it will take into account all concerns relevant to the public interest. The final EIS will be part of the record from which the Commission will make its decision.

By this notice, we are modifying our processing schedule for Puget's license application. The modified schedule is:

Issue Final Environmental Impact Statement: June 2006.

Ready for Commission Decision on Application: September 2006.

For further information, contact Steve Hocking at (202) 502–8753 or at *steve.hocking@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–5730 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend; Sunshine Act

April 13, 2006.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 20, 2006 (Within a relatively short time after the Commission's open meeting on April 20, 2006).

PLACE: Room 2C, Commission Meeting Room, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries, Enforcement Related Matters, and Security of Regulated Facilities.

FOR FURTHER INFORMATION CONTACT: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

Chairman Kelliher and Commissioners Brownell, and Kelly voted to hold a closed meeting on April 20, 2005. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NW., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of his staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 06–3735 Filed 4–14–06; 11:14 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting; Sunshine Act

April 13, 2006.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 20, 2006, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

FOR FURTHER INFORMATION CONTACT: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

For a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Item No.	Docket No.	Company
	ADMINISTRATIVE AGENDA	
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
	ELECTRIC	
E–1	RM05–5–000	Standards for Business Practices and Communication Protocols for Public Utilities.
E–2	RM05–34–001	Transactions Subject to FPA Section 203.
E–3	ER05–1065–000	Entergy Services, Inc.
E–4	EL05–148–000 ER05–1410–000.	PJM Interconnection, L.L.C.
E–5	OMITTED.	
E–6	ER06–666–000	Midwest Independent Transmission System operator, Inc.
E–7	ER06–674–000	Conectiv Energy Supply, Inc.
E–8	OMITTED.	
E–9	EL06–52–000	New York Power Authority v. Consolidated Edison Company of New York, Inc.
E–10	EL05–103–000	Northern Indiana Public Service Company v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.

Item No.	Docket No.	Company
E–11	ER03–1003–002	Michigan Electric Transmission Company, LLC.
E–12	ER03–622–000	Capital Power, Inc.
	ER02–2001–005	Electric Quarterly Reports.
	ER02–2338–000	Energy Investments Management, Inc.
	ER04–683–000	New Light Energy, LLC.
	ER03–101–000	Preimer Energy Marketing L.L.C.
	ER02–1499–000	Sprague Energy Corporation.
	ER02–1595–000	TME Energy Services.
E–13	EL05–147–000	Milford Power Company, LLC v. ISO New England, Inc.
E–14	RM04–12–001	Regional Transmission Organizations Accounting and Financial Reporting.
E–15	ER05–853–001	San Diego Gas & Electric Company.
E–16	EC05–110–001	MidAmerican Energy Holdings Company, Scottish Power plc, PacifiCorp Holdings, Inc. and PacifiCorp.
E–17	OMITTED.	
E–18	ER04–691–065	Midwest Independent Transmission System Operator.
E–19	EL05–2–000	Public Service Company of New Mexico.
	ER01–615–009.	
	ER01–615–010.	
	ER01–615–011.	
	ER96–1551–013.	
	ER96–1551–014.	
	ER96–1551–015.	
MISCELLANEOUS		
M–1	RM05–32–001	Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005.
M–2	RM06–11–000	Financial Accounting, Reporting and Records Retention Requirements Under the Public Utility Holding Company Act of 2005.
GAS		
G–1	OMITTED.	
G–2	RP06–231–000	Norstar Operating, LLC v. Columbia Gas Transmission Corporation.
G–3	OMITTED.	
G–4	RP00–107–009	Williston Basin Interstate Pipeline Company.
G–5	OMITTED.	
ENERGY PROJECTS—HYDRO		
H–1	P–12606–001	Avista Corporation.
	P–2545–095.	
H–2	P–77–144	Pacific Gas and Electric Company.
H–3	P–2210–128	Appalachian Power Company.
H–4	P–2100–138	California Department of Water Resources.
H–5	P–2082–041	PacifiCorp.
H–6	P–2082–040	PacifiCorp.
ENERGY PROJECTS—CERTIFICATES		
C–1	CP06–32–000	Maritimes & Northeast Pipeline, L.L.C.
C–2	CP06–57–000	El Paso Natural Gas Company.

Magalie R. Salas,

Secretary.

A free webcast of this event is available through *http://www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in Hearing Room 2. Members of the public may view this briefing in the Commission Meeting overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 06–3736 Filed 4–14–06; 11:14 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–432–000]

Southwest Power Pool, Inc.; Notice Allowing Post-Technical Conference Comments

April 11, 2006.

A technical conference was convened on Monday, April 10, 2006, from 1 p.m. to 4 p.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The technical conference addressed the

two issues related to Southwest Power Pool, Inc.'s proposed credit policy, as discussed in the Commission's February 28, 2006 Order.[1] Specifically, discussion at the technical conference explored SPP's proposed total debt to total capitalization and debt service coverage scores and SPP's proposed $50,000 unsecured credit floor for not-for-profit entities. Prior to the technical conference, a notice was issued on March 22, 2006, that set forth several questions. The information submitted in response to the questions was discussed at the technical conference.

Take notice that the Commission will accept further comments pursuant to the discussion at the technical conference. These comments are due no later than 5 p.m. Eastern Time on Tuesday, April 25, 2006. Reply comments are due no later than 5 p.m. Eastern Time on Monday, May 8, 2006.

For further information please contact Jignasa Gadani at (202) 502–8608 or e-mail *jignasa.gadani@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–5727 Filed 4–17–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2005–0012; FRL–8159–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Draft Questionnaire for the Chlorine and Chlorinated Hydrocarbon Point Source Categories; EPA ICR No. 2214.01, OMB Control No. 2006–OW–NEW

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below. The information collection consists of a questionnaire for facilities that manufacture chlorine and/or certain chlorinated hydrocarbons. The questionnaire results will be used to support an effluent guidelines rulemaking effort.

DATES: Comments must be submitted on or before June 19, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2005–0012, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *ow-docket@epa.gov.*
- Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. 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–OW–2005–0012. 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Samantha Lewis, Office of Water, Engineering and Analysis Division, (4303T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–1058; fax number: 202–566–1053; e-mail address: *Lewis.Samantha@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2005–0012, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2422.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In

[1] *Southwest Power Pool, Inc.,* 114 FERC ¶ 61,222 at P 32 and 62 (2006).

particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When 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 and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. 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.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are facilities that manufacture chlorine and/or chlorinated hydrocarbon products.

Title: Draft Questionnaire for the Chlorine and Chlorinated Hydrocarbon Point Source Categories.

ICR number: EPA ICR No. 2214.01, OMB Control No. 2006–OW–NEW.

ICR status: This ICR is for a new information collection activity. 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 associated with EPA's regulations found in title 40 of the CFR are listed in 40 CFR part 9. Upon OMB approval, control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable.

Abstract: The U.S. Environmental Protection Agency (EPA) is conducting a census of facilities that manufacture chlorine and/or certain chlorinated hydrocarbons (CCH) as part of its effort to review the effluent limitations guidelines and standards for these operations. EPA is considering revision of the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category regulations at 40 CFR part 414 for facilities that manufacture ethylene dichloride, vinyl chloride monomer, polyvinyl chloride and other chlorinated hydrocarbons. EPA is also considering revision of the Inorganic Chemicals Point Source Category regulations at 40 CFR part 415 for facilities that manufacture chlorine as well as chlorine manufacturers not regulated under 40 CFR part 415. The questionnaire seeks information on (1) technical data, including general facility information, manufacturing process information, wastewater treatment and characterization information, and information on sampling data; and (2) financial and economic data, including ownership information, facility/company information, and corporate parent financial information. The technical data will be used to determine the industry production rates, water use for processes, rates of wastewater generation, pollution prevention, and the practices of wastewater management, treatment, and disposal. The financial and economic data will be used to characterize the economic status of the industry and to estimate the possible economic impacts of wastewater regulations. This questionnaire will be sent to all identified facilities engaged in CCH production. Completion of this one-time questionnaire will be mandatory pursuant to section 308 of the Clean Water Act.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 200 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; 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.

The ICR will provide a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 66.

Frequency of response: One-time.

Estimated total annual burden hours: 13,200 hours.

Estimated total annual costs: $441,240. This includes an estimated burden cost of $437,370 and an estimated cost of $3,870 for operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the questionnaire as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: March 23, 2006.

Ephraim S. King,

Director, Office of Science and Technology.

[FR Doc. E6–5742 Filed 4–17–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 15, 2006.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Royal Bancshares of Pennsylvania, Inc., Narberth, Pennsylvania; to acquire 100 percent of the voting shares of Royal Asian Bank, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Hometown of Homestead, Inc., Fort Pierce, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First of Homestead, Inc., Homestead, Florida, and thereby indirectly acquire voting shares of 1st National Bank of South Florida, Homestead, Florida.

2. Hometown Banking Company, Inc, Fort Pierce, Florida, and related parties; to become a bank holding company by acquiring up to 50 percent of the voting shares of Hometown of Homestead, Inc., Ft. Pierce, Florida, and thereby indirectly acquire voting shares of 1st National Bank of South Florida, Homestead, Florida.

3. The Prosperity Banking Company, Saint Augustine, Florida, and related parties; to become a bank holding company by acquiring up to 50 percent of the voting shares of Hometown of Homestead, Inc., Fort Pierce, Florida, and thereby indirectly acquire voting shares of 1st National Bank of South Florida, Homestead, Florida.

4. Riverside Gulf Coast Banking Company, Cape Coral, Florida, and related parties; to become a bank holding company by acquiring up to 50 percent of the voting shares of Hometown of Homestead, Inc., Fort Pierce, Florida, and thereby indirectly acquire voting shares of 1st National Bank of South Florida, Homestead, Florida.

Board of Governors of the Federal Reserve System, April 13, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–5775 Filed 4–17–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that a meeting has been scheduled for the Advisory Committee on Blood Safety and Availability (ACBSA).

DATES: The meeting is scheduled to be held on Tuesday, May 9, 2006 from 9 a.m. to 1 p.m. and on May 10, 2006 from 2 p.m. to 5 p.m.

ADDRESSES: Marriott Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Jerry A. Holmberg, PhD, Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootton Parkway, Room 250, Rockville, MD 20852, (240) 453–8809, FAX (240) 453–8456, e-mail *jholmberg@osophs.dhhs.gov*

SUPPLEMENTARY INFORMATION: The ACBSA will meet to review progress and solicit additional input regarding numerous recommendations made during the past year. Additionally, the Committee will discuss the elements for a strategic plan for blood safety and availability in the 21st Century. Vigilance is recognized as a necessary first step toward the goal of reducing the risk of transfusion-transmitted diseases as well as disease transmission through other vital products such as bone marrow, progenitor cells, tissues, and organs. Elements necessary for vigilant surveillance, detection, research, education, and management of emerging or re-emerging infectious and non-infectious events of transfusion will be discussed and drafted into a proposed plan.

The public is invited to present comments to the Committee on Tuesday, May 9, 2006. The comments will be limited to five minutes per speaker. Anyone planning to comment is encouraged to contact the Executive Secretary at his/her earliest convenience. Those who wish to have printed material distributed to advisory committee members should submit the material to the Executive Secretary prior to close of business May 5, 2006. Likewise, those who wish to utilize electronic data projection to make presentations to the Committee must submit their materials to the Executive Secretary prior to close of business May 5, 2006.

Dated: April 12, 2006.

Jerry A. Holmberg,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. E6–5770 Filed 4–17–06; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Planning & Evaluation Medicaid Program; Meeting of the Medicaid Commission—May 17–18, 2006

AGENCY: Assistant Secretary for Planning & Evaluation (ASPE), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Medicaid Commission. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Medicaid Commission will advise the Secretary on ways to modernize the Medicaid program so that it can provide high-quality health care to its beneficiaries in a financially sustainable way.

DATES: *The Meeting:* May 17–18, 2006. The meeting will begin at 9 a.m. on May 17, and 8:30 a.m. on May 18.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Medicaid Commission by May 5, 2006 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the following address: Embassy Suites Hotel—DFW Airport South, 4650 W. Airport Freeway, Irving, Texas 75062, United States, telephone: 1 (972) 790–0093, fax: 1 (972) 790–4768.

Web site: You may access up-to-date information on the Medicaid Commission at *http://aspe.hhs.gov/medicaid/*.

FOR FURTHER INFORMATION CONTACT: Margaret Reiser, (202) 205–8255.

SUPPLEMENTARY INFORMATION: On May 24, 2005, we published a notice (70 FR 29765) announcing the Medicaid Commission and requesting nominations for individuals to serve on the Medicaid Commission. This notice announces a public meeting of the Medicaid Commission.

Topics of the Meeting

The Commission will discuss options for making longer-term recommendations on the future of the Medicaid program that ensure long-term sustainability. Issues to be addressed may include, but are not limited to: Eligibility, benefit design, and delivery; expanding the number of people covered with quality care while recognizing budget constraints; long term care; quality of care, choice, and beneficiary satisfaction; and program administration.

Procedure and Agenda

This meeting is open to the public. There will be a public comment period at the meeting. The Commission may limit the number and duration of oral presentations to the time available. We will request that you declare at the meeting whether or not you have any financial involvement related to any services being discussed.

After the presentations and public comment period, the Commission will deliberate openly. Interested persons may observe the deliberations, but the Commission will not hear further comments during this time except at the request of the Chairperson. The Commission will also allow an open public session for any attendee to address issues specific to the topic.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

Dated: April 5, 2006.

Mary M. McGeein,

Deputy Assistant Secretary for Planning and Evaluation, Office of Disability, Aging and Long-Term Care.

[FR Doc. E6–5722 Filed 4–17–06; 8:45 am]

BILLING CODE 5150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through April 1, 2008.

For information, contact Dr. Larry Pickering, Executive Secretary, Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road, NE., Mailstop E05, Atlanta, Georgia 30333, telephone (404) 639–8767 or fax (404) 639–8626.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 12, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–5724 Filed 4–17–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Antimicrobial Resistance, Request for Applications (RFA) CI 06–003

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): Antimicrobial Resistance, RFA CI 06–003.

Time and Date: 8 a.m.–5 p.m., May 10, 2006 (Closed).

Place: Centers for Disease Control and Prevention, 1600 Clifton Road NE., Building 19, Room 231, Auditorium B1, Atlanta, GA 30333.

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 Antimicrobial Resistance, RFA CI 06–003.

Contact Person For More Information: M. Chris Langub, PhD, Scientific Review Administrator, Office of Extramural Programs, NIOSH, CDC, 1600 Clifton Road NE, Mailstop E74, Atlanta, GA 30333, Telephone 404–498–2543. 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: April 12, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–5718 Filed 4–17–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Centers for Agricultural Disease and Injury Research, Education and Prevention, Program Announcement (PA) Number 06–057

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): Centers for Agricultural Disease and Injury Research, Education and Prevention, Program Announcement Number 06–057.

Time and Date: 8 a.m.–5 p.m., May 16, 2006 (Closed).

Place: Renaissance Marriott, 6th Avenue, Pittsburgh, PA 15233 telephone 412–992–2049.

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 Centers for Agricultural Disease and Injury Research, Education and Prevention, Program Announcement Number 06–057.

Contact Person for More Information: Steve Olenchock, PhD, Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, MS 1119, Morgantown, WV 26505, Telephone 304–285–6271. 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: April 12, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–5720 Filed 4–17–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation Grant to Rutgers, the State University of New Jersey

AGENCY: Office of Planning, Research and Evaluation, ACF, HHS.

ACTION: Award Announcement.

SUMMARY: Notice is hereby given that the Office of Planning, Research and Evaluation will award grant funds without competition to Rutgers, the State University of New Jersey (National Marriage Project). This grant is being awarded for an unsolicited proposal entitled, ''Cohabitation, Marriage and Child Well-Being: A Cross-National Analysis'' that conforms to the applicable program objectives, is within the legislative authorities and proposes activities that may be lawfully supported through grant mechanisms. The study is unique, timely, and highly relevant to ACF's interest in supporting healthy marriage. A compilation and analyses of the information from developed foreign nations regarding cohabitation is likely to be informative, instructive, and beneficial to United States' policymakers and others interested in family policy. The National Marriage Project within Rutgers, the State University of New Jersey, is well-positioned to conduct a comparative analysis of cohabitation across developed nations and the United States.

The National Marriage Project at Rutgers University is a nonpartisan organization devoted to creating greater pubic awareness about the importance of marriage as a child-rearing institution.

The grant will support a 12-month project at a cost of $86,308 in Federal support. The project is also being supported through non-Federal funding sources.

FOR FURTHER INFORMATION CONTACT: Richard Jakopic, Office of Planning, Research and Evaluation, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–205–5930.

Dated: March 27, 2006.

Naomi Goldstein,

Director, Office of Planning, Research and Evaluation.

[FR Doc. E6–5735 Filed 4–17–06; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting; Interagency Autism Coordinating Committee

The National Institutes of Health (NIH) hereby announces a meeting of the Interagency Autism Coordinating Committee to be held on May 9, 2006, on the NIH campus in Bethesda, Maryland.

The Children's Health Act of 2000 (Pub. L. 106–310), Title I, Section 104, mandated the establishment of an Interagency Autism Coordinating Committee (IACC) to coordinate autism research and other efforts within the Department of Health and Human Services (HHS). In April 2001, the Secretary of HHS delegated the authority to establish the IACC to the NIH. The National Institute of Mental Health (NIMH) at the NIH has been designated the lead for this activity.

The IACC 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: Interagency Autism Coordinating Committee.

Date: May 9, 2006.

Time: 9 a.m.–3:30 p.m.

Agenda: Discussion of autism activities across Federal agencies.

Place: National Institutes of Health, Building 31, Conference Room 10 (6th floor), 31 Center Drive, Bethesda, Maryland 20892.

Contact Person: Ann Wagner, PhD, Division of Pediatric Translational Research and Treatment Development, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6184, MSC 9617, Bethesda, Maryland 20892, E-mail: *awagner@mail.nih.gov*, Phone: 301–443–5944.

Any member of the public interested in presenting oral comments to the Committee may notify the contact person listed on this notice at least 5 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. We may limit presentations to 5 minutes, and we request both printed and electronic copies for the record. In addition, any interested person may file written comments with the Committee by forwarding his or her statement to the contact person listed in this notice. The statement should include the name, address, telephone number, and, when applicable, the business or professional affiliation of the interested person.

Information about the meeting and online registration forms are also available on the NIMH homepage at *http://www.nimh.nih.gov/autismiacc/index.cfm*.

Dated: April 10, 2006.

Raynard S. Kington,

Deputy Director, National Institutes of Health.

[FR Doc. E6–5792 Filed 4–17–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. FLETC–2006–0001]

Notice of Charter Renewal for the Advisory Committee to the Office of State and Local Training

AGENCY: Federal Law Enforcement Training Center, DHS.

ACTION: Renewal.

SUMMARY: The charter for the Advisory Committee to the Office of State and Local Training at the Federal Law Enforcement Training Center was renewed for a 2-year period beginning March 22, 2006.

DATES: NA.

ADDRESSES: If you desire to submit comments, they must be submitted within 10 days after publishing of Notice. Comments must be identified by FLETC–2006–0001 and may be submitted by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *reba.fischer@dhs.gov*. Include docket number in the subject line of the message.
- Fax: (912) 267–3531. (Not a toll-free number).
- Mail: Reba Fischer, Federal Law Enforcement Training Center, Department of Homeland Security, 1131 Chapel Crossing Road, Townhouse 396, Glynco, GA 31524.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Reba Fischer, Designated Federal Officer, 912–267–2343, *reba.fischer@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this renewal is given under the Federal Advisory Committee Act, 5 U.S.C. App. 1 *et seq.* The Federal Law Enforcement Training Center announces the charter renewal of the Advisory Committee to the Office of State and Local Training. The Advisory Committee provides a forum for discussion and interchange between a broad cross-section of representatives from the law enforcement community and related training associations on training issues and needs. No forum exists which provides the broad representation required to meet the needs of the Office of State and Local Training. The Committee does not duplicate functions being performed within Department of Homeland Security or elsewhere in the Federal Government.

Stanley Moran,

Deputy Assistant Director, Office of State and Local Law Enforcement Training.

[FR Doc. E6–5711 Filed 4–17–06; 8:45 am]

BILLING CODE 4410–32–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. FLETC–2006–0002]

Notice of Meeting of the Advisory Committee to the Office of State and Local Training

AGENCY: Federal Law Enforcement Training Center, DHS.

ACTION: Meeting.

SUMMARY: The Advisory Committee to the Office of State and Local Training will conduct an open meeting at the Embassy Suites, 500 Mall Boulevard, Brunswick, GA.

DATES: May 3, 2006, beginning at 8 a.m.

ADDRESSES: If you desire to submit comments, they must be submitted within 10 days after publishing of Notice. Comments must be identified by FLETC–2006–0002 and may be submitted by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *reba.fischer@dhs.gov.* Include docket number in the subject line of the message.
- Fax: (912) 267–3531. (Not a toll-free number.)
- Mail: Reba Fischer, Federal Law Enforcement Training Center, Department of Homeland Security, 1131 Chapel Crossing Road, Townhouse 396, Glynco, GA 31524.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Reba Fischer, Designated Federal Officer, 912–267–2343, *reba.fischer@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 1 *et seq.* The agenda for this meeting includes briefings from FLETC staff on training, new initiatives, and discussion on strategic goals and training needs of state, local, campus, and tribal law enforcement officers. This meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Reba Fischer (contact information above) as soon as possible.

Stanley Moran,

Deputy Assistant Director, Office of State and Local Law Enforcement Training.

[FR Doc. E6–5712 Filed 4–17–06; 8:45 am]

BILLING CODE 4810–32–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 May 18, 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 applications 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 these complete applications should be submitted to the Director (address above).

Applicant: University of California-Riverside, Environmental Toxicology Research Laboratory, Riverside, CA, PRT–115655.

The applicant requests a permit to import biological samples taken from green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), and olive ridley sea turtle (*Lepidochelys olivacea*) in Mexico for the purpose of enhancement of the survival of the species through scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: William C. Holt, Keswick, VA, PRT–120504.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Carl P. Tregre, Houma, LA, PRT–115369.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus*

pygargus) taken from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Robert E. Scott, Dallas, TX, PRT–118505.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) taken from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Oscar Thomas Fowler, King, NC PRT–118400.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) taken from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications 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 applications or requests for a public hearing on these applications 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.

Applicant: Timothy D. Schnell, Rancho Santa Fe, CA, PRT–120466.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: March 31, 2006.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–5747 Filed 4–17–06; 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.

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.*), the Fish and Wildlife Service issued the requested permit(s) 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
MA095827–0	Gracia P. Syed	70 FR 1455, January 7, 2005	February 9, 2005.
104074	U.S. Fish and Wildlife Service, Mexican Wolf Reintroduction Project, Region 2.	70 FR 71554, November 29, 2005	March 8, 2006.

Dated: March 31, 2006.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–5746 Filed 4–17–06; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–325]

The Economic Effects of Significant U.S. Import Restraints: Fifth Update

AGENCY: United States International Trade Commission.

ACTION: Notice of fifth update report and scheduling of public hearing.

SUMMARY: The Commission has announced the schedule for its Fifth update report in investigation No. 332–325, The Economic Effects of Significant U.S. Import Restraints, and has established deadlines for the submission of requests to appear at the hearing and for the filing of written submissions as set forth below. The investigation was requested by the Office of the U.S. Trade Representative (USTR) in May 1992. That request called for an initial investigation and subsequent updates, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

DATES: *Effective Date:* April 7, 2006.

FOR FURTHER INFORMATION CONTACT: Alan Fox, Project Leader (*alan.fox@usitc.gov*, or 202–205–3267), or Sandra Rivera, Deputy Project Leader (*sandra.rivera@usitc.gov*, or 202–205–3007) in the Commission's Office of Economics. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (*william.gearhart@usitc.gov*, or 202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov).*

Background: The Commission instituted this investigation following receipt on May 15, 1992 of a request from the USTR. The request asked that the Commission conduct an investigation assessing the quantitative economic effects of significant U.S. import restraints on the U.S. economy, and prepare periodic update reports following the submission of the first report. The first report was delivered to the USTR in November 1993, the first update in December 1995, the second update in May 1999, the third update in June 2002, and the fourth update in June 2004.

In this fifth update, the Commission will assess the economic effects of

significant tariff and non-tariff U.S. import restraints on U.S. consumers, on the activities of U.S. firms, on the income and employment of U.S. workers, and on the net economic welfare of the United States. The assessment will not include import restraints resulting from final antidumping or countervailing duty investigations, section 337 and 406 investigations, or section 301 actions.

The initial notice of institution of this investigation was published in the **Federal Register** of June 17, 1992 (57 FR 27063).

Public Hearing: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on July 13, 2006. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than 5:15 p.m., June 2, 2006. Any prehearing briefs (original and 14 copies) should be filed not later than the close of business, June 8, 2006; the deadline for filing post-hearing briefs or statements is the close of business, August 11, 2006. In the event that, as of the close of business on June 2, 2006, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–2000) after June 5, 2006, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than 5:15 p.m., June 16, 2006. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document by filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://hotdocs.usitc.gov/pubs/electronic_filing_handbook.pdf).* Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov).*

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary for inspection by interested parties.

USTR requested that all reports in this series be released in their entirety to the public. Accordingly, the Commission intends to prepare only a public report in this investigation. The report that the Commission sends to the USTR and make available to the public will not contain confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

List of Subjects

U.S. Import Restraints, Nontariff measures (NTM), Tariffs, Imports.

Issued: April 12, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–5787 Filed 4–17–06; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–548]

In the Matter of Certain Tissue Converting Machinery, Including Rewinders, Tail Sealers, Trim Removers, and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') granting the joint motion of complainants Fabio Perini North America, Inc. and Fabio Perini S.p.A and respondent Chan Li Machinery Co., Ltd. to terminate the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3112. Copies of the public version of the ID and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: This investigation was instituted by the Commission based on a complaint filed by Fabio Perini North America Inc. of Green Bay, Wisconsin. 70 FR 46884

(August 11, 2005). The complaint alleged violations section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain tissue converting machinery, including rewinders, tail sealers, trim removers, and components thereof by reason of infringement of claims 1, 3, 6–8, and 13–15 of U.S. Patent No. 5,979,818, claims 1–5 of U.S. Patent No. Re. 35,729, and claim 5 of U.S. Patent No. 5,475,917. The complaint and notice of investigation named Chan Li Machinery, Co., Ltd. of Taipei Hsien, Taiwan as the respondent.

The Commission determined not to review ALJ Order No. 10, adding to this investigation claims 7, 12, 15 and 16 of U.S. Patent No. 6,948,677, and ALJ Order No. 11, adding Fabio Perini S.p.A. (of Italy) as a complainant. *See Certain Tissue Converting Machinery, Including Rewinders, Tail Sealers, Trim Removers, and Components Thereof*, Inv. No. 337–TA–548, Notice of Commission Decision Not to Review, 71 FR 10065 (February 28, 2006). On February 22, 2006, the ALJ issued Order No. 13 staying the proceedings in view of settlement negotiations.

On February 27, 2006, Fabio Perini North America, Inc., Fabio Perini S.p.A., and Chan Li Machinery Co. Ltd. filed a ''Joint Motion to Terminate Investigation Based Upon Settlement Agreement.'' On March 6, 2006, the Commission Investigative Attorney filed a motion in support of the joint motion to terminate, noting that it was unaware of any information indicating that the basis of the settlement agreement would be contrary to the public interest.

On March 13, 2006, the ALJ issued the subject ID (Order No. 14) terminating the investigation on the basis of a settlement agreement. The ALJ found no indication that termination of the investigation on the basis of the settlement agreement would adversely affect the public interest, and that the procedural requirements for terminating the investigation had been met. No petitions for review were filed.

The Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: April 12, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–5786 Filed 4–17–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 12, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or email: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Application to Employ Homeworkers Piece Rate Measurements, Homeworker Handbooks.

OMB Number: 1215–0013.

Form Numbers: WH–46 and WH–75.

Frequency: On occasion.

Type of Response: Recordkeeping and Reporting.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Number of Respondents: 377,531.

Collection of information	Annual responses	Average response time (hours)	Annual burden hours
Form WH–46	25	0.50	13
Form WH–75	1,208,020	0.50	604,010
Recordkeeping			
Piece-rate measurements	150	1.01	152
Homeworker Handbooks*	1,208,020	0.01	10,067
Total	1,208,195		614,241

* Not counted in total as separate responses.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $10.50.

Description: Fair Labor Standards Act (FLSA) section 11(d), 29 U.S.C. 211(d), authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent evasion of the minimum wage requirements of the Act. The reporting and recordkeeping requirements for employers and employees in industries employing homeworkers are necessary

to insure employees are paid in compliance with FLSA.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6–5771 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,024]

Agilent Technologies, Inc., Global Infrastructure Organization, Palo Alto, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 14, 2006 in response to a worker petition filed on behalf of workers at Agilent Technologies, Inc., Global Infrastructure Organization, headquartered in Palo Alto, California. The workers were employed as information technology specialists, telecommuting from their homes, but reporting to different facilities.

The petition regarding the investigation has been deemed invalid. Petitioners do not constitute a valid worker group of three or more associated workers working at the same facility. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 6th day of April 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5769 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,620]

Bankers Trust Services A/K/A Deutsche Bank Services Tennessee, Inc., Nashville, TN; Notice of Negative Determination Regarding Application for Reconsideration

By application dated February 22, 2006 a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Bankers Trust Services, a/k/a Deutsche Bank Services Tennessee, Inc., Nashville, Tennessee was signed on January 26, 2006 and published in the **Federal Register** on February 10, 2006 (71 FR 7077).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition filed on behalf of workers at Bankers Trust Services, a/k/a Deutsche Bank Services Tennessee, Inc., Nashville, Tennessee were engaged in providing general banking and financial services to the public and were denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as providing a service and further conveys that workers of the subject firm ''produced individualized billing models with separate tangible file folders''. The petitioner further states that ''billing would have been impossible without the production of these individualized billing models''.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that the subject firm does not manufacture products that are sold on the open market. The official further clarified that workers of the subject firm entered account information into an in-house billing system for the purpose of billing external clients. The copies of the work that was entered into the system was kept in a tangible file folder at the subject firm for reference purposes.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but whether they produce an article within the meaning of section 222 of the Trade Act of 1974.

Entering accounting information into the billing system and making copies of the billing financial data for filing purposes is not considered production of an article within the meaning of section 222 of the Trade Act. Petitioning workers do not produce an ''article'' within the meaning of the Trade Act of 1974.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article. Furthermore, workers of the subject firm did not support production of an article at any affiliated facility.

The petitioner further alleges that because workers lost their jobs due to a transfer of job functions to India, petitioning workers should be considered import impacted.

The company official stated that such functions as entry of accounting information into a Deutsche Bank billing system for the purpose of billing external clients were shifted to India.

Your petition allegation of jobs transferred to a foreign country might be relevant if all other worker group eligibility requirements for trade adjustment assistance were met. However, workers of the subject firm are engaged in data entry of the account information into the in-house billing system and do not meet the requirement of producing an article as established in section 222 of the Trade Act. Thus, the workers in this case do not meet the worker group eligibility requirements of TAA.

Service workers can be certified only if worker separations are caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article domestically who meet the eligibility requirements, or if the group of workers are leased workers who perform their duties at a facility that meet the eligibility requirements.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 11th day of April, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5764 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,663]

Classic Print Products, Inc., Burlington, NC; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Classic Print Products, Inc., Burlington, North Carolina. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–58,663; Classic Print Products, Inc. Burlington, North Carolina (March 16, 2006)

Signed at Washington, DC, this 12th day of April 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–5767 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 28, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 28, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of April 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

APPENDIX.—TAA PETITIONS INSTITUTED BETWEEN 4/3/06 AND 4/7/06

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
59132	Imation (Wkrs)	Wahpeton, ND	04/03/06	03/31/06
59133	GKN Sinter Metals (Comp)	Romulus, MI	04/03/06	03/13/06
59134	Tillmann Tool (State)	Breckenridge, MN	04/03/06	03/31/06
59135	Bicor Processing Corp. (Comp)	Brooklyn, NY	04/03/06	03/22/06
59136	Cranston Print Works Company (Comp)	Cranston, RI	04/03/06	03/06/06
59137	DPS Locator (48310)	Sterling Heights, MI	04/03/06	03/13/06
59138	Infinity Resources, Inc. (Comp)	Erie, PA	04/03/06	03/07/06
59139	Whitesell Corporation (Comp)	Muscle Shoals, AL	04/03/06	03/13/06
59140	MRC Industrial Group (UAW)	Warren, MI	04/03/06	03/30/06
59141	AT & T Call Center (CWA)	Fairhaven, MA	04/03/06	03/14/06
59142	Tenneco Automotive (Wkrs)	Milan, OH	04/03/06	03/20/06
59143	Fiber Industries, Inc. (Comp)	Fort Mill, SC	04/03/06	03/22/06
59144	Liu's Garment, Inc. (Wkrs)	San Francisco, CA	04/03/06	03/17/06
59145	Roland Audio Development Corporation (State)	La Mirada, CA	04/03/06	03/20/06
59146	NTN—BCA Corporation (USW)	Lititz, PA	04/03/06	03/06/06
59147	Springs Global US, Inc. ()	Piedmont, AL	04/04/06	04/03/06
59148	Valkyrie Co. (The) (Comp)	Worcester, MA	04/04/06	03/29/06
59149	Cole Hersee Company (Comp)	So. Boston, MA	04/04/06	04/04/06
59150	DemeTron Kerr (Comp)	Danbury, CT	04/04/06	03/29/06
59151	Rowe Pottery Works (Wkrs)	Cambridge, WI	04/04/06	04/03/06
59152	WestPoint Home (Comp)	Abbeville, AL	04/05/06	04/03/06
59153	IBM Corporation (Comp)	Somers, NY	04/05/06	03/16/06
59154	TRW Automotive (Comp)	Sterling Hgts., MI	04/05/06	03/31/06
59155	California Cedar Products (State)	McCloud, CA	04/05/06	03/06/06
59156	Clover Yarn, Inc. (Wkrs)	Clover, VA	04/05/06	04/03/06
59157	General Electric (IUE–CW)	Murfreesboro, TN	04/05/06	03/31/06
59158	Progressive Screens, Inc. (Comp)	Gaffney, SC	04/05/06	03/28/06
59159	Eagle-Picher (State)	Hillsdale, MI	04/05/06	03/29/06
59160	3M Touch Systems (Wkrs)	Milwaukee, WI	04/05/06	04/04/06
59161	Danish Silversmith (Comp)	Cranston, RI	04/05/06	04/05/06
59162	Esselte Corporation (Comp)	Buena Park, CA	04/05/06	03/29/06
59163	Lending Textile Company, Inc. (Comp)	Williamsport, PA	04/05/06	04/04/06
59164	Sun Components, Inc. (Comp)	Warsaw, IN	04/05/06	04/03/06
59165	Georgi-Pacific Corp (Comp)	Old Twn, ME	04/06/06	04/04/06

APPENDIX.—TAA PETITIONS INSTITUTED BETWEEN 4/3/06 AND 4/7/06—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
59166	Guidecraft-Kaplan Mfg. (State)	Winthrop, MN	04/06/06	04/05/06
59167	Tredegar Film Products (GCU)	LaGrange, GA	04/06/06	04/05/06
59168	Joan Fabrics Corporation (Comp)	Siler City, NC	04/06/06	04/05/06
59169	Moore Wallace, Inc. ()	Nacogdoches, TX	04/07/06	03/30/06
59170	Harris Thomas Drop Forge ()	Dayton, OH	04/07/06	04/07/06
59171	Starkey Labs—Microtech & Qualitone ()	Eden Praire, MN	04/07/06	04/06/06
59172	Tri Palm International ()	Columbus, OH	04/07/06	04/07/06
59173	Russell Corporation ()	Sussex, WI	04/07/06	04/06/06
59174	Ethox International, Inc. ()	Buffalo, NY	04/07/06	04/06/06
59175	Q–Edge Corporation ()	Ontario, CA	04/07/06	04/06/06

[FR Doc. E6–5762 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,138]

Infinity Resources, Inc., Erie, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 3, 2006, in response to a worker petition filed by the subject firm on behalf of workers at Infinity Resources, Inc., Erie, Pennsylvania.

The investigation revealed that the subject worker group is already covered by an existing certification (TA–W–58,974, certified March 21, 2006). Consequently, the investigation has been terminated.

Signed at Washington, DC, this 6th day of April 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5760 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,405]

NSK Corporation; Ann Arbor, MI; Notice of Revised Determination on Reconsideration

On February 1, 2006, the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance for the workers and former workers of NSK Corporation, Ann Arbor, Michigan. The Department's Notice of determination was published in the **Federal Register** on February 22, 2006 (71 FR 9161).

The initial negative determination was based on the findings that the subject firm did not import ball bearings or shift ball bearing production overseas during the relevant period. The Department conducted a survey of the subject company's major customers regarding their purchases of ball bearings. The survey revealed no increases of ball bearing imports while reducing purchases from the subject firm. The investigation also revealed that the subject firm had scheduled a shift of production from the subject facility to another domestic production facility.

By application dated March 21, 2006, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) requested administrative reconsideration by the Department.

In the request for reconsideration, the UAW alleged that the subject firm had shifted production from NSK Corporation, Clarinda, Iowa to several overseas production facilities and that this shift of production had contributed significantly to worker separations at the subject facility.

During the reconsideration investigation, the Department contacted a subject firm official who stated that the subject firm shifted bearing production overseas and that the foreign-produced bearings were returning to the United States. The official also stated that due to excess domestic production capacity, the subject facility was closing. Worker separations began October 2005 and will continue through 2007. The subject facility will be completely closed in 2007.

The investigation also revealed that all criteria have been met in regard to Alternative Trade Adjustment Assistance (ATAA). A significant number or proportion of the worker group are age fifty years or over and workers possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of bearings like or directly competitive with those produced at the subject facility contributed importantly to worker separations at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

''All workers of NSK Corporation, Ann Arbor, Michigan who became totally or partially separated from employment on or after November 18, 2004, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed in Washington, DC, this 11th day of April 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5765 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of April 2006.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign county of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met, and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–58,900; Plews and Edelmann, Division of Tomkins Industries, Inc., Dixon, IL: February 18, 2005

TA–W–58,938; Crenshaw Die and Mfg. Corporation, Irvine, CA: February 28, 2005

TA–W–58,952; Bartlett Corporation, Division of Trim Masters, Inc., Muncie, IN: March 2, 2005

TA–W–59,044; Spencer's, Inc., Mt. Airy, NC: October 1, 2005

TA–W–59,052; Array Hartland, Hartland, WI: March 7, 2005

TA–W–59,079; Warren Industries, Subsidiary of Mega Bloks, On-Site Leased Wkrs of Pro Resources and Adecco, Lafayette, IN: March 22, 2005

TA–W–59,084; Lady Ester Lingerie Corp., New York, NY: March 24, 2005

TA–W–59,090; Culp, Inc., Culp Weaving Plant, Graham, NC: March 27, 2005

TA–W–58,681; Atlas Spring Manufacturing Corp., On-Site Leased Wkrs of Cal-Staffing Select Personnel, Gardena, CA: January 10, 2005

TA–W–58,927; Magna Art Industries, Cape Girardeau, MO: February 20, 2005

TA–W–58,961; TDK Ferrites Corporation, Loaf Grinding and Loaf Pressing Department, Shawnee, OK: March 2, 2005

TA–W–58,992; Georgia Pacific Corp., Industrial Wood Productions Division, Gaylord, MI: March 9, 2005

TA–W–59,027; Kappler, Inc., Guntersville, AL: February 26, 2005

TA–W–59,030; Amital Spinning Corp., New Bern, NC: July 31, 2005

TA–W–59,075; Kolpin Outdoors, Inc., Fox Lake, WI: March 22, 2005

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–58,755; Freightliner, LLC, A Subsidiary of DaimlerChrysler Corp., Portland, OR: January 30, 2005

TA–W–58,874; Hart and Cooley, H&C—Milcor, Lima, OH: February 20, 2005

TA–W–58,983; Hersey Meters, Register Department, Leased Wkrs of Ablest Staffing, Cleveland, NC: March 8, 2005

TA–W–59,065; Paris Accessories, Inc., Walnutport, PA: March 21, 2005

TA–W–59,076; Technicolor Universal Media Services LLC of America, Including On-Site Leased Wkrs of Westaff, Pinckneyville, IL: March 22, 2005

TA–W–59,117; Point Technologies, A Subsidiary of Angiotech Pharmaceuticals, Gibbon, MN: March 23, 2005

TA–W–58,798; Haworth Press, Inc. (The), Journal Division, West Hazleton, PA: February 6, 2005

TA–W–58,610; Copeland Corporation, Refrigeration Division, On-Site Leased Wkrs of Personal Services Unlimited, Shelby, NC: January 11, 2005

TA–W–58,905; Xycom Automatic, LLC, Saline, MI: February 16, 2005

TA–W–59,108; Dresser Rand, Steam Turbine Business Unit, Millbury, MA: March 28, 2005

The following certification has been issued. The requirement of supplier to a trade certified firm and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–58,908; Rhode Island Textile Co., South Carolina Elastics Division, Landrum, SC: February 7, 2005

TA–W–58,912; Boeing Company (The), Melbourne, AR: February 24, 2005

The following certification has been issued. The requirement of downstream

producer to a trade certified firm and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

None

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (shift in production to a foreign country) have not been met.

TA–W–58,864; DSM Pharma Chemicals North America, Inc., South Haven, MI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–58,739; American Sunroof Co., aka ASC Lansing, Lansing, MI.
TA–W–58,929; Milprint, Inc., A Division of Bemis Company, Denmark, WI.
TA–W–58,932; Craft-Co Enterprises, Inc., Morton, MS.
TA–W–58,937; Rexam, Inc., d//b/a Precise Technology, North Versailles, PA.
TA–W–59,003; Wonder Color Corporation, Inc., Vermillion, OH.
TA–W–59,053; Healthcard and Hospitality Products, Sebastian Furniture Co. Division, Barling, AR.

The investigation revealed that criteria (a)(2)(A)(I.C.) (Increased imports) and (a)(2)(B)(II.C) (has shifted production to a foreign country) have not been met.

TA–W–58,561; Lustrik Corporation, Philadelphia, PA.
TA–W–58,832; Honeywell Electronic Materials, A Subsidiary of Honeywell International, Electronic Materials Division, Spokane Valley, WA.
TA–W–59,016; Harve Benard, LTD, Pattern Department, Clifton, NJ.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–58,920; Rutgers Organics Corporation, State College, PA.
TA–W–58,935; WSW Company of Sharon, Inc., Subsidiary of Wormser Co., Sharon, TN.
TA–W–58,988; Orlandi Valuta, A Subdivision of First Data Corp., Cerritos, CA.
TA–W–59,037; Delta Airlines, Technical Operations, Hartsfield-Jackson Atlanta International Airport, Atlanta, GA.
TA–W–59,045; Newstech NY, Newton Falls, NY.
TA–W–59,060; Lollytogs Ltd., Greensboro, NC.
TA–W–59,063; McLeod USA Telecommunications Services, Inc., A Subsidiary of McLeodusa, Inc., Springfield, MO.
TA–W–59,071; Ucar Carbon Company, Inc., Graftech International Ltd. Co., Corporate Headquarters, Wilmington, DE.

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA–W–59,059; Flex-N-Gate Oklahoma, Ada, OK.

Affirmative Determinations for Alternative Trade Ajdustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA–W–58,864; DSM Pharma Chemicals North America, Inc., South Haven, MI.
TA–W–58,739; American Sunroof Co., aka ASC Lansing, Lansing, MI.
TA–W–58,929; Milprint, Inc., A Division of Bemis Company, Denmark, WI.
TA–W–58,932; Craft-Co Enterprises, Inc., Morton, MS.
TA–W–58,937; Rexam, Inc., d//b/a Precise Technology, North Versailles, PA.
TA–W–59,003; Wonder Color Corporation, Inc., Vermillion, OH.
TA–W–59,053; Healthcard and Hospitality Products, Sebastian Furniture Co. Division, Barling, AR.
TA–W–58,561; Lustrik Corporation, Philadelphia, PA.
TA–W–58,832; Honeywell Electronic Materials, A Subsidiary of Honeywell International, Electronic Materials Division, Spokane Valley, WA.
TA–W–59,016; Harve Benard, LTD, Pattern Department, Clifton, NJ.
TA–W–58,920; Rutgers Organics Corporation, State College, PA.
TA–W–58,935; WSW Company of Sharon, Inc., Subsidiary of Wormser Co., Sharon, TN.
TA–W–58,988; Orlandi Valuta, A Subdivision of First Data Corp., Cerritos, CA.
TA–W–59,037; Delta Airlines, Technical Operations, Hartsfield-Jackson Atlanta International Airport, Atlanta, GA.
TA–W–59,045; Newstech NY, Newton Falls, NY.
TA–W–59,060; Lollytogs Ltd., Greensboro, NC.
TA–W–59,063; McLeod USA Telecommunications Services, Inc., A Subsidiary of McLeodusa, Inc., Springfield, MO.
TA–W–59,071; Ucar Carbon Company, Inc., Graftech International Ltd Co., Corporate Headquarters, Wilmington, DE.
TA–W–59,059; Flex-N-Gate Oklahoma, Ada, OK.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–59,117; Point Technologies, A Subsidiary of Angiotech Pharmaceuticals, Gibbon, MN.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–58,681; Atlas Spring Manufacturing Corp., On-Site

Leased Workers of Cal-Staffing Select Personnel, Gardena, CA.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None

I hereby certify that the aforementioned determinations were issued during the month of April 2006. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 11, 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–5768 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,198]

Specialty Electronics, Inc., Currently Known as Delphi Connection Systems-Specialty Electronics Landrum, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 14, 2005, applicable to workers of Specialty Electronics, Inc., Landrum, South Carolina. The notice was published in the **Federal Register** on February 7, 2005 (70 FR 6460).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of electrical connectors.

New information provided by the company shows that in November 2001, Delphi Connection Systems purchased Specialty Electronics, Inc. and is currently known as Delphi Connection Systems-Specialty Electronics, Inc. Some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax accounts for Delphi Connection Systems.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Delphi Connection Systems-Specialty Electronics, Inc., Landrum, South Carolina who were adversely affected by a shift in production of electrical connectors to Mexico and Singapore.

The amended notice applicable to TA–W–56,198 is hereby issued as follows:

''All workers of Specialty Electronics, Inc., currently known as Delphi Connection Systems-Specialty Electronics, Inc., Landrum, South Carolina, who became totally or partially separated from employment on or after December 10, 2003, through January 14, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 5th day of April 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5763 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,100]

Thomasville Furniture; Plant #5; Conover, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 29, 2006 in response to a worker petition filed on behalf of workers at Thomasville Furniture, Plant #5, Conover, North Carolina.

The Department issued a negative determination (TA–W–58,770) applicable to the petitioning group of workers on March 10, 2006. No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of April 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5772 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,623L; TA–W–58,623BB]

WestPoint Home, Inc.; Formerly WestPoint Stevens, Inc.; Sales and Marketing Office; New York, NY; Including an Employee of WestPoint Home, Inc., Formerly WestPoint Stevens, Inc., Sales and Marketing Office; New York, NY; Located in Charlotte, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on February 21, 2006, applicable to workers of WestPoint Home, Inc., formerly WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York. The notice was published in the **Federal Register** on March 22, 2006 (71 FR 14549).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information shows that a worker separation occurred involving an employee of the Sales and Marketing Office, New York, New York of WestPoint Home, Inc., formerly WestPoint Stevens, Inc. located in Charlotte, North Carolina. Ms. Jodie Ayers provided support services for the manufacture of comforters, sheets, pillowcases, towels and blankets produced by WestPoint Home, Inc., formerly WestPoint Stevens, Inc.

Based on these findings, the Department is amending this certification to include an employee of the Sales and Marketing Office, New York, New York facility of WestPoint Home, Inc., formerly WestPoint Stevens, Inc. located in Charlotte, North Carolina.

The intent of the Department's certification is to include all workers of WestPoint Home, Inc., formerly

WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York who were adversely affected by increased company and customer imports.

The amended notice applicable to TA–W–58,623L is hereby issued as follows:

''All workers of WestPoint Home, Inc., formerly WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York (TA–W–58,623L), including an employee reporting to this office but working in Charlotte, North Carolina (TA–W–58,623BB), who became totally or partially separated from employment on or after January 12, 2005, through February 21, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 6th day of April 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–5766 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance–Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Great Plains Lamb and Veal, LLC, Corsica, South Dakota.

Principal Product: The loan, guarantee, or grant applicant plans to construct a slaughter and fabrication plant for lamb and veal. The NAICS industry code for this enterprise is 311611 (slaughter of animals, except poultry).

DATES: All interested parties may submit comments in writing no later than May 2, 2006. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4514, Washington, DC 20210; or transmit comments via e-mail to *Dais.Anthony@dol.gov*,or transmit via fax 202–693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture (USDA) to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration (ETA) within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E6–5773 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Wage Statement (WH–501 (English) and WH–501 (Spanish)). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 19, 2006.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, E-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. *Background:* Sections 201(d) and 301(c) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and section 500.80 of Regulations 29 CFR part 500, Migrant and Seasonal Agricultural Worker Protection, require that each farm labor contractor, agricultural employer, and agricultural association which employs any migrant or seasonal worker, make, keep, and preserve records for three years for each worker. These records include the basis on which earnings are paid, the number of piece work units earned, if paid on piece work basis, the number of hours worked, the total pay period earnings, the specific sums withheld and the purpose of each sum withheld, and the net pay. It is also required that an itemized written statement of this information be provided to each worker each pay period. The WH–501 (English) and WH–501 (Spanish) are optional forms which a farm labor contractor, agricultural employer and agricultural association can maintain as a record and provide as a statement of earnings to migrant and seasonal agricultural workers and users of such workers listing the method of payment of wages.

This information collection is currently approved for use through August 31, 2006.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks approval for the extension of this information collection in order to carry out its responsibility to determine compliance with applicable provisions of the MSPA. While use of the forms is optional, disclosure and maintenance of the information is required by the MSPA.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Wage Statement.

OMB Number: 1215–0148.

Agency Number: WH–501 (English) and WH–501 (Spanish).

Affected Public: Business or other for-profit; Farms.

Total Respondents: 1.387 million.

Total Responses: 41.34 million.

Time per Response: 1 minute.

Frequency: Recordkeeping; Third party disclosure, Reporting on occasion.

Estimated Total Burden Hours: 689,000.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 13, 2006.

Ruben L. Wiley,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E6–5759 Filed 4–17–06; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office; National Industrial Security Program Policy Advisory Committee: Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101.6, announcement is made for the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: Wednesday, May 10, 2006.

Time of Meeting: 10 a.m.–12 noon.

Place of Meeting: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist Reception Room (Room 105), Washington, DC 20408.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than May 3, 2006. ISOO will provide additional instructions for gaining access to the location of the meeting.

For Further Information Contact: J. William Leonard, Director, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, Washington, DC 20408, telephone number (202) 357–5474.

Dated: April 12, 2006.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E6–5719 Filed 4–17–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Museum Grants for African History and Culture program guidelines, Submission for OMB Review, Comment Request

AGENCY: Institute of Museum and Library Services.

ACTION: Submission to OMB for Review, Comment Request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this proposed form, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services. Director of Research and Technology, Rebecca Danvers at (202) 652–4680. IMLS seek OMB clearance for program guidelines for applications to the Museum Grants for African American History and Culture.

DATES: Comments must be received by May 18, 2006. The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

ADDRESSES: For a copy of the form contact: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M St., NW, 9th floor, Washington, DC 20036, telephone 202–653–4680, fax 202–653–4625, e-mail *rdanvers@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208, as amended. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

The Museum and Library Services Act, 20 U.S.C. Section 9101, *et seq.* authorizes the Director of the Institute of Museum and Library Services to make grants to museums and other entities as the Director considers appropriate. In addition, the National Museum of African American History and Culture Act (the ''Act'') authorizes the Director of the Institute of Museum and Library Services to establish grant and scholarship programs to improve operations, care of collections, and development of professional management of African American museums throughout the country, and to establish grant programs with the purpose of providing internship and fellowship opportunities at African American Museums. See, generally, 20 U.S.C. Section 80r–5(b). The Institute's new Program is developed pursuant to the provisions of this Act.

I. The National Museum of African American History and Culture Act Authorizes the Institute To Develop, Among Other Things, the Following

(A) A grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) A grant program with the purpose of providing internship and fellowship opportunities at African American museums. 20 U.S.C. 80r–5(b). Pursuant to this authority, IMLS proposes the program of grants to support and enhance African American museums throughout the country.

IMLS received comments that the program guidelines support the current needs of the African American museum community and also reflect the needs of museums generally. IMLS was urged to monitor the program's implementation to measure systematic change and to consider the program as a test bed to develop approaches appropriate to improving operations within other museum communities. IMLS agrees that the program has the potential to effect systematic change and will plan effective monitoring and evaluation strategies.

IMLS received questions about the eligibility criteria. IMLS has revised the criteria to clarify eligibility status.

The need for technical assistance, particularly for the smaller museums, was noted. IMLS agrees and will extend to this program the types of technical assistance provided to potential applicants in other IMLS programs.

II. Current Actions

To administer this program of grants, IMLS must develop application guidelines.

Agency: Institute of Museum and Library Services.

Title: Museum Grants for African American History and Culture Program Guidelines.

OMB Number: None.

Agency Number: 3137.

Frequency: Annually.

Affected Public: Museums.

Number of Respondents: 50.

Estimated Time per Respondent: 35 hours.

Total Burden Hours: 750.

Total Annualized capital/startup costs: $0.

Total Annual Costs: $32,900.

Contact: Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: April 12, 2006.

Rebecca Danvers,

Director Research and Technology.

[FR Doc. 06–3653 Filed 4–17–06; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management Renewal

The NSF management officials having responsibility for the Advisory Committee for Environmental Research and Education (#9487) have determined that renewing this group for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science foundation by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Authority for this Committee will expire on April 19, 2006, unless they are renewed. For more information contact Susanne Bolton at (703) 292–7488.

Dated: April 12, 2006.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 06–3657 Filed 4–17–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meetings

TIME AND PLACE: Tuesday, April 25, 2006.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

Matter To Be Considered

7752A: *Safety Board*—Report on the Treatment of Safety—Critical Systems in Transport Airplanes.

News Media Contact: Ted Lopatkiewicz. Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Chris Bisett at (202) 314–6305 by Friday, April 21, 2006.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *http://www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: April 14, 2006.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 06–3748 Filed 4–14–06; 2:26 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond

to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Requests to Non-Agreement States for Information.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* 6 times per year.

5. *Who will be required or asked to report:* The 18 States (16 Non-Agreement States and 2 territories, the District of Columbia and the Commonwealth of Puerto Rico) that have not signed 274(b) Agreements with NRC. **Note**: Minnesota became an Agreement State effective March 31, 2006.

6. *An estimate of the number of annual responses:* 108.

7. *The estimated number of annual respondents:* 18 States (16 Non-Agreement States and 2 territories, the District of Columbia and Commonwealth of Puerto Rico).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 891 hours.

9. *An indication of whether section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* Requests may be made of States that are similar to those of Agreement States to provide a more complete overview of the national program for regulating radioactive materials. This information would be used in the decisionmaking of the Commission. With Agreement States and as part of the NRC cooperative post-agreement program with the States pursuant to section 274(b), information on licensing and inspection practices, and/or incidents, and other technical and statistical information are exchanged. Agreement State comments are also solicited in the areas of proposed implementing procedures relative to NRC Agreement State program policies. With the enactment of the Energy Policy Act of 2005, specifically section 651(e), NRC now has regulatory authority over use of accelerator-produced radioactive materials and discrete sources of radium-226 and other naturally occurring radioactive material as specified by the Commission. Therefore, information requests sought may take the form of surveys, e.g., telephonic and electronic surveys/polls and facsimiles.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 18, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John A. Asalone, Office of Information and Regulatory Affairs (3150–0200), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 11th day of April, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–5743 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NRC Enforcement Policy: Extension of Discretion Period of Interim Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy Statement: Revision.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising the NRC ''Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues,'' to extend the enforcement discretion period to 3 years for those licensees that commit to transition to 10 CFR 50.48(c), and to provide clarification and enhancements predominately in the areas of existing non-compliances and the treatment of non-compliances if a licensee withdraws from the transition.

DATES: This revision is effective April 18, 2006. Comments on this revision to the Enforcement Policy may be submitted on or before May 18, 2006.

ADDRESSES: Submit written comments to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments to: 11555 Rockville Pike, Rockville, MD 20852, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, Room O1F21, 11555 Rockville Pike, Rockville, MD 20852. You may also e-mail comments to *nrcrep@nrc.gov.*

The NRC maintains the current Enforcement Policy on its Web site at *http://www.nrc.gov,* select ''What We Do,'' then ''Enforcement Policy.''

FOR FURTHER INFORMATION CONTACT: Michael Johnson, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741, e-mail *mrj1@nrc.gov.*

SUPPLEMENTARY INFORMATION: On June 16, 2004, the NRC published, in the **Federal Register**, a final rule amending 10 CFR 50.48 (69 FR 33536). This rule became effective on July 16, 2004, and allows licensees to adopt 10 CFR 50.48(c), a voluntary risk-informed, performance-based alternative to current fire protection requirements. The NRC concurrently revised its Enforcement Policy (69 FR 33684) to provide interim enforcement discretion during a ''transition'' period. The interim enforcement discretion policy includes provisions to address: (1) Noncompliances identified during the licensee's transition process; and (2) existing identified noncompliances.

In accordance with the current Enforcement Policy, for those noncompliances identified during the transition to 10 CFR 50.48(c), the enforcement discretion policy will be in effect for up to 2 years from the date of a licensee's letter of intent to adopt the requirements of 10 CFR 50.48(c). In addition, when the licensee submits a license amendment request to complete the transition to 10 CFR 50.48(c), the enforcement discretion will continue in effect until the NRC completes its review of the license amendment request.

The second element of the interim policy provides enforcement discretion for licensees that wish to take advantage of the rule to resolve existing noncompliances. The original rule required licensees wishing to take advantage of this interim policy to submit a letter of intent to adopt 10 CFR 50.48(c), within 6 months of the effective date of the final rule. However, the Nuclear Energy Institute (NEI) (ADAMS Accession No. ML042010132) sent a letter dated July 7, 2004, requesting that the NRC extend the deadline for the letter of intent to be

sent from 6 months to 18 months. Subsequently, the extension was granted and was published in the **Federal Register** as a revision to the interim enforcement policy regarding enforcement discretion for certain issues involving fire protection programs at operating nuclear power plants. The revision was effective on January 14, 2005 (70 FR 2662).

As a result, if a licensee submitted a letter of intent by December 31, 2005, in order to meet the second element of the interim enforcement policy, the NRC would exercise enforcement discretion for existing noncompliances that could reasonably be corrected under 10 CFR 50.48(c).

The NRC is revising the Enforcement Policy to extend the current 2-year period of enforcement discretion, for the transition to this voluntary, performance-based regulation, to 3 years for licensees that commit, in their letters of intent, to adopt 10 CFR 50.48(c) requirements.

Many licensees have requested additional time, beyond the 2-year discretion period, to properly evaluate their existing fire analyses and to develop fire probabilistic risk assessments (PRA). Based on these requests, the staff considered the extension of the current enforcement discretion period from 2 years to 3 years. The extension in time is appropriate in light of the level of effort required to transition to this risk-informed approach, including the implementation of plant modifications that may be required as a result of the licensee's evaluation. In addition, this change will not adversely impact public health and safety because the discretion policy does not apply to the most risk-significant findings (*i.e.*, violations characterized as Red or Severity Level I). For those findings where the policy does apply, licensees are required to implement and maintain immediate compensatory measures to qualify for discretion. This extension would facilitate a regulatory approach that encourages licensees to find and resolve their own issues in ways consistent with Enforcement Policy goals. During the discretion period, licensees are required to maintain their current fire protection plans, including maintaining appropriate compensatory measures. In addition to the 3-year discretion period, the NRC staff may grant item-specific extensions, on a case-by-case basis, to the discretion policy, when the licensee provides adequate justification (*e.g.*, a modification that can only be implemented during an outage).

Normal inspection and enforcement will continue to be applied to all plants that are not actively transitioning to 10 CFR 50.48(c).

Minor editorial changes have also been made to the current ''Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues'' (10 CFR 50.48), to provide clarification and enhancements predominately in the areas of existing non-compliances and the treatment of non-compliances if a licensee withdraws from the transition.

Paperwork Reduction Act

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150–0136. The approved information collection requirements contained in this policy statement appear in Section VII.C.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, collection of information, unless it displays a currently valid OMB control number.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the NRC Enforcement Policy is amended to read as follows:

NRC Enforcement Policy

* * * * *

Interim Enforcement Policies

* * * * *

Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)

This section sets forth the interim enforcement policy that the U.S. Nuclear Regulatory Commission (NRC) will follow to exercise enforcement discretion for certain noncompliances of requirements in 10 CFR 50.48, ''Fire protection,'' (or fire protection license conditions) that are identified as a result of the transition to a new risk-informed, performance-based fire protection approach included in paragraph (c) of 10 CFR 50.48 and for certain existing identified noncompliances that reasonably may be resolved by compliance with 10 CFR 50.48(c). Paragraph (c) allows reactor licensees to voluntarily comply with the risk-informed, performance-based fire protection approaches in National Fire Protection Association Standard 805 (NFPA 805), ''Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants,'' 2001 Edition (with limited exceptions stated in the rule language).

For those noncompliances identified during the licensee's transition process, this enforcement discretion policy will be in effect for up to 3 years from the date specified by the licensee in their letter of intent to adopt the requirements in 10 CFR 50.48(c), and will continue to be in place, without interruption, until NRC approval of the license amendment request to transition to 10 CFR 50.48(c). This enforcement discretion policy may be extended on a case-by-case basis, by request, with adequate justification, from the licensee.

If, after submitting the letter of intent to comply with 10 CFR 50.48(c) and before submitting the license amendment request, the licensee decides not to complete the transition to 10 CFR 50.48(c), the licensee must submit a letter stating its intent to retain its existing license basis and withdrawing its letter of intent to comply with 10 CFR 50.48(c). After the licensee's withdrawal from the transition process, the staff, as a matter of practice, will not take enforcement action against any noncompliance that the licensee corrected during the transition process and should, on a case-by-case basis, consider refraining from taking action if reasonable and timely corrective actions are in progress (*e.g.*, an exemption has been submitted for NRC review). Noncompliances that the licensee has not corrected, as well as noncompliances identified after the date of the above withdrawal letter, will be dispositioned in accordance with normal enforcement practices.

A. Noncompliances Identified During the Licensee's Transition Process

* * * * *

(1) It was licensee-identified, as a result of its voluntary initiative to adopt the risk-informed, performance-based fire protection program included under 10 CFR 50.48(c) or, if the NRC identifies the violation, it was likely in the NRC staff's view that the licensee would have identified the violation in light of the defined scope, thoroughness, and schedule of the licensee's transition to 10 CFR 50.48(c) provided the schedule reasonably provides for completion of the transition within 3 years of the date specified by the licensee in their letter

of intent to implement 10 CFR 50.48(c) or other period granted by NRC;

* * * * *

B. Existing Identified Noncompliances

* * * * *

(3) It was not willful; and

(4) The licensee submits a letter of intent by December 31, 2005, stating its intent to transition to 10 CFR 50.48(c).

After December 31, 2005, as addressed in (4) above, this enforcement discretion for implementation of corrective actions for existing identified noncompliances will not be available and the requirements of 10 CFR 50.48(b) (and any other requirements in fire protection license conditions) will be enforced in accordance with normal enforcement practices. However, licensees that submit letters of intent to transition to 10 CFR 50.48(c) with existing noncompliances will have the option to implement corrective actions in accordance with the new performance-based regulation. All other elements of the assessment and enforcement process will be exercised even if the licensee submits its letter of intent before the NRC issues its enforcement action for existing noncompliances.

Dated at Rockville, MD, this 11th day of April, 2006.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. E6–5706 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–04530]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for U.S. Department of Agriculture Facility in Mission, TX

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Sattar Lodhi, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (610) 337–5364, fax (610) 337–5269; or by e-mail: *asl@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to U.S. Department of Agriculture (USDA) for Materials License No. 19–00915–03, to authorize remediation activities at its radioactive waste burial site located at Moore Air Base (MAB) in Mission, Texas. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate.

II. EA Summary

The purpose of the proposed action is to authorize remediation activities at the licensee's radioactive waste burial site at MAB in Mission, Texas. USDA was authorized initially by the U.S. Atomic Energy Commission in the mid 1950's and later by the NRC to use radioactive materials for research and development purposes at the site. On May 5, 2005, USDA requested that NRC authorize remediation activities at the burial site. USDA has submitted to the NRC a plan to remediate the burial site.

The NRC staff has prepared an EA in support of the license amendment. The NRC staff has reviewed the information contained in the licensee's remediation plan. Based on its review, the staff has determined that the licensee has developed adequate procedures to ensure that the digging, removing and transporting the waste from the burial site will not have a significant impact on the environment and the workers. The staff has also determined that no additional information is necessary to complete the proposed action. Therefore, the staff considered the impact of the remediation activities at the facility and concluded that a Finding of No Significant Impact is appropriate.

III. Finding of No Significant Impact

The NRC staff has prepared the EA (summarized above) in support of the license amendment request. On the basis of the EA, the NRC has concluded that there are no significant environmental impacts from the proposed action, and has determined not to prepare an environmental impact statement for the proposed action.

IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this Notice are: USDA's plan to remediate the radioactive waste burial site at MAB (ML051300095), EA in support of the amendment request (ML060940281), review of EA by the State of Texas (ML053120414). 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 (800) 397–4209 or (301) 415–4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on public computers located at the NRC's PDR, 01F21, One White Flint, 11555 Rockville Pike, Rockville, MD 20852. The PDR contractor will copy documents for a fee.

Documents related to operations conducted under this license not specifically referenced in this Notice may not be electronically available and/or may not be publicly available. Persons who have an interest in reviewing these documents should submit a request to NRC under the Freedom of Information Act (FOIA). Instructions for submitting a FOIA request can be found on the NRC's Web site at *http://www.nrc.gov/reading-rm/foia/foia-privacy.html*.

Dated at King of Prussia, Pennsylvania this 6th day of April, 2006.

For the Nuclear Regulatory Commission.

John D. Kinneman,

Chief, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E6–5715 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–08219]

U.S. Environmental Protection Agency, Denver Federal Center, Building 53: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: D. Blair Spitzberg, Ph.D., Chief, Fuel Cycle and Decommissioning Branch, Division

of Nuclear Materials Safety, Region IV, U.S. Nuclear Regulatory Commission, Arlington, Texas 76011. Telephone: (817) 860–8191; fax number: (817) 860–8188; e-mail: *dbs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Material License No. 05–14892–01, as requested by the U.S. Environmental Protection Agency (EPA or the licensee), to authorize release of Building 53 at Denver Federal Center, Denver, Colorado, for unrestricted use. The licensee has been authorized by NRC to use radioactive material for instrument calibration and sample analyses at this location. On August 9, 2004, EPA requested that NRC release the facility for unrestricted use. The licensee conducted radiological surveys of the facility and provided information to demonstrate that the site meets the license termination criteria specified in Subpart E to 10 CFR part 20 for unrestricted release. The amendment will be issued if NRC determines that the request meets the standards specified in 10 CFR Part 20 and related NRC guidance documents.

II. Environmental Assessment (EA)

Identification of Proposed Action: The proposed action is to remove Building 53 from License Condition 10 as a location of use. Once the building is removed from the license, the licensee will be free to use the building in any manner without NRC restriction.

The Need for the Proposed Action: The licensee no longer conducts licensed activities in this building. The EPA has vacated the building and desires to release the building for unrestricted use. If the site is properly decommissioned, the licensee would then be in compliance with the Timeliness Rule requirements of 10 CFR 30.36, ''Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas.''

Environmental Impacts of the Proposed Action: Materials License No. 05–14892–01 authorizes EPA to possess small quantities of radioactive material, in both sealed and unsealed form, for instrument calibration and sample analysis. By letter dated August 9, 2004, EPA requested amendment of its license to remove Building 53 as a location of use. Radioactive materials were used in this building from about 1973 until 2003. All radioactive materials were relocated to Building 25 by August 2003.

The licensee conducted a historical review and concluded that the radionuclides of concern were americium-241, strontium-90, natural uranium, radium-226, and radium-228. Based on the historical review, the licensee determined that radioactive materials were used in eight laboratories in Building 53.

A final status survey of the building was conducted during February–March 2004. The final status survey was conducted in five of the eight laboratories. Two rooms were excluded because only sealed sources had been used in these rooms. A third room was excluded because only radioactivity at background levels were stored in this room. (The NRC's confirmatory survey included all eight rooms.) A final status survey report was completed by the licensee, and a copy of the report was attached to the licensee's August 9, 2004, letter.

The EPA concluded in its report that ''Building 53 meets the criteria for radiological release * * * thus allowing the facility to be released for unrestricted use and to be removed from the EPA's NRC Radioactive Material License.'' The NRC conducted a confirmatory survey of the building during October 2005. None of the confirmatory sample results exceeded the proposed derived concentration guideline levels (DCGLs) provided in the final status survey report.

In its final status survey report, the licensee stated that radioactive waste material from previously licensed operations in Building 53 was either transferred to an authorized recipient or placed into temporary storage. Solid waste disposal did not include on-site burial or incineration. Discharges to sewers were not allowed by the licensee's waste disposal program, and no record of disposal by sewer was identified by the licensee during its historical review. Further, no incidents were recorded involving spills or releases of radioactive material.

To demonstrate compliance with the radiological criteria for unrestricted use as specified in 10 CFR 20.1402, the licensee developed DCGLs. The NRC compared the licensee's proposed DCGLs to the screening criteria provided in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The NRC concluded that the proposed DCGLs were acceptable for use as release criteria.

In the final status survey report, the licensee states that radioactive materials were handled only within the eight rooms identified in the historical review. In addition, the licensee did not dispose of radioactive material through the sewer system, and no spills were documented. Accordingly, there were no environmental impacts from the use of radioactive material in Building 53. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment. No additional hazards or impacts to the environment were identified.

Environmental Impacts of the Alternatives to the Proposed Action: The licensee seeks NRC approval of the amendment request. The alternatives to the proposed action are: (1) The no-action alternative, or (2) to deny the amendment request and require the licensee to take some alternate action.

1. *No-Action Alternative:* One alternative available to the NRC is to take no action by denying the amendment request. The no-action alternative is not feasible because it conflicts with the NRC's Timeliness Rule (10 CFR 30.36) which requires licensees to decommission their facilities when licensed activities cease.

2. *Environmental Impacts of Alternative 2:* A second alternative is to deny the licensee's request in favor of alternate release criteria as allowed by § 20.1403 (criteria for restricted conditions) or § 20.1404 (alternate criteria). However, the NRC's analysis of the final status survey data confirmed that the proposed DCGLs meet the license termination requirements of § 20.1402. Accordingly, the NRC has determined that the second alternative is not reasonable, and this alternative action is eliminated from further consideration.

Conclusion: Based on its review, the NRC staff concludes that the environmental impacts associated with the proposed action do not warrant denial of the license amendment request. The staff believes that the proposed action will result in no environmental impacts. The staff has determined that approval of the license amendment is the appropriate alternative for selection.

Agencies and Persons Contacted: The NRC staff did not consult with the Colorado State Historic Preservation Officer or the local U.S. Fish & Wildlife Service because licensed activities occurred only within Building 53. There was no evidence of use or release of radioactive material outside of the building. Accordingly, there was no impact to the cultural resources, endangered species, or critical habitats outside of Building 53. The Colorado Department of Public Health and Environment, Radiation Management

Unit, was consulted about this EA. The State informed the NRC by letter dated March 6, 2006, that it had no comments on the EA.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed license amendment to release Building 53 for unrestricted use. On the basis of this EA, NRC has concluded that there are no significant environmental impacts from the proposed action, and the license amendment does not warrant the preparation of an environmental impact statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

1. NRC, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' NUREG–1496, July 1997 (ML042310492, ML042320379, and ML042330385).

2. NRC, ''Consolidated NMSS Decommissioning Guidance,'' NUREG–1757, Volume 2, September 2003 (ML053260027).

3. Ossinger, Albert, U.S. Environmental Protection Agency, License Amendment Request, August 9, 2004 (ML042510569, ML042570068, ML061000701 [Appendix D has been redacted because it contains confidential laboratory protocols], ML042570073, ML042570076, ML042570077, and ML042570080).

4. NRC Inspection Report 030–08219/05–001, November 14, 2005 (ML053180267).

5. Tarlton, Steve, Colorado Department of Public Health and Environment, ''Request for Comments on Draft Environmental Assessment For Decommissioning of Building 53 at Denver Federal Center,'' March 6, 2006 (ML060790512).

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

These documents may also be viewed electronically on public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Arlington, Texas, this 30th day of March, 2006.

For the Nuclear Regulatory Commission.

D. Blair Spitzberg,

Chief, Fuel Cycle & Decommissioning Branch, Division of Nuclear Materials Safety, Region IV.

[FR Doc. E6–5702 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Meeting Notice for Discussion of Draft Interim Staff Guidance Document for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Meeting notice and agenda.

FOR FURTHER INFORMATION CONTACT: James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–6459; fax number: (301) 415–5370; e-mail: *jas4@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) continues to prepare and issue Interim Staff Guidance (ISG) documents for fuel cycle facilities. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing activities for fuel cycle facilities under 10 CFR Part 70. Currently, the NRC has revised one of these documents, Draft ISG-FCSS–10, Rev. 2, based on comments received on Revision 1. The NRC plans to discuss the resolution of these comments at a public meeting to be held April 28, 2006, at the NRC Headquarters Auditorium in Rockville, Maryland.

II. Summary

The purpose of this notice is to provide the public with a meeting notice and proposed agenda for a public meeting scheduled for April 28, 2006, at the NRC Headquarters Auditorium in which the NRC will discuss revision of the draft guidance document, FCSS-ISG–10, Revision 2, which provides guidance to NRC staff to determine whether the minimum margin of subcriticality is sufficient to provide an adequate assurance of subcriticality for safety to demonstrate compliance with the performance requirements of 10 CFR 70.61(d), and its resolution of comments received on Revision 1. Revision 2 of the draft ISG and the ADAMS accession number for an associated table of comment resolution were previously noticed in the **Federal Register** on March 20, 2006. The agenda for the April 28, 2006, meeting is provided below.

III. Proposed Agenda

Public Meeting, Scheduled for April 28, 2006, To Discuss Draft FCSS–ISG–10, Revision 2, ''Justification for Minimum Margin of Subcriticality for Safety''

7:30 am Check in for security badging @ Two White Flint North, 11545 Rockville Pike
8 a.m. Purpose of workshop, introductions, agenda, and discussion process
8:15 a.m. NRC presentation on context/intent of FCSS-ISG–10
8:30 a.m. NRC summary of major changes to current version of FCSS-ISG–10
8:45 a.m. Section-by-section discussion of comments received and changes made
11:45 a.m. Meeting wrap-up
12:30 p.m. Adjourn

IV. Further Information

The documents related to this action are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS ascension numbers for the documents related to this notice are provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Interim staff guidance	ADAMS accession No.
Draft FCSS Interim Staff Guidance-10, Revision 2.	ML060260479

Interim staff guidance	ADAMS accession No.
Comments on Draft FCSS ISG–10, Rev.1 and Resolution.	ML060470150

This document may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 6th day of April 2006.

For the Nuclear Regulatory Commission.

Melanie A. Galloway,

Chief, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–5700 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 3, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, May 3, 2006, 10:30 a.m.–12 Noon.*

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: April 11, 2006.

Michael R. Snodderly,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. E6–5704 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on May 4–5, 2006, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Tuesday, November 22, 2005 (70 FR 70638).

Thursday, May 4, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Final Review of the License Renewal Application for the Brunswick Steam Electric Plant (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Carolina Power and Light Company regarding the license renewal application for the Brunswick Steam Electric Plant and the associated NRC staff's final Safety Evaluation Report.

10:15 a.m.–12:15 p.m.: Final Review of the Extended Power Uprate Application for R.E. Ginna Nuclear Plant (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Rochester Gas and Electric Company regarding the extended power uprate application for R.E. Ginna Nuclear Plant and the associated NRC staff's Safety Evaluation.

1:15 p.m.–3:15 p.m.: Final Review of the Extended Power Uprate Application for the Beaver Valley Nuclear Plant (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and FirstEnergy regarding the extended power uprate application for the Beaver Valley Nuclear Plant and the associated NRC staff's Safety Evaluation.

3:30 p.m.–5 p.m.: Proposed Revisions to 10 CFR Part 52, ''License, Certifications, and Approvals for Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed revisions to 10 CFR part 52, ''License, Certifications, and Approvals for Nuclear Power Plants.''

5:15 p.m.–7 p.m.: Preparation of ACRS Report (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, May 5, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: NRC Staff's Response to ACRS Comments on the Draft Final Revision 4 to Regulatory Guide 1.97, ''Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding their response to ACRS comments included in its March 28, 2006 letter on the Draft Final Revision 4 to Regulatory Guide 1.97, ''Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants.''

9:30 a.m.–9:45 a.m.: Subcommittee Report (Open)—The Committee will hear a report by and hold discussions with the cognizant Chairman of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) regarding review of the PRA for the Economic Simplified Boiling Water Reactor (ESBWR) design.

10 a.m.–10:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

10:45 a.m.–11 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for

Operations to comments and recommendations included in recent ACRS reports and letters.

11 a.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

7 p.m.–7:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 29, 2005 (70 FR 56936). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4:15 p.m., e.t.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system(ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., e.t., at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 11, 2006.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–5707 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATE: Weeks of April 17, 24, May 1, 8, 15, 22, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of April 17, 2006—Tentative

There are no meetings scheduled for the Week of April 17, 2006.

Week of April 24, 2006—Tentative

Monday, April 24, 2006

2 p.m. Meeting with Federal Energy Regulatory Commission (FERC), FERC Headquarters, 888 First St., NE., Washington, DC 20426, Room 2C (Public Meeting). Contact: Mike Mayfield, 301–415–3298).

This meeting will be webcast live at the Web address *http://www.ferc.gov.*

Wednesday, April 26, 2006

1 p.m. Discussion of Management Issues (closed—ex. 2).

Thursday, April 27, 2006

1:30 p.m. Meeting with Department of Energy (DOE) on New Reactor Issues (Public Meeting).

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Week of May 1, 2006—Tentative

Tuesday, May 2, 2006

9:30 a.m. Briefing on status of Emergency Planning Activities—Morning Session (Public Meeting) (Contact: Eric Leeds, 301–415–2334).

1 p.m. Briefing on Status of Emergency Planning Activities—Afternoon Session (Public Meeting).

These meetings will be webcast live at the Web address *http://www.nrc.gov.*

Wednesday, May 3, 2006

9 a.m. Briefing on status of Risk-Informed, Performance-Based Regulation (Public Meeting) (Contact: Eileen McKenna, 301–415–2189).

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Week of May 8, 2006—Tentative

There are no meetings scheduled for the Week of May 8, 2006.

Week of May 15, 2006—Tentative

Monday, May 15, 2006

1 p.m. Briefing on Status of Implementation of Energy Policy Act of 2005 (Public Meeting) (Contact: Scott Moore, 301–415–7278).

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Tuesday, May 16, 2006

9:30 a.m. Briefing on Results of the Agency Action Review Meeting—Reactors/Materials (Public Meeting) (Contact: Mark Tonacci, 301–415–4045).

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Week of May 22, 2006—Tentative

Monday, May 22, 2006

9:30 a.m. Briefing on Equal Employment Opportunity (EEO) Program (Public Meeting) Contact: Corenthis Kelly, 301–415–7380).

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Week of May 22, 2006—Tentative

Monday, May 22, 2006

9:30 a.m. Briefing on Equal Employment Opportunity (EEO) Program (Public Meeting) (Contact: Corenthis Kelly, 301–415–7380.

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Wednesday, May 24, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1).

1:30 p.m. All Employees Meeting (Public Meeting). Marriott Bethesda North Hotel, Salons, D–H, 5701 Marinelli Road, Rockville, MD 20852.

* * * * *

*The schedule for Commission meetings is subject to change on short

notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: April 13, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–3746 Filed 4–14–06; 2:13 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

NUREG–1842, ''Evaluation of Human Reliability Analysis Methods Against Good Practices, Draft Report for Comment''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of NUREG–1842, ''Evaluation of Human Reliability Analysis Methods Against Good Practices, Draft Report for Comment,'' and request for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of and is seeking comments on NUREG–1842, ''Evaluation of Human Reliability Analysis Methods Against Good Practices, Draft Report For Comment.''

DATES: Comments on this document should be submitted by June 19, 2006. Comments received after that date will be considered to the extent practical. To ensure efficient and complete comment resolution, comments should include references to the section, page, and line numbers of the document to which the comment applies, if possible.

ADDRESSES: Members of the public are invited and encouraged to submit written comments to Michael Lesar, Chief, Rules and Directives Branch, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments attention to Michael Lesar, 11545 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be sent electronically to *NRCREP@nrc.gov.*

This document, NUREG–1842, is available at the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* under Accession No. ML060960216; on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment*; and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. The PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; e-mail *PDR@NRC.GOV*.

FOR FURTHER INFORMATION, CONTACT: Erasmia Lois, Human Factors and Reliability Branch, Office of Nuclear Regulatory Research, telephone (301) 415–6560, e-mail *exl1@nrc.gov*

SUPPLEMENTARY INFORMATION:

NUREG–1842, ''Evaluation of Human Reliability Analysis Methods Against Good Practices, Draft Report for Comment, Draft for Comment''

The NRC is developing guidance for performing or evaluating human reliability analyses (HRAs) to support risk-informed regulatory decision-making and, in particular, the implementation of Regulatory Guide 1.200, ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities,'' dated February 2004. The guidance is developed in two phases. The first phase focused on developing ''Good Practices for Implementing Human Reliability Analysis,'' that is documenting the processes and analytical tasks and judgments expected to have been performed in order for the HRA results to sufficiently represent the anticipated operator performance in risk-informed decisions. The good practices were submitted for public comment, NUREG–1792, Good Practices for Implementing Human Reliability Analysis, Draft Report for Comment,'' August 2004, and were published as a final NUREG–1792 in April 2005. The second phase, summarized in draft NUREG–1842, evaluated the various HRA methods that are commonly used in regulatory applications, with a particular focus on their capabilities to satisfy the good practices, as well as their respective strengths and limitations regarding their underlying knowledge and data bases.

The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing this document is available to the NRC staff. This document is issued for comment only and is not intended for interim use. The NRC will review public comments received on the document, incorporate suggested changes as necessary, and issue the final NUREG–1842 for use.

The NRC will hold a public meeting on May 23, 2006 at the NRC headquarters, 11545 Rockville Pike, Rockville, Maryland, Room: Commission Briefing Room (8:30 a.m.–5 p.m., preliminary agenda enclosed). The purpose of the meeting is to discuss the findings and conclusions documented in NUREG–1842 in order to allow stakeholders develop a better understanding of the contents of the report and ask clarification questions. The NRC is not soliciting comments on draft NUREG–1842 as part of this meeting. Public comments on the draft NUREG can be provided as discussed above.

Dated at Rockville, MD, this 11th day of April 2006.

For the Nuclear Regulatory Commission.

Farouk Eltawila,

Director, Division of Risk Assessment and Special Projects, Office of Nuclear Regulatory Research.

Agenda—Public Meeting on NUREG–1842 ''Evaluation of Human Reliability Analysis Methods Against Good Practices, Draft Report for Comment,''

May 23, 2006.

U.S. NRC Headquarters, 11555 Rockville Pike, Rockville, MD 20852, Room Commission Briefing Room

PRELIMINARY AGENDA

Morning	Topic
8:30–9	Introduction/Overview.
9–10:30	Evaluation of Methods. —Approach and Summary of results. —Brief discussion of each method.
10:30–10:45	Break.
10:45–12	Evaluation of Methods (Continued). —Comparison of methods against some key characteristics. —Implications—What methods should be used when?
	Lunch.
	Discussion on method evaluation (continued).
	Questions and Answers (as needed).

[FR Doc. E6–5736 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

April 27, 2006 Board of Directors Meeting

Time and Date: Thursday, April 27, 1006, 10 a.m. (Open Portion); 10:15 a.m. (Closed Portion).

Place: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

Status: Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

Matters to be Considered:

1. President's Report.
2. Confirmation of Vice President.
3. Confirmation of Vice President.
4. Approval of January 19, 2006 Minutes (Open Portion).

Further Matters to be Considered: (Closed to the Public 10:15 a.m.).

1. Finance Project—Eastern Europe and NIS Countries.
2. Finance Project—Global.
3. Finance Project—Global.
4. Finance Project—Caribbean Community and Common Market/ Dominican Republic.
5. Finance Project—Central America, Panama, Colombia, and Mexico.
6. Finance Project—Africa.
7. Finance Project—Southern Africa.
8. Approval of January 19, 2006 Minutes (Closed Portion).
6. Pending Major Projects.
7. Reports.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: January 6, 2006.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 06–3740 Filed 4–14–06; 12:40 pm]

BILLING CODE 3210–01–M

POSTAL RATE COMMISSION

[Docket No. C2004–3; Order No. 1460]

Order and Notice of Proceeding

AGENCY: Postal Rate Commission.

ACTION: Order denying motion to dismiss and notice of proceeding.

SUMMARY: This document announces the Commission's decision to institute a formal proceeding to consider issues raised in a complaint concerning stamped stationery. Conducting this proceeding will allow the Commission to determine whether the complaint raises any genuine issues of material fact and to make related determinations.

DATES: 1. Deadline for filing issue statements and notices of intervention: April 27, 2006. 2. Deadline for filing replies to issue statements: May 4, 2006.

ADDRESSES: File all documents referred to in this order electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, 202–789–6820.

SUPPLEMENTARY INFORMATION: The Commission has before it a complaint filed by Douglas F. Carlson (Carlson or Complainant) concerning stamped stationery [1] and a motion to dismiss the complaint filed by the Postal Service.[2] The central issue presented by these pleadings is whether stamped stationery is a postal or philatelic product. If the former, it is subject to the Commission's jurisdiction; if the latter, it is not.

The Postal Service's motion to dismiss is denied. This should not, however, be read as a finding on the merits on the jurisdictional question presented. The pleadings raise mixed questions of fact and law. Based solely on the pleadings, the Commission is disinclined to determine whether or not genuine issues of material fact remain in dispute. Accordingly, by this order the Commission hereby notices the proceeding and, as discussed below, provides interested persons an opportunity to address whether or not genuine issues of material fact remain to be presented in this case. Following submission of responsive pleadings, the Commission will determine whether to proceed with or without hearing. If no genuine material issue of fact is presented, the Commission will establish a briefing schedule affording participants an opportunity to address the principal legal issue whether or not stamped stationery is a postal service.

I. Background

The Complaint. In his Complaint, filed pursuant to 39 U.S.C. 3662, Carlson contends that stamped stationery is a postal service subject to the Commission's jurisdiction. The specific stationery in question consists of sheets of 6.25″ x 14.31″ paper imprinted with *''The Art of Disney: Friendship''* postage stamps or indicia. Each pre-stamped sheet has room for a message and address; the sheet is designed to be folded, sealed, and mailed.[3]

While Carlson makes several claims, the gravamen of his complaint is that stamped stationery is a postal service within the meaning of 39 U.S.C. 3621, 3622, and 3623. *Id.* at 2, para. 10. In support, he compares stamped stationery to stamped envelopes and stamped cards, both of which are postal services. *Id.* at 3, paras. 14–15. He observes that section 960 of the Domestic Mail Classification Schedule (DMCS) is entitled ''Stamped Paper'' and that it includes stamped envelopes and stamped cards. *Ibid.* paras. 16–17. He contends that stamped stationery is a form of stamped paper within the meaning of section 960 of the DMCS. *Ibid.* para. 21. In addition, Carlson notes that the Postal Service describes

[1] Douglas F. Carlson Complaint on Stamped Stationery, June 24, 2004 (Complaint).

[2] Motion of the United States Postal Service to Dismiss Complaint, January 18, 2006 (Motion to Dismiss).

[3] At the time the Complaint was filed, the stamped stationery sold in pads of 12 for $14.95, while the face value of the postage was $4.44. Complaint at 2, para. 8.

stamped stationery in terms of its value as a means for sending correspondence.[4]

Pursuant to section 3662, Carlson requests that the Commission issue a recommended decision establishing fee and classification schedules for stamped stationery. Alternatively, he requests that, pursuant to section 3623(b), the Commission submit, on its own initiative, a recommended decision establishing a new classification for stamped stationery. *Id.* at 6.

Informal procedures. Upon its review of the Complaint, the Commission elected to employ informal procedures in an effort to facilitate settlement.[5] To that end, the director of the Office of the Consumer Advocate (OCA) was appointed settlement coordinator to facilitate efforts to resolve the Complaint informally.[6] OCA was charged with reporting on the status of negotiations. Pending the outcome of the negotiations, the due date for the Postal Service's answer to the Complaint was postponed. In its second report, OCA informed the Commission that settlement could not be achieved.[7] Subsequently, the Postal Service submitted its answer to the Complaint, contending, among other things, that ''[t]he stationery at issue is a philatelic item and mailing product which has much more in common with similar items over which the Commission does not assert jurisdiction than with the utilitarian stamped envelope product which is currently in the DMCS.'' [8]

The Postal Service's Motion to Dismiss. Pursuant to Order No. 1449, the Postal Service recently filed a motion to dismiss the Complaint.[9] At the outset, the Postal Service asserts that the sale of ''Disney stationery'' falls within its statutory authority to provide philatelic services.[10] In support, it points to the Commission's decision in Docket No. R76–1 generally disclaiming jurisdiction over philatelic products. *Id.* at 1. Second, it argues that ''Disney stationery is intended to be a philatelic item,'' [11] distinguishable by its design and artwork from ''utilitarian'' stamped envelopes and cards which, it contends, have little inherent artistic or philatelic value.[12] Third, the Postal Service postulates that philatelic choices may be diminished if the Commission were to assert jurisdiction over Disney stationery, suggesting even the possibility that ''no such future issuances might be able to occur.'' *Id.* at 4–5. Alternatively, it notes that it could ''avoid the process'' by selling unstamped stationery with a packet of stamps included. *Id.* at 5.

Lastly, the Postal Service infers comparability between stamped stationery and packaging supplies. The Postal Service disputes that its encouragement of buyers to use stamped stationery to write letters has any jurisdictional consequences. It observes that the Postal Service also sells packaging supplies, ''presumably for the purpose of encouraging and making it easier for customers to send packages.'' *Ibid.* It concludes by noting that the Commission does not exercise jurisdiction over such supplies.

Carlson's opposition. Carlson opposes the Postal Service's motion to dismiss.[13] Citing the Commission's recently adopted definition of the term postal service, Carlson argues that stamped stationery is a postal service because it ''is incidental to the receipt, transmission, and delivery by the Postal Service of correspondence, including letters.'' [14] In support of this contention, Carlson advances several arguments. First, he argues that the stamped stationery is specifically designed for mailing, including identifiable space for the mailing address and for a written message, and that, to facilitate mailing, it can be folded and sealed.[15]

Second, Carlson contends that if stamped cards and stamped envelopes are postal services then stamped stationery must be as well. He discusses Postal Service witness Needham's testimony, sponsoring proposed fee increases in Docket No. R97–1, which detailed the benefits and value of stamped cards and stamped envelopes that facilitate the mailing of correspondence and letters. He contends that stamped stationery provides the same service incidental to the receipt, transmission, or delivery of correspondence as do these two acknowledged postal products. *Id.* at 5–6.

Third, Carlson also distinguishes between products with pre-affixed postage, such as stamped stationery and stamped cards, and those, such as packaging supplies, plain envelopes, and post cards, without it. He argues that the pre-affixed postage is significant because it entitles the purchaser to mailing services, which are not available to purchasers of unstamped envelopes, cards, or packaging supplies. *Id.* at 7–8.

The balance of Carlson's Opposition responds to arguments that are largely peripheral to the central legal issue of whether stamped stationery is a postal service. These include, for example, the philatelic value associated with any postage item, including all postal stationery (*id.* at 10), and that for ratemaking purposes, the philatelic and

[4] *Id.* at 2, paras. 11–13. Complainant's remaining claims are derivatives of his principal claim that stamped stationery is a postal service. For example, he asserts that stamped stationery constitutes a change in the mail classification schedule and that the Postal Service is required to request a recommended decision from the Commission, pursuant to sections 3622 and 3623 of the Act, before either establishing a new classification for, or selling, stamped stationery. *Id.* at 4, paras. 22–24. This claim is true if stamped stationery is found to be a postal product. The claim is premised on the belief that stamped stationery is postal and thus does not go to the nature of the product (or service) itself. Accordingly, the Commission finds it unnecessary to address this claim in detail at this stage of the proceeding. Carlson's other derivative claims are that the rate or fee for stamped stationery is inconsistent with the Act and unduly discriminates against stamp collectors. *Id.* at 4–5, paras. 30–35. These claims, too, are premised on the assumption that stamped stationery is a postal product and, likewise, need not be addressed for purposes of this order. This is not to suggest, however, that claims do not raise factual or legal issues that may need to be addressed if the Commission concludes that stamped stationery is jurisdictional.

[5] PRC Order No. 1412, July 8, 2004, at 2.

[6] Notice Designating Settlement Coordinator, July 8, 2004.

[7] Office of the Consumer Advocate Second Report on the Status of Negotiations for Informal Resolution of Complaint, August 12, 2004.

[8] Answer of United States Postal Service, August 31, 2004, at 8 (Answer).

[9] Motion to Dismiss, *supra,* January 18, 2006. *See* PRC Order No. 1449, Docket No. RM2004–1, January 4, 2006, at 30, n.88.

[10] *Id.* at 1. The Postal Service characterizes the Complaint as requesting the Commission to ''assert jurisdiction over *The Art of Disney: Friendship* stamped stationery.'' *Ibid.* To that end, the Postal Service uses the phrase ''Disney stationery,'' apparently reading the Complaint as limited to that issuance rather than to the issue of stamped stationery generally. The Commission does not read the Complaint so narrowly. To be sure, ''Disney stationery'' precipitated the Complaint. Carlson's arguments, however, concern stamped stationery generally, not that Disney stationery alone is a postal service. The relief requested, that the Commission recommend stamped stationery as a new classification, confirms this reading of the Complaint.

[11] *Ibid.*

[12] *Id.* at 2–3. In passing, the Postal Service argues that the caption to DMCS section 960, ''Stamped Paper'' has no substantive meaning beyond stamped envelopes and cards. *Id.* at 2.

[13] Douglas F. Carlson Answer in Opposition to the Postal Service Motion to Dismiss Complaint, January 24, 2006 (Carlson Opposition).

[14] *Id.* at 4. As historical background, Carlson provides a brief discussion of the use and development of stamped and unstamped letter sheets. He contends that what the Postal Service now calls stamped stationery is known generically as letter sheets. Distinguishing between stamped and unstamped letter sheets, he indicates that stamped letter sheets were not used by the Post Office Department until 1861. Further, he states that the Disney stamped stationery was the first domestic stamped letter sheets issued in more than a century. He argues that stamped letter sheets (stamped stationery) are, along with stamped envelopes and stamped cards, forms of postal stationery. *Id.* at 2–4.

[15] *Id.* at 4. Carlson points to the Postal Service's own advertising, which trumpets the benefits of correspondence using stamped stationery, as corroboration that stamped stationery is a postal service. *Id.* at 4–5.

design value of stamped stationery are irrelevant. *Id.* at 11–12.

II. Proceedings

Based on a review of the pleadings, the Commission concludes that the facts, as alleged in the pleadings, do not warrant a summary dismissal of the Complaint. In light of this finding, and given the failure of informal procedures to resolve the Complaint, the Commission finds it appropriate, under rule 86 of the Rules of Practice, to conduct a formal proceeding pursuant to section 3624 of the Act in this docket. In noticing the proceeding pursuant to rule 17, the Commission has made no determination of whether or not to hold hearings in this docket. That determination will be made after submission of the statements discussed below.

Section 3662 provides that, in response to a complaint, the Commission may in its discretion hold a hearing. Generally, hearings are held only if genuine issues of material fact are presented. In this proceeding, the Commission is disinclined to rule on that issue based solely on the pleadings. Consequently, each participant shall be given an opportunity to address the question of whether or not genuine issues of material fact are presented in this case. Each participant addressing this issue should identify with specificity each issue of material fact, if any, it believes is presented along with the reason(s) it believes that issue is material. Such statements are due no later than April 27, 2006. Replies to such statements may be filed no later than May 4, 2006.

Intervention. Any interested person may file a notice of intervention, consistent with the Commission's Rules of Practice, as a full or limited participator. *See* 39 CFR 3001.20 and 39 CFR 3001.20a. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site (*www.prc.gov*), unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 39 CFR 3001.10(a). Notices of intervention are due no later than April 27, 2006.

Representation of the general public. Having noticed the proceeding, the Commission finds it appropriate that the interests of the general public be represented in this proceeding and thus the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, to represent those interests. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Ordering Paragraphs

It is ordered:

1. Statements of genuine issues of material fact as discussed in the body of this order are due no later than April 27, 2006. Replies may be filed on or before May 4, 2006.

2. The deadline for filing notices of intervention is April 27, 2006.

3. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.

4. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

Dated: April 13, 2006.

Steven W. Williams,

Secretary.

[FR Doc. E6–5774 Filed 4–17–06; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27287; 812–13068]

Special Value Opportunities Fund, LLC, et al.; Notice of Application

April 11, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under rule 17d–1 under the Investment Company Act of 1940 (''Act'') to permit certain joint transactions.

APPLICANTS: Special Value Opportunities Fund, LLC (''SVOF''); Special Value Expansion Fund, LLC (''SVEF''); Tennenbaum Capital Partners, LLC (''TCP''), on behalf of itself and its successors; Babson Capital Management LLC (''Babson''), on behalf of itself and its successors; Special Value Bond Fund II, LLC (''SVBF II''); Special Value Absolute Return Fund, LLC (''SVARF''); Tennenbaum Multi-Strategy Master Fund (''MSMF''); Tennenbaum Multi-Strategy Fund I LLC (''MSFI''); and Tennenbaum Multi-Strategy Fund (Offshore) (''MSFO'').[1]

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered investment companies to coinvest with certain affiliated entities.[2]

FILING DATES: The application was filed on February 19, 2004, and amended on April 10, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 8, 2006, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549. Applicants: c/o Tennenbaum Capital Partners, LLC, 2951 28th Street, Suite 1000, Santa Monica, CA 90405.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Nadya B. Roytblat, Assistant Director, at (202) 942–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. TCP, a limited liability company organized under the laws of Delaware, is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''). Babson, an indirect, wholly owned subsidiary of Massachusetts Mutual Life Insurance Company (''MassMutual Life''), is registered as an investment adviser under the Advisers Act.

2. SVOF, a Delaware limited liability company, is registered under the Act as a nondiversified closed-end management investment company. SVOF has $1.422 billion in total available capital (''Total Available

[1] The term ''successor,'' as applied to TCP and Babson, means an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] All existing entities that currently intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the application.

Capital''), consisting of common equity capital, amounts available under a senior secured revolving credit facility, and preferred stock. SVOF's approximate target investment allocations are equity securities (generally with a view to influencing the governance of the issuers) (20%), distressed debt (generally with a view to acquiring equity ownership in restructuring transactions) (20%), mezzanine investments (20%), and high yielding debt (40%). TCP serves as SVOF's investment adviser and manages the day-to-day operations of SVOF. TCP and Babson co-manage SVOF's investments through their joint participation on SVOF's investment committee.

3. SVEF, a Delaware limited liability company, is registered under the Act as a nondiversified closed-end management investment company. SVEF has $600 million in Total Available Capital, consisting of common equity capital commitments, amounts available under a revolving credit facility, and preferred stock. SVEF has the same investment objective and target investment allocations as SVOF. TCP acts as SVEF's investment adviser and manages the day-to-day operations of SVEF. From time to time, TCP may form other registered closed-end management investment companies (together with SVOF and SVEF, the ''Registered Funds'') to engage in investment activities similar to those engaged in by SVOF and SVEF.

4. TCP currently manages, or co-manages with Babson, five accounts that are not registered investment companies and that expect to be actively investing. Two of these, SVBF II and SVARF, are investment pools that are excepted from the definition of investment company under section 3(c)(7) of the Act and have investment strategies that are similar to those of SVOF and SVEF. SVBF II has $450 million in Total Available Capital, consisting of drawn common equity, notes, and a revolving credit facility, and SVARF has Total Available Capital of $884.5 million, consisting of drawn common equity, notes, and a revolving credit facility. The other three unregistered accounts, MSMF, MSFI, and MSFO (collectively, the ''Hedge Fund''), are a set of private investment funds, organized as a master fund with separate domestic and offshore feeders, that are excepted from the definition of investment company under section 3(c)(7) of the Act. The Hedge Fund, which had net assets of $82 million as of September 30, 2005, invests primarily in publicly traded securities and related hedges and probably will not coinvest in private securities on more than an occasional basis. From time to time, TCP or another Adviser may manage other accounts that are not registered investment companies in reliance on section 3(c)(1) or 3(c)(7) of the Act (such accounts, together with SVBF II, SVARF, MSMF, MSFI, and MSFO, the ''Unregistered Accounts'').

5. Applicants seek an order under rule 17d–1 under the Act to permit SVOF, SVEF, and any other Registered Fund that is managed by TCP or an entity controlling, controlled by, or under common control with TCP (collectively with TCP, the ''Adviser'') and the Unregistered Accounts to coinvest in private placement securities, make follow-on investments in the issuers of private placement securities (''Follow-On Investments''), and exercise warrants, conversion privileges, and other rights associated with private placement securities.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the Commission. Rule 17d–1 under the Act provides that in passing upon applications under section 17(d), the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

2. SVOF, SVEF, and the Unregistered Accounts have been sponsored and managed by TCP and, accordingly, may be deemed to be affiliated persons of each other and of TCP because TCP may be deemed to control each of them. TCP may be deemed to be an affiliated person of SVOF and SVEF because it acts as their investment adviser and may be deemed to control them. TCP also may be deemed to be an affiliated person of the Unregistered Accounts because it may control them. Babson may be deemed to be an affiliated person of SVOF because it acts as an investment adviser to SVOF. Babson may also be a second-tier affiliated person of SVOF because MassMutual Life owns 5% or more of the voting securities of SVOF. In addition, Babson may in certain circumstances be deemed to be an affiliated person of SVBF II and SVARF.

3. Applicants state that the ability to participate in proposed coinvestments will benefit the Registered Funds and their shareholders by increasing the favorable investment opportunities available to them. Applicants represent that the Registered Funds will be able to (i) have a larger pool of capital available for investment, thereby obtaining access to a greater number and variety of potential investments than any Registered Fund could obtain on its own, and (ii) increase their bargaining power to negotiate more favorable terms.

4. Applicants believe that the terms and conditions contained in the application ensure that the proposed coinvestments are consistent with the protection of each Registered Fund's investors and with the purposes intended by the policy and provisions of the Act. Specifically, all participants will invest at the same time for the same price and with the same terms, conditions, class, registration rights, and any other rights, so that no participant receives terms more favorable than any other participant. In addition, the decision to participate in a proposed coinvestment must be approved by the Independent Directors of each Registered Fund to ensure that the terms of the proposed coinvestment are fair and reasonable, do not involve overreaching, and are consistent with the investment objectives and policies of the Registered Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each time that an Unregistered Account or a Registered Fund proposes to acquire private placement securities, the acquisition of which would be consistent with the investment objectives and policies of another Registered Fund, the Adviser will offer the other Registered Fund the opportunity to acquire a *pro rata* amount (based on the amounts available for investment by such Registered Fund and the applicable Unregistered Account or Registered Fund) of such private placement securities up to the entire amount being offered to it. If one Registered Fund declines the offer or accepts a portion of the private placement securities offered to it, but one or more other Registered Funds accepts the private placement securities offered, that portion of the private placement securities declined by the Registered Fund may be allocated to the other Registered Fund or Unregistered Account, based on their amounts available for investment. For purposes

of the foregoing, the phrase ''amounts available for investment'' means the Total Available Capital, which includes available leverage so long as such leverage is able to be drawn.

2. (a) Prior to any coinvestment by a Registered Fund, the Adviser will make an initial determination of whether the acquisition of the private placement security is consistent with the investment objectives and policies of the Registered Fund. If the Adviser determines that the acquisition of the private placement securities would be consistent with the investment objectives and policies of the Registered Fund, the Adviser will then determine whether participation in the investment opportunity is appropriate for the Registered Fund and, if so, the appropriate amount that the Registered Fund should invest. If the aggregate of the amount to be invested by the Registered Fund in such proposed coinvestment and the amount proposed to be invested by any other Registered Fund and any Unregistered Accounts in the same transaction exceeds the amount of the investment opportunity, the amount invested by each such party will be allocated among them *pro rata* based on the amount available for investment by the Registered Funds and the Unregistered Accounts participating in the transaction. The Adviser will provide the Independent Directors of the Registered Fund's Board (''Joint Transactions Committee'') with information concerning the amount of capital the Registered Funds and the Unregistered Accounts have available for investment in order to assist the Joint Transactions Committee with its review of the Registered Fund's investments for compliance with these allocation features.

(b) After making the determinations required in (a) above, the Adviser will submit written information concerning the proposed coinvestment, including the amount proposed to be acquired by the Registered Fund, any other Registered Funds, and any Unregistered Account, to the members of the Joint Transactions Committee. A Registered Fund may coinvest in a private placement security only if a majority of the members of the Joint Transactions Committee who have no direct or indirect financial interest in the transaction (''Required Majority'') determine that:

i. The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Registered Fund and its shareholders and do not involve overreaching of the Registered Fund or its shareholders on the part of any person concerned;

ii. the transaction is consistent with the Registered Fund's investment objectives and policies as recited in its registration statement and its reports to shareholders; and

iii. the coinvestment by another Registered Fund or an Unregistered Account would not disadvantage the Registered Fund, and participation by the Registered Fund would not be on a basis different from or less advantageous than that of the other participants.

3. If the Adviser determines that a Registered Fund should not acquire any private placement securities offered to it pursuant to condition 1 above, the Adviser will submit its determination to the Joint Transactions Committee for approval.

4. The Registered Funds and any Unregistered Account shall acquire private placement securities in reliance on the order only if the terms, conditions, price, class of securities being purchased, registration rights, if any, and other rights are the same for each Registered Fund and any Unregistered Account participating in the coinvestment. When more than one Registered Fund proposes to coinvest in the same private placement securities, the Joint Transactions Committee of each Registered Fund shall review the transaction and make the determinations set forth in condition 2 above, on or about the same time.

5. Except as described below, no Registered Fund may make a Follow-On Investment or exercise warrants, conversion privileges, or other rights unless each Unregistered Account and any other Registered Fund make such Follow-On Investments or exercise such warrants, conversion rights, or other rights at the same time and in amounts proportionate to their respective holdings of such private placement securities. If an Unregistered Account or another Registered Fund anticipates participating in a Follow-On Investment or exercising warrants, conversion rights, or other rights in an amount disproportionate to its holding, the Adviser will formulate a recommendation as to the proposed Follow-On Investment or exercise of rights by each Registered Fund and submit the recommendation to each Registered Fund's Joint Transactions Committee. That recommendation will include an explanation why an Unregistered Account is not participating to the extent of, or exercising, its proportionate amount. Prior to any such disproportionate Follow-On Investment or exercise, a Registered Fund must obtain approval for the transaction as set forth in condition 2 above. Transactions pursuant to this condition 5 will be subject to the other conditions set forth in the application.

6. No Unregistered Account or Registered Fund will sell, exchange, or otherwise dispose of any interest in any private placement securities acquired pursuant to the order unless each Registered Fund has the opportunity to dispose of the interests at the same time, for the same unit consideration, on the same terms and conditions, and in amounts proportionate to their holdings of the private placement securities. With respect to any such transaction, the Adviser will formulate a recommendation as to the proposed participation by a Registered Fund and submit the recommendation to such Registered Fund's Joint Transactions Committee. The Registered Fund will dispose of such private placement securities to the extent the Joint Transactions Committee, upon the affirmative vote of the Required Majority, determines that the disposition is in the best interests of the Registered Fund, is fair and reasonable, and does not involve overreaching of the Registered Fund or its shareholders by any person concerned.

7. The expenses, if any, associated with acquiring, holding, or disposing of any private placement securities (including, without limitation, the expenses of the distribution of any private placement securities registered for sale under the Securities Act of 1933) shall, to the extent not payable solely by the Adviser under its investment management agreements with the Registered Funds and the Unregistered Accounts, be shared by the Registered Funds and the Unregistered Accounts in proportion to the relative amounts of such private placement securities held or being acquired or disposed of, as the case may be, by the Registered Funds and the Unregistered Accounts.

8. The Joint Transactions Committee of each Registered Fund will be provided quarterly for its review all information concerning coinvestments made by the Registered Fund and the Unregistered Accounts and other Registered Funds, including investments made by the Unregistered Accounts in which the Registered Fund declined to participate, so that the Joint Transactions Committee may determine whether all investments made during the preceding quarter, including those investments in which the Registered Fund declined to participate, comply with the conditions of the order. In addition, the Joint Transactions Committee will consider at least annually the continued appropriateness

of the standards established for coinvestment by the Registered Fund, including whether the use of the standards continues to be in the best interests of the Registered Fund and its shareholders and does not involve overreaching on the part of any person concerned.

9. Except for a Follow-On Investment made pursuant to condition 5 above, no investment will be made by a Registered Fund in reliance on the order in private placement securities of any entity if the Adviser knows or reasonably should know that another Registered Fund or Unregistered Account or any affiliated person of such Registered Fund or Unregistered Account then currently holds a security issued by that entity.

10. Any transaction fee (including break-up or commitment fees but excluding brokerage fees contemplated by section 17(e)(2) of the Act) received by the applicants in connection with a transaction entered into in reliance on the requested order will be distributed to the participants on a *pro rata* basis based on the amounts they invested or committed, as the case may be, in such transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a) of the Act, and the account will earn a competitive rate of interest that also will be divided *pro rata* among the participants based on the amounts they invested or committed, as the case may be, in such transaction. The Adviser will receive no additional compensation or remuneration of any kind as a result of or in connection with a coinvestment, or compensation for its services in sponsoring, structuring, or providing managerial assistance to an issuer of private placement securities that is not shared *pro rata* with the coinvesting Registered Funds and Unregistered Accounts.

11. Each Registered Fund will comply with the fund governance standards as defined in Rule 0–1(a)(7) under the Act. The Registered Funds will not have common Independent Directors.

12. Each applicant will maintain and preserve all records required by section 31 of the Act and any other provisions of the Act and the rules and regulations under the Act applicable to such applicant. The Registered Funds will maintain records required by section 57(f)(3) of the Act as if each of the Registered Funds were a business development company and the coinvestments and any Follow-On Investments (or exercise of warrants, conversion rights or other rights) were approved under section 57(f).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–5709 Filed 4–17–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53630; File No. SR–ISE–2006–18]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for Non-ISE Market Maker Orders

April 11, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 2006, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the ISE. The ISE has designated this proposal as one changing a fee imposed by the ISE under section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees to adopt a fee for non-ISE market maker orders. The text of the proposed rule change is available on the Exchange's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*) and at the Commission's Public Reference Room. Below is the text of the proposed rule change. Proposed new language is *italicized*.

Electronic market place	Amount	Billable unit	Frequency	Notes
Execution Fees				
* * * * * * *				
• *ISE* Market Maker				For Complex Orders, fee charged only for the leg of the trade consisting of the most contracts. For a pilot period ending November 30, 2006 in transactions in QQQQ, this fee (i) is reduced by $.10 per Member for monthly A.D.V. above 8,000 contracts/sides and (ii) is waived entirely per Member for monthly A.D.V. above 10,000 contracts/sides.
A.D.V. Less Than 300,000	$0.21	Contract/side	Transaction	Based on Exchange A.D.V.
A.D.V. From 300,001 to 500,000	$0.17	Contract/side	Transaction	Based on Exchange A.D.V.
A.D.V. From 500,001 to 1,000,000	$0.14	Contract/side	Transaction	Based on Exchange A.D.V.
A.D.V. Over 1,000,000	$0.12	Contract/side	Transaction	Based on Exchange A.D.V.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Electronic market place	Amount	Billable unit	Frequency	Notes
• *Non-ISE Market Maker*	$0.16	Contract/side	*Transaction*	*The term "Non-ISE Market Maker" means a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.*
* *	*	*	*	* *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to establish a fee for FARMM orders. FARMM orders are orders that are sent to the Exchange for execution by an Electronic Access Member, an ISE member, on behalf of a non-ISE market maker. FARMM orders do not include Linkage Orders. Under ISE's Schedule of Fees, the Exchange currently treats FARMM orders as Firm Proprietary orders. As such, both these order types are charged an execution fee and a comparison fee of $0.15 and $0.03 per contract, respectively. The ISE represents that non-ISE market makers that trade on the Exchange do not pay all of the same fees that ISE market makers pay, such as membership and regulatory fees. Thus, ISE market makers are subsidizing non-ISE market makers' trading on the Exchange. Accordingly, for competitive reasons, the Exchange proposes to create a new fee of $0.19 per contract for all FARMM orders, comprised of an execution fee and a comparison fee of $0.16 and $0.03 per contract, respectively. The Exchange notes that other options exchanges currently assess a per contract surcharge on non-Linkage trades executed for the account of a non-member market maker. For example, the Exchange believes that the Chicago Board Options Exchange (''CBOE''), the American Stock Exchange (''Amex''), and the Philadelphia Stock Exchange (''Phlx'') currently charge FARMM orders $0.26,[5] $0.21,[6] and $0.24,[7] per contract, respectively. The Exchange believes that the proposed increase by the Exchange of $0.01 per contract from the current fees paid by non-ISE market makers will still leave ISE as the least expensive venue for executing FARMM orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among the ISE's members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(2) thereunder,[10] because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2006–18 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2006–18. 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

[5] *See* CBOE Fees Schedule, dated March 1, 2006, at *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[6] *See* Amex Price List, dated March 15, 2006, at *http://www.amex.com/atamex/constitutionRules/at_feeSched.pdf.*

[7] *See* Phlx Fee Schedule, dated February 2006, at *http://www.phlx.com/exchange/memservices/feesched.pdf.*

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2006–18 and should be submitted on or before May 9, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–5708 Filed 4–17–06; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10437 and # 10438]

Illinois Disaster Number IL–00003

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1633–DR), dated March 28, 2006.

Incident: Tornadoes and Severe Storms.

Incident Period: March 11, 2006 through March 13, 2006.

Effective Date: April 6, 2006.

Physical Loan Application Deadline Date: May 30, 2006.

EIDL Loan Application Deadline Date: December 28, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of ILLINOIS, dated March 28, 2006 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Morgan, and Greene.

Contiguous Counties:

Illinois: Brown, Calhoun, Jersey, Pike, and Scott.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–5699 Filed 4–17–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10428 and #10429]

Missouri Disaster Number MO–00002

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1631–DR), dated March 16, 2006.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: March 11, 2006 through March 31, 2006.

Effective Date: April 6, 2006.

Physical Loan Application Deadline Date: May 15, 2006.

EIDL Loan Application Deadline Date: December 15, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Missouri, dated March 16, 2006 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Crawford

Contiguous Counties: All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Cheri L. Cannon,

Acting Associate, Administrator for Disaster Assistance.

[FR Doc. E6–5697 Filed 4–17–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10440 and # 10441]

Tennessee Disaster Number TN–00008

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Tennessee (FEMA–1634–DR), dated April 5, 2006.

Incident: Tornadoes and Severe Storms.

Incident Period: April 2, 2006 and continuing through April 8, 2006.

Effective Date: April 10, 2006.

Physical Loan Application Deadline Date: June 5, 2006.

EIDL Loan Application Deadline Date: January 5, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Tennessee, dated April 5, 2006, is hereby amended to re-establish the incident period for this disaster as beginning April 2, 2006 and continuing through April 8, 2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–5698 Filed 4–17–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending March 24, 2006

The following Agreements were filed with the Department of Transportation under 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–2006–24237.

Date Filed: March 20, 2006.

[11] 17 CFR 200.30–3(a)(12).

Parties: Members of the International Air Transport Association.

Subject: TC12 North Atlantic-Middle East except between USA and Jordan (Memo 0249).

Minutes: TC12 North/Mid/South Atlantic-Middle East Geneva & Teleconference, 16–17 February 2006 (Memo 0252).

Fares: TC12 North/Mid/South Atlantic-Middle East Geneva & Teleconference, 16–17 February 2006 (Memo 0138).

Intended effective date: 1 April 2006.

Docket Number: OST–2006–24266.

Date Filed: March 23, 2006.

Parties: Members of the International Air Transport Association.

Subject: PTC2 ME–AFR 0144 dated 23 February 2006 TC2 Middle East-Africa Resolutions r1–r14.

Minutes: PTC2 ME–AFR 0145 dated 28 January 2006.

Tables: PTC2 ME–AFR Fares 0072 dated 23 February 2006.

Intended effective date: 1 May 2006.

Docket Number: OST–2006–24272.

Date Filed: March 23, 2006.

Parties: Members of the International Air Transport Association.

Subject: PTC2 AFR 0167 dated 23 February 2006, PTC2 Within Africa Resolutions R1–R23, PTC2 AFR 0168 dated 28 February 2006, PTC2 AFR Fares 0060 dated 23 February 2006.

Intended effective date: 1 May 2006.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–5716 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Dealer's Aircraft Registration Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice—Dealer's Aircraft Registration Certificate, AC Form 8050–6.

SUMMARY: The Federal Aviation Administration will begin assigning permanent Dealer's Aircraft Registration Certificate numbers to manufacturers and dealers who currently hold an unexpired dealer's certificate and any new issuances.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Walter Binkley, Manager, Aircraft Registration Branch (AFS–750), Mike Monroney Aeronautical Center, Federal Aviation Administration (AFS–750), Post Office Box 25504, Oklahoma City, OK 73125. Telephone (405) 954–3131.

SUPPLEMENTARY INFORMATION: There are currently more than 3,900 U.S. civil aircraft registered using Dealer's Aircraft Registration Certificate, AC Form 8050–6, (dealer's certificate). Historically, each time a dealer's certificate was issued or renewed, a new certificate number was assigned.

In order to facilitate administration of the Dealer Certificate program, beginning May 1, 2006, the FAA's Aircraft Registry will begin issuing replacement Dealer Certificates with a permanent number assigned to that dealer. Expired Dealer Certificates will not be reissued with a permanently assigned number unless restored as discussed in the last paragraph of this notice. The assignment of a permanent number does not cause the certificate itself to be permanent. In accordance with 14 CFR part 47.71, a dealer's certificate continues to expire 1 year after the date it is issued.

The new permanent dealer certificate number will begin with the letter ''D'' followed by six numbers, i.e. D000001, The permanent certificate number will facilitate linking all aircraft currently registered under that dealer's certificates to that dealer. The aircraft records will reflect the address shown on the Dealer's Aircraft Registration Certificate Application, AC Form 8050–5 (dealer's application). Aircraft registered under a dealer's certificate in the future will be linked to the dealer by the permanent certificate number and show the same address as the dealer's application.

Any aircraft registered under a dealer's certificate that has expired will be placed in an Expired Dealer status. An acceptable Dealer's Aircraft Registration Certificate Application, AC Form 8050–5, or an Aircraft Registration Application, AC Form 8050–1, and the appropriate fee must be submitted to re-register the aircraft in accordance with 14 CFR part 47.

Issued in Oklahoma City, OK on April 7, 2006.

Mark Lash,

Manager, Civil Aviation Registry.

[FR Doc. 06–3662 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Buffalo Niagara International Airport, NY

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Niagara Frontier Transportation Authority (NFTA) under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 7, 2005 the FAA determined that the noise exposure maps submitted by the Niagara Frontier Transportation Authority under Part 150 were in compliance with applicable requirements. On March 3, 2006, the FAA approved Buffalo Niagara International Airport's noise compatibility program. Most of the recommendations of the program update were approved. Four measures were disapproved for Part 150 purposes.

DATES: *Effective Date:* The effective date of the FAA's approval of the Buffalo Niagara International Airport's noise compatibility program update is March 3, 2006.

FOR FURTHER INFORMATION CONTACT: Maria Stanco, Environmental Protection Specialist, Federal Aviation Administration, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, NY 11530, Telephone 516 227–3808. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Buffalo Niagara International Airport, effective March 3, 2006.

A. Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in

consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measures according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

1. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

2. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

4. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA New York Airports District Office in Garden City, New York.

The Niagara Frontier Transportation Authority submitted its noise exposure maps, descriptions, and other documentation produced during the noise compatibility study in 2003 to the FAA on March 7, 2005. The Buffalo Niagara International Airport's noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 7, 2005. Notice of this determination was published in the **Federal Register** on September 21, 2005.

The Buffalo Niagara International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on September 7, 2005 and was requested by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted noise compatibility program update contained sixteen proposed actions for noise mitigation. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Acting Associate Administrator for Airports approved the overall program effective March 3, 2006.

Twelve of the sixteen program measures have been approved in whole or in part. Four measures were disapproved for Part 150 purposes.

Noise abatement element 1 (extension of Quiet Time designation), element 2 (preferential runway use), and element 4 (preferential arrival corridors) were disapproved for purposes of Part 150 due to a lack of demonstrated noise benefit to noncompatible land uses exposed to noise levels of DNL 65 dBA. FAA recognizes that these measures are being used on a voluntary basis; a disapproval due to lack of noise benefit information would not prohibit a continuation of this practice. Noise abatement measure 3 (preferential departure corridors) was disapproved for purposes of Part 150. This measure provides noise benefits to land uses exposed to noise levels less than DNL 65 dBA. The NFTA has not adopted standards more stringent than Table 1 of 14 CFR Part 150, which considers land uses exposed to noise levels less than DNL 65 dBA to be compatible. Measure 5 (restrict engine maintenance runups during quiet time) and measure 6 (restrict high speed and high power taxiing) were approved as voluntary measures only.

These determinations are set forth in detail in a Record of Approval signed by the Acting Associate Administrator for Airports on March 3, 2006. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Niagara Frontier Transportation Authority. The Record of Approval also will be available on-line at *http://www.faa.gov/arp/environmental/14cfr150/index14.cfm.*

Issued in Garden City, New York, April 7, 2006.

Otto N. Suriani,

Acting Manager, New York Airports District Office.

[FR Doc. 06–3659 Filed 4–17–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34812 (Sub-No. 1)]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP), pursuant to a written trackage rights agreement entered into between UP and BNSF Railway Company (BNSF), has agreed to grant BNSF temporary overhead trackage rights, to expire on April 30, 2006, over UP's Chester Subdivision between milepost 131.3, Rockview Junction, MO, and milepost 0.0, Valley Junction, IL, a distance of approximately 132 miles. The original grant of temporary overhead trackage rights exempted in *BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 34812 (STB served Jan. 6, 2006), covered the same line, but expired on March 21, 2006. The purpose of this transaction is to modify the temporary overhead trackage rights exempted in STB Finance Docket No. 34812 to extend the expiration date from March 21, 2006, to April 30, 2006.

The transaction was scheduled to be consummated on April 5, 2006, the effective date of this notice. The temporary overhead trackage rights will

allow BNSF to continue to bridge its train service over UP's Chester Subdivision while BNSF's main lines are out of service due to certain programmed track, roadbed and structural maintenance.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34812 (Sub-No. 1), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

Decided: April 11, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–5737 Filed 4–17–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Agency Information Collection Activities; Proposed Collection; Comment Request; Report of International Transportation of Currency or Monetary Instruments

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, the Financial Crimes Enforcement Network invites the general public and other Federal agencies to comment on an information collection requirement concerning the Report of International Transportation of Currency or Monetary Instruments (the ''CMIR''). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 19, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183–0039, *Attention:* PRA Comments—Report of International Transportation of Currency or Monetary Instruments. Comments also may be submitted by electronic mail to the following Internet address: ''*regcomments@fincen.gov*'' with the caption in the body of the text, ''*Attention:* PRA Comments—Report of International Transportation of Currency or Monetary Instruments.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for a copy of the form should be directed to: Office of Regulatory Policy, Financial Crimes Enforcement Network at (202) 354–6400. A copy of the form may also be obtained from the FinCEN Web site at *http://www.fincen.gov/reg_bsaforms.html.*

SUPPLEMENTARY INFORMATION:

Title: Report of International Transportation of Currency or Monetary Instruments.

OMB Number: 1506–0014.

Form Number: FinCEN Form 105.

Abstract: The Bank Secrecy Act (BSA), Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury inter alia to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism or to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the BSA appear at 31 CFR part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of Financial Crimes Enforcement Network.

Pursuant to the BSA, ''a person or an agent or bailee of the person shall file a report * * * when the person, agent, or bailee knowingly—(1) transports, is about to transport, or has transported, monetary instruments of more than $10,000 at one time—(A) from a place in the United States to or through a place outside the United States; or (B) to a place in the United States from or through a place outside the United States; or (2) receives monetary instruments of more than $10,000 at one time transported into the United States from or through a place outside the United States.'' 31 U.S.C. 5316(a). The requirement of 31 U.S.C. 5316(a) has been implemented through regulations promulgated at 31 CFR 103.23 and through the instructions to the CMIR.

Information collected on the CMIR is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is of use in investigations involving international and domestic money laundering, tax evasion, fraud, and other financial crimes.

Current Actions: No changes are being made at this time.

Type of Review: Extension of currently approved collection.

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

Estimated Number of Respondents: 280,000.

Estimated Time Per Respondent: 11 minutes.

Estimated Total Annual Burden Hours: 51,333 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 10, 2006.

Robert Werner,

Director, Financial Crimes Enforcement Network.

[FR Doc. E6–5701 Filed 4–17–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

United States Mint

Proposed Collection: Comment Request for Customer Satisfaction and Opinion Surveys and Focus Group Interviews

AGENCY: United States Mint.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the United States Mint, a bureau of the Department of the Treasury, is soliciting comments on the United States Mint customer satisfaction and opinion surveys and focus group interviews.

DATES: Written comments should be received on or before June 19, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvonne Pollard, Chief, Records Management Division, United States Mint, 801 9th Street, NW., 8th Floor, Washington, DC 20220; (202) 354–6784 (this is not a toll free number); *YPollard@usmint.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection package should be directed to Brenda Butler, Program Analyst, Records Management Division, United States Mint, 801 9th Street, NW., 8th Floor, Washington, DC 20220; (202) 354–6785 (this is not a toll-free number); *BrButler@usmint.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Mint customer satisfaction and opinion surveys and focus group interviews.

OMB Number: 1525–0012

Abstract: The proposed customer satisfaction and opinion surveys and focus group interviews will allow the United States Mint to assess the needs and desires of customers for future products and more efficient, economical services.

Current Actions: The United States Mint conducts customer satisfaction and opinion surveys and focus group interviews to determine the level of satisfaction of United States Mint customers.

Type of Review: Revision of estimated annual respondents and burden hours.

Affected Public: The affected public includes: the serious and casual numismatic collectors, dealers and people in the numismatic business and the general public or one-time only customers.

Estimated Number of Respondents: The estimated number of respondents for the next three years is 15,756.

Estimated Total Annual Burden Hours: The estimated number of annual burden hours is 3010.

Requests for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 12, 2006.

Yvonne Pollard,

Chief, Records Management Division, United States Mint.

[FR Doc. E6–5725 Filed 4–17–06; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will meet from 8 a.m. to 5 p.m. as indicated below:

Subcommittee for	Date(s)	Location
Mental Hlth & Behav Sciences-B	May 4, 2006	Doubletree Washington
Nephrology	May 8, 2006	Hotel Rouge
Immunology-A	May 9, 2006	Topaz Hotel
Immunology-B	May 12, 2006	Doubletree Washington
Aging and Clinical Geriatrics	May 12, 2006	Hotel Madera
Mental Hlth & Behav Sciences-A	May 15, 2006	Wyndham Hotel
Oncology-A	May 15–16, 2006	Hilton Embassy Row
Infectious Diseases-B	May 17, 2006	Crowne Plaza Silver Spring
Hermatology	May 18, 2006	Holiday Inn Central
Endocrinology-B	May 19, 2006	Doubletree Rockville
Cardiovascular Studies-A	May 22, 2006	The Churchill Hotel
Cellular & Molecular Medicine	May 22, 2006	One Washington Circle
Epidemiology	May 23, 2006	St. Gregory Hotel
Cardiovascular Studies-B	May 25, 2006	Doubletree Washington
Neurobiology-A	June 2, 2006	One Washington Circle

Subcommittee for	Date(s)	Location
Oncology-B	June 5–6, 2006	Hilton Embassy Row
Neurobiology-C	June 7–8, 2006	Wyndham Hotel
Gastroenterology	June 8, 2006	Courtyard Rockville
Infectious Diseases-A	June 9, 2006	Marriott Bethesda North
Neurobiology-D	June 12, 2006	Hilton Embassy Row
Surgery	June 12, 2006	Hilton Embassy Row
Respiration	June 12, 2006	Hilton Embassy Row
Endocrinology-A	June 14–15, 2006	Wyndham Hotel
Clinical Research Program	June 16, 2006	The Churchill Hotel
Neurobiology-E	June 16, 2006	Doubletree Washington

The addresses of the hotels are:

Courtyard Rockville, 2500 Research Boulevard, Rockville, MD.

Crowne Plaza Silver Spring, 8777 Georgia Avenue, Silver Spring, MD.

Doubletree Washington, 1515 Rhode Island Avenue, NW., Washington, DC.

Doubletree Rockville (The Doubletree Hotel & Executive Meeting Center), 1750 Rockville Pike, Rockville, MD.

Hilton Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC.

Holiday Inn Central, 1501 Rhode Island Avenue, NW., Washington, DC.

Hotel Madera, 1310 New Hampshire Avenue, NW., Washington, DC.

Hotel Rouge, 1315—16th Street, NW., Washington, DC.

Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD.

One Washington Circle Hotel, One Washington Circle, NW., Washington, DC.

St. Gregory Hotel, 2033 M Street, NW., Washington, DC.

The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC.

Topaz Hotel, 1733 N Street, NW., Washington, DC.

Wyndham Hotel, 1400 M Street, NW., Washington, DC.

The purpose of the Merit Review Board is to provide advice on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for VA merit review consideration. Proposals submitted for review by the Board involve a wide range of medical specialities within the general areas of biomedical, behavioral and clinic science research.

The subcommittee meetings will be open to the public for approximately one hour at the start of each meeting to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meetings involves discussion, examination, reference to staff and consultant critiques of research protocols. During this portion of the subcommittee meetings, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which could significantly frustrate implementation of proposed agency action regarding such research projects.

As provided by subsection 10(d) of Public Law 92–463, as amended, closing portions of these subcommittee meetings is in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Those who plan to attend or would like to obtain a copy of minutes of the subcommittee meetings and rosters of the members of the subcommittees should contact LeRoy G. Frey, PhD, Chief, Program Review (121F), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 at (202) 254–0288.

Dated: April 10, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–3650 Filed 4–17–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Services National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held on May 3–6, 2006, at the John Ascuga's Nugget, 1100 Nugget Avenue, Sparks, Nevada. The meeting sessions are scheduled from 6 p.m. until 9 p.m. on May 3; from 8:30 a.m. until 11:30 a.m. on May 4, 5 and 6, with a closing program at 6 p.m. on May 6. The meeting is open to the public.

The Committee advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities within VA health care facilities.

The purposes of this meeting are to provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between the participating organizations, representatives and the VA Voluntary Service Office; to provide educational opportunities for improving volunteer programs, with special emphasis on recruitment, retention and recognition of volunteers; and to approve Committee recommendations. This year marks the 60th anniversary of the creation of the VA Voluntary Service.

The May 3 session will feature award presentations involving the member organizations. Remarks will be presented by several VA and local officials.

The May 4 session will feature remarks by the Under Secretary for Health who will also present an updated Voluntary Service report. The Director of the Voluntary Service Office will officially recognize recipients of the VAVS American Spirit Award, VAVS Award for Excellence, and NAC Volunteers of the Year. After the session, there will be educational workshops entitled Fisher House, Mentoring Youth Volunteers, Recruitment Tips for Baby Boomers, and Family Volunteering.

On May 5, the business session will include subcommittee reports and presentations on the Veterans Canteen Service and National Cemetery Administration. The James H. Parke Memorial Scholarship Luncheon will be held to honor an outstanding youth volunteer. This session will be followed

by educational workshops entitled VAVS History, VAVS Recommendations, Cemetery Service, and Partnering with DoD/Family Support.

The May 6 session will include a presentation on Echo Taps, planning for next year's meeting and closing remarks by the Chairman. The evening will conclude with a Volunteer Recognition Dinner.

No time will be allocated at this meeting for receiving oral presentations from the public. However, interested persons may either attend or file statements with the Committee. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Ms. Laura Balun, Director, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Individuals interested in attending are encouraged to contact Ms. Balun at (202) 273–8952.

Dated: April 7, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–3649 Filed 4–17–06; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
April 18, 2006

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25, 121, and 129

Aging Aircraft Program: Widespread Fatigue Damage; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, and 129

[Docket No. FAA–2006–24281; Notice No. 06–04]

RIN 2120–AIO5

Aging Aircraft Program: Widespread Fatigue Damage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action is intended to prevent widespread fatigue damage by proposing to require that design approval holders establish operational limits on transport category airplanes. Design approval holders would also be required to determine if maintenance actions are needed to prevent widespread fatigue damage before an airplane reaches its operational limit. Operators of any affected airplane would be required to incorporate the operational limit and any necessary service information into their maintenance programs. Operation of an affected airplane beyond the operational limit would be prohibited, unless an operator has incorporated an extended operational limit and any necessary service information into its maintenance program.

DATES: Send your comments on or before July 17, 2006.

ADDRESSES: You may send comments [identified by Docket Number FAA–2006–24281] using any of the following methods:

- 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. Due to the suspension of paper mail delivery to DOT headquarters facilities, we encourage commenters to send their comments electronically.
- Fax: 1–202–493–2251.
- 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.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

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: Walter Sippel, FAA, Transport Airplane Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, WA 98039–4056; telephone (425) 227–2774, fax (425) 227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

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

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/nprm.cfm?nav=nprm;* or

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

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

I. Executive Summary

The rule proposed today would establish operational limits for transport category airplanes to preclude widespread fatigue damage (WFD). It would also require actions to prevent WFD in repairs, alterations, and modifications [1] to these airplanes. This proposal should preclude WFD from occurring in transport category airplanes by providing a more proactive management of WFD.

This proposal would require type certificate (TC) holders to establish an initial operational limit on certain airplanes. Operation of these airplanes beyond the initial operational limit would be prohibited, unless operators have incorporated an extended operational limit into their maintenance programs. Type certificate holders would be required to develop the initial

[1] Throughout this proposal, reference is made to ''alterations'' and ''modifications.'' We consider these terms to be synonymous. An ''alteration'' is a design change that is made to an airplane; however, various segments of industry have also defined these changes as ''modifications.'' Therefore, we use both terms in the proposed rule to be all inclusive of any design change and to avoid potential misinterpretation of the intent of these terms.

operational limits based on an evaluation of WFD susceptibility, both for existing airplanes and for proposed future certifications. For future type certification, all TC applicants for transport category airplanes would be affected. For existing type certificates, this proposal would affect only airplanes with maximum takeoff gross weights (MTGW) over 75,000 pounds, including airplanes that have had the MTGW increased to greater than 75,000 pounds. (These airplanes are referred to in this document as large transport category airplanes.) Supplemental type certificate (STC) holders for these airplanes would be required to evaluate their STCs for WFD and the ability of the airplane to remain free of WFD up to the initial operational limit established by the TC holder.

Once the proposed initial operational limits are developed, then operational rules in parts 121 and 129 would require operators to incorporate initial operational limits into their maintenance programs. The proposed operational rules would prohibit operation beyond the limit established for an airplane. However, the proposed design approval holder and operational rules would provide means for any person to extend the initial operational limit and for operators to operate an airplane under the extended operational limit. If an extended operational limit is incorporated, the proposed operational rules would prohibit operation beyond the extended operational limit established for an airplane. In addition, the proposed operational rules would address repairs, alterations, and modifications to airplanes operating with an extended operational limit.

The present value benefits of this proposal consist of $726 million of accident prevention benefits and $83 million of detection benefits for total benefits of $809 million. The detection benefits are the benefits resulting from averted accidents and a reduction in unscheduled maintenance and repairs. The present value cost of this proposal, estimated over 20 years, is $360 million. The FAA estimates that airplane manufacturers would incur approximately 10 percent of these costs, while the remaining 90 percent of these costs would be borne by operators.

II. Background

A. Widespread Fatigue Damage

WFD is the simultaneous presence of cracks at multiple structural locations that are of sufficient size and density such that the structure will no longer meet the residual strength requirements of section 25.571(b). Fatigue damage is the gradual deterioration of a material subjected to repeated loads. Airplane structure experiences fatigue damage because it is subjected to repeated loads, such as the pressurization and depressurization of an airplane that occurs with each flight. The fatigue damage could result in cracks occurring in structure over time.

The likelihood of WFD in airplane structure increases with use. WFD results from many cracks that are generally too small to be reliably detected using existing inspection methods. These cracks could grow together very rapidly, so that failure could occur before another inspection is performed to detect them. The simultaneous presence of fatigue cracks that may grow together, with or without other damage in the same structural element, such as a large skin panel, is known as multiple site damage. The simultaneous presence of fatigue cracks in similar adjacent structural elements, such as frames and stringers, is known as multiple element damage. Some structural elements can be susceptible to both types of damage, which potentially could occur at the same time. If undetected, either type of damage could lead to catastrophic failure due to reduction of the strength capability of the structure.

The FAA, the European Joint Aviation Authorities, and representatives of the Airworthiness Assurance Working Group, working under the support of the Aviation Rulemaking Advisory Committee (ARAC), reviewed available service difficulty reports for the transport airplane fleet. They also evaluated the certification and design practices applied to these previously certificated airplanes, including fatigue test results. The review revealed that all airplanes in the fleet are susceptible to multiple site damage or multiple element damage. Table 1 identifies examples of structures susceptible to multiple site damage (MSD) and multiple element damage (MED).

TABLE 1.—EXAMPLES OF STRUCTURES SUSCEPTIBLE TO WIDESPREAD FATIGUE DAMAGE

Structure	Susceptible to
Longitudinal skin joints, frames and tear straps.	MSD/MED
Circumferential joints and stringers.	MSD/MED
Fuselage frames	MED
Lap joints with milled, chem.-milled, or bonded radius.	MSD
Stringer-to-frame attachments	MED
Shear clip end fasteners on shear tied fuselage.	MSD/MED
Aft pressure dome outer ring and dome web splices.	MSD/MED
Skin splice at aft pressure bulkhead.	MSD
Abrupt changes in web or skin thickness (pressurized or unpressurized structure).	MSD/MED
Window surround structure	MSD/MED
Overwing fuselage attachments.	MED
Latches and hinges of nonplug doors.	MSD/MED
Skin at runout of large doubler (MSD), fuselage, wing, or empennage.	MSD
Rib to skin attachments	MSD/MED
Typical wing or empennage structure.	MSD/MED
Wing and empennage chordwise splices.	MSD/MED

B. History of WFD in Transport Category Airplanes

In April 1988, an 18-foot section of the upper fuselage of an Aloha Airlines Boeing Model 737 airplane separated from the airplane en route from Hilo to Honolulu, Hawaii. The National Transportation Safety Board determined that, among other things, WFD was a contributing cause of this accident. Since then, WFD appears to have played a role in several safety incidents involving large transport airplanes, although there has not been a catastrophic accident directly attributable to WFD. In particular, the FAA has issued or is in the process of issuing Airworthiness Directives (ADs) addressing aft pressure bulkhead cracks, lap splice cracks, and frame cracks.

C. Industry Input/Aviation Rulemaking Advisory Committee

The FAA has tasked the ARAC to address several issues related to widespread fatigue damage. In 2001, the ARAC recommended imposing a limit on the validity of maintenance programs, requiring an evaluation of repairs, alterations and modifications, and providing a means of extending the limit of validity of the maintenance program for large transport category airplanes. The ARAC also recommended that elements of the existing aging airplane program be included or referenced in the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness (ICA). In 2003, the ARAC recommended imposing a limit on the validity of maintenance programs for all

newly certificated transport category airplanes.

The ARAC recognized that structural fatigue characteristics of airplanes are only understood up to a point in time consistent with the analyses performed and the amount of testing accomplished. The maintenance program inspections related to structural fatigue are based on the results of these analyses and tests. Therefore, these inspections may need to be supplemented by further inspections, modifications, or replacements, if operation beyond a certain point is planned. The ARAC recommended that there should be a ''limit of validity of the maintenance program'' to limit the operation of an airplane. Once an airplane reached this limit, the operator should no longer operate the airplane, unless the operator has incorporated an extended limit of validity and any necessary service information into its maintenance program.

D. Current Regulations and Programs Related to WFD

1. Existing Design Criteria

In the design process, a type certificate applicant generally establishes an expected economic life for the airplane, known as a design service goal. Applicants traditionally defined the design service goal early in the development of a new airplane, based on economic analyses, past service experience with prior models, and in some cases fatigue testing. Design approval holders have also performed additional fatigue tests, teardown inspections, and analyses to support changing design service goals to extended service goals. The regulations required applicants and design approval holders only to show that individual fatigue cracks would not lead to catastrophic structural failure. Since 1978, 14 CFR 25.571 has required applicants for new type certificates for transport category airplanes to establish inspections to detect fatigue cracks before they can grow to the point of catastrophic failure (43 FR 46242, October 5, 1978). These inspections are documented in the ALS.

In 1998, the FAA amended the aircraft certification requirements for transport category airplanes (63 FR 15707, March 31, 1998). As part of the certification process, section 25.571 now requires full-scale fatigue test evidence to demonstrate that WFD will not occur before an airplane reaches its design service goal. Only a few airplane models are subject to this new requirement, because the applications for most type certificates predate 1998. Even with the requirement to perform full-scale fatigue testing, there is no requirement to limit the operation of an airplane once it reaches the design service goal.

2. Instructions for Continued Airworthiness

As part of the current certification process, TC holders and STC holders who applied for a certificate after January 28, 1981 are required by § 21.50 to make available at least one set of complete ICA to the owner of the airplane. The ICA must include inspection and replacement instructions for airplane structure. Also, any person who makes a design change to airplane structure must provide the airplane owner with a complete set of the ICA for that change.

In developing the ICA, the applicant is required to include certain information, such as a description of the airplane and its systems, servicing information, and maintenance instructions (§ 25.1529). The applicant must include the frequency and extent of the structural inspections necessary to provide for the continued airworthiness of the airplane as well as an FAA-approved ALS listing all mandatory inspections, inspection intervals, replacement times, and related procedures. The FAA requires operators to comply with each ALS established under § 25.1529 for newly certified airplanes or with operation specifications approved under part 121 or 135. Operators may also incorporate tasks—from a Maintenance Review Board document that has been approved by the FAA [2]—into their maintenance program.

3. Airworthiness Directives

The FAA currently issues ADs when we find that an unsafe condition exists in a product and the condition is likely to exist or develop in other products of the same type design. Because WFD could lead to a catastrophic failure due to reduction of the strength capability of the structure, we would issue an AD to address a finding of WFD in a particular product. An AD typically addresses an unsafe condition by requiring inspection, modification, or replacement of certain structure, or a combination of these approaches. ADs are reactive and address only known instances of WFD. Additionally, ADs are directed towards a specific group of airplanes. Hence, WFD may go undetected in other airplanes with similar structures.

4. Aging Aircraft Program

In October 1991, Congress enacted the Aging Aircraft Safety Act of 1991 (49 U.S.C. 44717) to address aging aircraft concerns. In response to the Act, the FAA published an interim final rule that amended §§ 121.368, 121.370a, 129.16, and 129.33 of the air carrier operating rules (67 FR 72726, December 6, 2002). Sections 121.368 and 129.33 require mandatory records reviews and airplane inspections after the airplane has been in service 14 years. In addition, §§ 121.370a and 129.16 require damage-tolerance-based inspections and procedures on airplanes operated under 14 CFR parts 121 and 129, respectively.

In response to the Aloha Airlines accident, the FAA formed the Airworthiness Assurance Task Force to investigate and propose solutions to the problems evidenced as a result of the accident. The task force was comprised of operators, manufacturers, and regulatory authorities. The task force recommended establishment of an Aging Airplane Program. Under the Aging Airplane Program, the FAA has mandated the following four separate programs:

- Supplemental Structural Inspection Programs for certain large transport category airplanes;
- Corrosion Prevention and Control Programs for certain large transport category airplanes;
- Repair Assessment Program to ensure existing and future repairs to the fuselage pressure boundary are assessed for damage tolerance.
- Mandatory Modification Program, based on the premise that to ensure the structural integrity of older airplanes there should be less reliance on repetitive inspections. (The determination of whether a modification is required is based on meeting certain criteria.)

These four programs or their equivalent make up the current structural maintenance program that operators incorporate into their maintenance or inspection programs to address aging structures. However, none of the programs address widespread fatigue damage.

[2] The FAA establishes a Maintenance Review Board comprised of subject matter experts who oversee development of a maintenance program for a specific airplane. In conjunction with the work of the review board, an industry steering committee comprised of representatives from the applicant, operators, and the FAA, analyzes maintenance requirements for that specific airplane. The review board and the steering committee then produce a Maintenance Review Board document that contains, among other task, inspections of the airplane structure. These inspections, in conjunction with any airworthiness limitation items established under § 25.271, address accidental damage environmental damage, and fatigue damage.

5. Advisory Circulars

We have considered issuing Advisory Circulars (ACs) to give guidance on the changes needed to prevent WFD. Advisory Circulars, however, depend on voluntary compliance and are not enforceable. Therefore, use of ACs alone would ensure neither consistent results nor achievement of the WFD safety objectives for the current and future fleet.[3]

E. Summary of the Proposal

Long-term reliance on existing requirements, even those that incorporate the latest mandatory changes introduced to combat structural degradation due to WFD, creates a risk of structural failure and related accidents because the requirements are inadequate to preclude WFD.

To address WFD, we need a proactive approach, i.e., address conditions affecting safe flight that we know can happen—before they happen. This approach would require persons to analyze the causes of WFD in relation to the entire airplane and to analyze repairs, alterations, and modifications installed on the airplane.

Based on the ARAC recommendations[4] and our own analysis, we have determined that operators, TC holders, and STC holders need to place more emphasis on WFD. This proposal is designed to heighten the awareness of the threat of WFD to airplanes and to change the current approach to maintaining and modifying them. Table 2 summarizes the proposed regulatory changes discussed today.

TABLE 2.—SUMMARY OF PROPOSED REGULATORY CHANGES ADDRESSING WFD

14 CFR	Description of proposal	Applies to	Compliance date
§ 25.571	Replace ''design service goal'' with ''initial operational limit.'' Require an initial operational limit as part of the Airworthiness Limitation Section (ALS) of the Instructions for Continued Airworthiness (ICA).	Future applicants for new Type Certificates (TC).	Before approval of TC by Aircraft Certification Office (ACO).
§ 25.1807	Require initial operational limits for all transport category airplanes with a Maximum Takeoff Gross Weight (MTGW) greater 75,000 lb.	TC holders	December 18, 2007.
		Supplemental TC (STC) holders*	December 18, 2007.
		Applicants for pending TCs and STCs.*	Later of December 18, 2007, or date of certificate.
		Applicants for new STCs* and amended TCs.*	Later of December 18, 2007, or date of certificate.
	Establish WFD guidelines for assessing repairs, alterations, and modifications.	TC holders	December 18, 2009.
		Applicants for TCs	Later of December 18, 2009, or date of certificate.
§ 25.1809	Require WFD assessment of all existing, pending, and future structural design changes in relationship to initial operational limits; require development of any maintenance actions to preclude WFD.	STC holders (other than those covered by § 25.1807).	December 18, 2010.
		Applicants for pending and future STCs and amended TCs.	Later of December 18, 2010, or date of certificate.
§ 25.1811	Establish requirements for extending any operational limits.	Any person	Before approval of extension by ACO.
§ 25.1813	Establish requirements for evaluating certain repairs, alterations, and modifications proposed for installation on airplanes with an extended operational limit.	Any person seeking approval for repairs, alterations, or modifications.	Before approval of repairs, alterations, or modifications by ACO.
Appendix H to part 25	Require initial operational limits as part of the ALS of the ICA. Require guidelines for evaluating WFD effects of repairs, alterations, and modifications.	Applicants for future TCs	Before approval of TC by ACO.
§ 121.1115 § 129.115	Require operators to incorporate operational limits into their maintenance programs.	U.S. certificate holders and foreign persons operating U.S.-registered transport category airplanes.	June 18, 2008.
	Require operators to incorporate any WFD airworthiness limitations for airplanes with extended operational limits.		Before operating under extended operational limit.

[3] Voluntary safety assessments, such as those relating to the thrust reverser and cargo door reviews, have been difficult to complete in a timely manner because they lacked enforceability.

[4] ''Structural Fatigue Evaluation for Aging Airplanes'' (October, 1993); recommendation to add an appendix to AC 91–56, ''Supplemental Structural Inspection Program (SSIP) for Large Transport Category Airplanes''; ''Recommendations for Regulatory Action to Prevent Widespread Fatigue Damage in the Commercial Fleet'' Rev. A (June, 1999); ''General Structures Harmonization Working Group Report Damage Tolerance and Fatigue Evaluation of Structures FAR/JAR § 25.571'' (October, 2003).

TABLE 2.—SUMMARY OF PROPOSED REGULATORY CHANGES ADDRESSING WFD—Continued

14 CFR	Description of proposal	Applies to	Compliance date
	Establish requirements for identification and evaluation of certain repairs, alterations, and modifications installed on airplanes operating under an extended operational limit.	.....	Within 90 days after return to service, following repairs, alterations, or modifications.

*Where STC increases MTGW to greater than 75,000 lb.

Note. There are also requirements for current holders of design approvals and those with pending design approvals to develop compliance plans, detailing how they will achieve compliance with the applicable requirements. For future applicants, similar information would be contained in a certification plan. To simplify the table above, these administrative requirements were omitted.

III. Requirements for Design Approval Holders

A. Ongoing Responsibility of Type Certificate Holders for Continued Airworthiness

Several recent safety regulations necessitated action by air carriers and other operators but did not require design approval holders to develop and provide the necessary data and documents to facilitate the operators' compliance. Operators are often dependent on action by a design approval holder before they can implement new safety rules. Ongoing difficulty reported by operators in attempting to meet these rules has convinced us that corresponding design approval holder (DAH) responsibilities may be warranted under certain circumstances to enable operators to meet regulatory deadlines. When DAHs fail to provide the required data in a timely manner, operators may be forced to incur the costs associated with obtaining the expertise to develop the data. Some examples of programs in which some DAHs did not develop and make available the necessary information in a timely manner include:

- Thrust reversers, where it took 10 years to develop some service information AD-related items;
- Class D to Class C Cargo Conversions, where one TC holder did not develop the necessary modifications in time to support operator compliance and where several operators were unable to obtain timely technical support and modification parts from STC holders;
- The Reinforced Flight Deck Door Program, where most operators had substantially less than the one-year compliance time originally anticipated because of delays in developing and certifying the new designs;
- Repair Assessment Rule, where some operators were required to develop their own data for FAA approval in order to meet the rule's compliance date; and
- Structural Repair Manuals, where operators are still awaiting DAH action to perform damage tolerance evaluations and establish inspections, even though the DAH committed to completing this activity by 1993.

In addition, DAHs have committed in the past to providing data to the FAA to support the certification basis of an airplane. In some instances, the DAH has missed the due date given for this commitment by up to 13 years.

We intend to require type-certificate holders, manufacturers and others to take actions necessary to support the continued airworthiness of and to improve the safety of transport category airplanes. Such actions include performing assessments, developing design changes, revising ICAs, and making available necessary documentation to affected persons. We believe this requirement is necessary to facilitate compliance by air carriers with operating rules that in effect demand the use of new safety features.

To address this problem, we propose to amend subpart A of part 25 to expand its coverage and to add a new subpart I to establish requirements for current holders. As discussed in our final rule, ''Fuel Tank Safety Compliance Extension and Aging Airplane Program Update'' (69 FR 45936, July 30, 2004), this and related proposals would add provisions to a new subpart I requiring actions by design approval holders that will allow operators to comply with our rules.

Part 25 currently sets airworthiness standards for the issuance of TCs and changes to those certificates for transport category airplanes. It does not list the specific responsibilities of manufacturers to ensure continued airworthiness of these airplanes once the certificate is issued. Therefore, we propose to revise § 25.1 by adding paragraph (c) to make clear that part 25 creates such responsibilities for holders of existing type and supplemental type certificates for transport category airplanes and applicants for approval of design changes to those certificates. Paragraph (d) would be added to make part 25 applicable to persons seeking approval of repairs, alterations, or modifications of certain transport category airplanes. This latter category is included, because repairs, alterations, and modifications can affect the structural integrity of the airplane. These changes may have an adverse effect on the continued airworthiness of the airplane. Those seeking approval of these changes should be aware of these effects and address these issues if relevant.

In order to ensure the effectiveness of this change, we would also amend § 25.2(d) (''Special retroactive requirements'') so as to require adherence to a new Subpart I which may require design changes and other activities by manufacturers when needed. The amended paragraph would also apply to persons seeking approval of repairs, alterations or modifications of transport category airplanes. This latter category is included because repairs, alterations and modifications can affect the structural integrity of the airplane. If the repairs, modifications or alterations are performed incorrectly, they may have an adverse effect on the continued airworthiness of the airplane.

This proposal would establish a new subpart I, Continued Airworthiness and Safety Improvements, where we would locate rules imposing ongoing responsibilities on design approval holders. On July 12, 2005, we issued policy statement PS–ANM110–7–12–2005, ''Safety—A Shared Responsibility—New Direction for Addressing Airworthiness Issues for Transport Airplanes'' (70 FR 40166). The policy states, in part, ''Based on our evaluation of more effective regulatory approaches for certain types of safety initiatives and the comments received from the Aging Airplane Program Update (July 30, 2004), the FAA has concluded that we need to adopt a regulatory approach recognizing the shared responsibility between design approval holders (DAHs) and operators. When we decide that general

rulemaking is needed to address an airworthiness issue, and believe the safety objective can only be fully achieved if the DAHs provide operators with the necessary information in a timely manner, we will propose requirements for the affected DAHs to provide that information by a certain date.''

We believe that the safety objectives contained in this proposal can only be reliably achieved and acceptable to the FAA if the DAHs provide the operators with the initial operational limits required by the proposed operational rules for parts 121 and 129. Our determination that DAH requirements are necessary to support the initiatives contained in this proposal is based on several factors:

- Developing initial operational limits is complex. Only the airplane manufacturer, or DAH, has access to all the necessary type design data needed for the timely and efficient development of the required initial operational limit.
- FAA-approved operational limits need to be available in a timely manner. Due to the complexity of these initial operational limits, we need to ensure that the DAHs submit them for approval on schedule. This will allow the FAA Oversight Office having approval authority to ensure that the initial operational limits are acceptable, are available on time, and can be readily implemented by the affected operators.
- The proposals in this NPRM affect a large number of different types of transport airplanes. Because the safety issues addressed by this proposal are common to many airplanes, we need to ensure that technical requirements are met consistently and the processes of compliance are consistent. This will ensure that the proposed safety enhancements are implemented in a standardized manner.
- The safety objectives of this proposal need to be maintained for the operational life of the airplane. We need to ensure that future design changes to the type design of the airplane do not degrade the safety enhancements achieved by the incorporation of initial operational limits. We need to be aware of future changes to the type designs to ensure that these changes do not invalidate initial operational limits developed under the requirements of this proposal.

Based on the above reasons and the stated safety objectives of FAA policy PS–ANM110–7–12–2005, we are proposing to implement DAH requirements applicable to operational limits.

In the past, this type of requirement took the form of a Special Federal Aviation Regulations (SFAR). These regulations are difficult to locate because they are scattered throughout Title 14. Placing all these types of requirements in a single subpart of part 25 which contains the airworthiness standards for transport category airplanes would provide ready access to critical rules.

In preliminary discussions with foreign aviation authorities with whom we try to harmonize our safety rules, they have expressed concern about consolidating parallel requirements in their counterparts to part 25. They have suggested that it may be more appropriate to place them in part 21 or elsewhere. Therefore, we specifically request comments from the public, including foreign authorities, on the appropriate place for these airworthiness requirements for type certificate holders.

We reserve additional sections in this proposed subpart to include other future aging airplane rules, several of which are under development. Some of these proposals include similar language establishing the general airworthiness responsibilities of manufacturers and thus include some overlapping provisions. Once any proposal establishing these broad responsibilities becomes a final rule, we will delete the duplicative requirements from the other proposals and retain only that language pertinent to any specific new safety regulations (such as fuel-tank flammability reduction).

However, the ongoing-airworthiness requirements in Subpart I would not by their terms reach applicants for TCs with respect to new projects for which application is made after the effective date of the proposed rule. This is unnecessary, because when we adopt a new requirement for TC holders, there will be a corresponding amendment to part 25 expressly making the new, or a similar safety standard a condition for receiving a TC in the future. For example, in this proposal, the new requirements of § 25.571 regarding WFD will govern future applications.

For safety reasons, however, we are requiring that any application for a type design change not degrade the level of safety already created by the TC holder's presumed compliance with the subpart I rule. Currently, when reviewing an application for such a change, we employ the governing standards stated in part 21, specifically § 21.101. That section generally requires compliance with standards in effect on the date of application but contains exceptions that may allow applicants to show compliance with earlier standards. For example, if a change is not considered ''significant,'' the applicant may be allowed to show compliance by pointing to standards that applied to the original TC. (See AC 21.101–1, ''Establishing the Certification Basis of Changed Aeronautical Products,'' a copy of which can be downloaded from *http://www.airweb.faa.gov/rgl*).

With the adoption of subpart I rules, we must ensure that safety improvements that result from TC holder compliance with these requirements are not undone by later modifications. Therefore, even when we determine under § 21.101 that applicants need not comply with the latest airworthiness standards, they will be required to demonstrate that the change would not degrade the level of safety provided by the TC holder's compliance with the subpart I rule. In the context of this proposal, for example, this will mean that an applicant for approval of a design change would have to perform a WFD evaluation to determine if any maintenance actions are necessary to preclude WFD.

B. Applicability

1. Holders of Type Certificates and Supplemental Type Certificates

This proposal, if adopted, would impose requirements on TC holders for all large transport category airplanes. Under § 25.571, an applicant for a TC would have to establish an initial operational limit for the contemplated airplane design as part of its application. Likewise, existing TC holders would have to establish an initial operational limit for all large transport category airplanes under § 25.1807 if the MTGW of the airplane exceeds 75,000 lb. Type certificate and STC holders would also have to establish an initial operational limit for all large transport category airplanes under § 25.1807 if the MTGW of the airplane was 75,000 pounds or less, and later increased to greater than 75,000 pounds by an amended type certificate or supplemental type certificate.

This proposal, if adopted, would apply not only to domestic TC and STC holders, but also to foreign TC and STC holders. This rule would be different from most type certification programs for new TCs, where foreign applicants typically work with their responsible certification authority and the FAA relies to some degree upon that authority's findings of compliance under bilateral airworthiness agreements. Presently no other certification authority has adopted requirements addressing WFD for existing TCs. Additionally, while some

authorities have indicated an interest in adopting some type of requirements for new airplane designs, they may not adopt requirements applicable to existing TCs.

Accordingly, the FAA will retain the authority to make all the necessary compliance determinations and, where appropriate, may request certain compliance determinations by the appropriate foreign authorities using procedures developed under the bilateral agreements. The compliance planning provisions of this proposed rule are equally important for domestic and foreign TC and STC holders and applicants, and we will work with the foreign authorities to ensure that their TC and STC holders and applicants perform the planning necessary to comply with those requirements.

2. Airplanes

If adopted, this rule would apply, with some exceptions discussed below, to large transport category airplane designs (MTGW greater than 75,000 pounds) by virtue of either the original certification of the airplane or a later increase in its MTGW. All transport category airplanes certificated under a TC that was applied for after the effective date of the final rule would also be subject to the requirements proposed today. This combined approach would result in the coverage of airplanes where the safety benefits and the public interest are the greatest.

The ARAC working group that developed this recommendation did not include design approval holders for airplanes of less than 75,000 pounds MTGW, in part because they were not asked to do so. However, in addition to its WFD recommendations, this working group developed recommendations on other aging airplane issues, including the Supplemental Structural Inspection Program, the Corrosion Prevention and Control Program, the Repair Assessment Program, and the Mandatory Modification Program. Because of these efforts, design approval holders for large transport category airplanes have already developed the technology and the internal organizational capability to address WFD. Therefore, the 75,000 pound MTGW is a logical reference point for developing programs for addressing WFD.

We considered applying this proposal to all existing part 25 airplanes. However, we have determined that smaller regional jets do not currently present a risk of WFD sufficient to justify the cost associated with meeting this proposal.

The 75,000-pound cutoff excludes about 1,600 regional jets that are operating under parts 121 and 129 today. Of those airplanes, there are approximately 430 regional jets that are at least eight years old. These airplanes have accumulated an average of 12,000 flight cycles. The regional jet with the greatest number of flight cycles is 11 years old and has accumulated about 26,000 flight cycles, well below the existing design service goal for this airplane of 60,000 flight cycles.

The FAA recognizes that using a cutoff of 75,000 pounds does not align with the FAA's ''One Level of Safety'' initiative (that is, the same level for all airplanes used in air carrier service). However, we determined a cutoff of 75,000 pounds to be appropriate at this time for the following reasons:

- This is the same cutoff used for the four aging airplane programs mentioned above, and the affected type certificate holders are able to address these problems now.
- Some airplanes over 75,000 pounds are at a greater risk due to higher total cycles and age.
- Most air carrier airplanes are of this size, and many of them are near or over their design service goal.
- The regional jets not affected are relatively young and, therefore, at low risk relative to WFD.
- The high-cycle regional jet will be in service for an additional 14 years before reaching its design service goal.

The FAA may determine that we need to expand the scope of this rule at a later time, based on evaluations of the potential for WFD in regional jets. All of these regional jets are manufactured in other countries, and any efforts to address WFD should be developed in coordination with those countries. Until that time, if WFD problems are identified in these airplanes, we will address them through airworthiness directives. No WFD problems have yet been identified for regional jets. The FAA requests comments on this aspect of the proposed rule.

While the ARAC recommendations applied to all transport category airplanes over 75,000 pounds, the group of airplanes of most concern is that group operating under parts 121 and 129. Because carriers in scheduled operations fly airplanes operated under those parts, they are flown more often than other airplanes of comparable size and are accordingly more likely to develop WFD. Thus, this proposal would exclude airplanes over 75,000 pounds that are not operated under parts 121 or 129. For this reason, we have tentatively decided that this proposal, if adopted, should exclude the Bombardier BD–700, the Gulfstream G–V, the Gulfstream G–VSP, and the British Aerospace, Aircraft Group and Societe Nationale Industrielle Aerospatiale Concorde Type 1.

It is not clear at this time that the possible benefits of this rule for those airplanes would be proportionate to the cost involved. We request comments on the feasibility and benefits of including or excluding these airplanes. We also request comments on the feasibility of including or excluding any other transport category airplanes with a maximum takeoff gross weight greater than 75,000 pounds from the requirements of this provision, whether or not they are operated under parts 121 and 129.

C. Initial Operational Limit (§ 25.571, § 25.1807)

Under this proposal, design approval holders would be required to establish an initial operational limit [5] for all transport airplanes if certificated under a new TC and for those transport airplanes over 75,000 pounds if certificated under an existing TC. Demonstration that WFD will not occur prior to the initial operational limit typically would involve an evaluation of the airplane model using fatigue test evidence, analyses, and airplane service information. Initial operational limits may also include specified maintenance actions necessary to preclude WFD, which would be addressed through the airworthiness directive process.[6]

Airplane owners or operators may need to take certain maintenance actions to support the operational limits. These actions may include additional inspections, structural modifications, or replacements. The inspections would include an inspection start point and repetitive inspection intervals, along with inspection methods. Because inspections may not be reliable in detecting MSD or MED, structural modification points, which may include modifications or replacements, may eventually be required. Means of compliance with the requirements for performing a WFD evaluation and establishing an inspection start point and structural modification points will be further described in a proposed AC.

To establish an initial operational limit, the FAA recognizes that the structural configuration of the airplane

[5] The most direct method for limiting the operation of an airplane is to prohibit operation beyond a certain point. For the purpose of this rule, we are using the term ''operational limit of an airplane'' rather than ''limit of valdity of the maintenance program'' as recommended by ARAC.

[6] We intend to use the AD process, so that operators will have an opportunity to comment on the contemplated maintenance actions.

needs to be identified. Thus, § 25.1807 would specify the airplane structural configurations that must be evaluated. As a minimum, the structural configuration would consist of all model variations and derivatives approved under the type certificate and all structural modifications and replacements mandated by ADs as of the effective date of the rule. These ADs would only be those issued against any configurations developed by TC holders. They would not be for any ADs issued against modifications defined by an STC installed on affected airplanes. The result would be an airplane structural configuration that is clearly understood by both industry and the FAA.

The initial operational limit would be stated as a number of total accumulated flight cycles or flight hours. An initial operational limit based on flight hours may be required for structure, such as the wings, that typically accumulates fatigue damage due to the repeated flight loads that occur on an airplane over time. An initial operational limit based on flight cycles may be required for structure, such as the fuselage, that typically accumulates fatigue damage due to the pressurization and depressurization of an airplane. There is no way to correlate between the two limits without knowing the applicable design and operational variables, such as average flight length. Accordingly, design approval holders may need to establish both a flight hour limit and a flight cycle limit.

The initial evaluation of the airplane structural configuration should identify a projected airplane usage beyond its design service goal (DSG). This projected airplane usage is also known as the ''proposed extended service goal'' (ESG). Typically, an evaluation through at least an additional twenty-five percent of the DSG would provide a realistic ESG. The ESG would be based on an additional evaluation of the airplane structural configuration and depends on the following:

- The projected useful life of the airplane at the time of the initial evaluation;
- Current inspection techniques and procedures; and
- Airline advance planning requirements for introduction of new maintenance actions, to support the ESG.

Design approval holders may select DSGs or ESGs as starting points for establishing initial operational limits. Service information may be available for design approval holders to make those initial operational limits higher. In fact, the FAA is aware that design approval holders may have service information, such as service bulletins or all operator letters that could have an impact on proposed initial operational limits, but have not been mandated by AD. We are also aware that these persons may be in the process of developing service information that could have an impact on proposed initial operational limits. They may choose to specify additional maintenance actions resulting from such service information that could result in higher initial operational limits.

Accordingly, the proposed rule includes an option for design approval holders to use existing maintenance actions for which service information has not been mandated by AD. These maintenance actions would be in addition to the airplane structural configurations that design approval holders would evaluate under the proposed regulation. To use this option, the affected design approval holders would be required to submit a list identifying the existing maintenance actions to the FAA oversight office. The affected design approval holders would then establish initial operational limits based on WFD evaluations that take credit for existing maintenance actions.

The proposed rule also includes an option for affected design approval holders to use maintenance actions for which service information has not been issued. Those maintenance actions would be in addition to the airplane structural configurations that must be evaluated. To use this option, the affected persons would be required to submit a list identifying each of those maintenance actions and a binding schedule for providing in a timely manner the necessary service information for those actions to the FAA oversight office. The binding schedule is necessary to ensure the applicable service information is provided to the FAA in sufficient time for the agency to issue ADs mandating these actions, and operators to comply with them before WFD occurs. The design approval holders would then establish initial operational limits based on WFD evaluations that take credit for maintenance actions for which service information has not been issued.

The WFD evaluation would consist of identifying structure susceptible to multiple site damage or multiple element damage based on the configurations discussed above. Once the structure has been identified, affected design approval holders would determine when WFD is likely to occur. This WFD evaluation would be based on consideration of the following:

- Service history: reported findings of multiple site damage or multiple element damage.
- Test data: WFD information from past component or full-scale test results. This could include information on susceptibility of structure to WFD, crack initiation life, crack growth life, and residual strength.
- Fatigue analyses: predictions of times when multiple site damage or multiple element damage cracking would occur.
- Damage tolerance analyses: predictions of multiple site damage or multiple element crack growth life and residual strength.
- Teardown inspections of high-usage airplanes.

Certain design approval holders have revealed to the FAA their plans to establish initial operational limits that would be 130 to 150 percent of the DSG or ESG for their airplanes. They have also started to identify the necessary maintenance actions, including the inspection and modification start points, to preclude WFD up to the established initial operational limits for these airplanes. Many inspection and modification start points would be approximately at the design service goal or, in some cases, at 125 percent of the design service goal. This would support an initial operational limit that could be substantially higher than the DSG or ESG for a particular airplane. Other design approval holders have indicated that the initial operational limits for their airplanes would be at DSG or ESG. This is because relatively few of their airplanes are in operation today or all of their airplanes are many years away from accumulating the number of flight cycles shown in Table 3.

Table 3 provides estimates of DSGs and ESGs of various airplanes that would be affected by this proposal. These DSGs and ESGs are based on information provided by type certificate holders or on a conservative estimate by the FAA.

TABLE 3.—DESIGN AND EXTENDED SERVICE GOALS

Airplane type	Type certificate	Service goals (in flight cycles)
Airbus:		
A300 B2–1A, B2–1C and B2K–3C	A35EU	48,000
A300 B4–2C and B4–103	A35EU	40,000
A300 Model B4–203	A35EU	34,000
A300 B4–600 Series, B4–600R Series and F4–600R Series	A35EU	30,000
A310–200 Series	A35EU	40,000
A310–300 Series	A35EU	35,000
A319 (all models)	A28NM	48,000
A320 (all models)	A28NM	48,000
A321 (all models)	A28NM	48,000
A330 (all models)	A46NM	40,000
A340 (all models)	A43NM	20,000
Boeing:		
Boeing 707 (–100 series and –200 series)	4A21	20,000
Boeing 707 (–300 series and –400 series)	4A26	20,000
Boeing 717 (all models)	A6WE	60,000
Boeing 720	4A28	30,000
Boeing 727	A3WE	60,000
Boeing 737	A16WE	75,000
Boeing 747	A20WE	20,000
Boeing 757	A2NM	50,000
Boeing 767	A1NM	50,000
Boeing 777	T00001SE	44,000
Bombardier Aerospace Model:		
CL–44D4 and CL–44J	1A20	20,000
British Aerospace Airbus, Ltd.:		
BAC 1–11 (all models)	A5EU	85,000
British Aerospace (Commercial Aircraft) Ltd.:		
Armstrong Whitworth Argosy A.W. 650 Series 101	7A9	20,000
BAE Systems (Operations) Ltd.:		
BAE 46 (all models) and Avro 146	A49EU	50,000
RJ70A, RJ85A and RJ100A (all models)		
Fokker:		
F28/F70/F100 (all models)	A20EU	90,000
Lockheed:		
300–50A01 (USAF C 141A)	A2SO	20,000
L–1011 (all models)	A23WE	36,000
L188 (all models)	A1SO	26,600
382 (all models)	4A22	20,000
1649A–98	4A17	20,000
1049–54, 1049B–55, 1049C–55, 1049D–55, 1049E–55, 1049F–55, 1049G–82	6A5	20,000
49–46, 149–46, 649–79, 649A–79, 749–79, 749A–79	A–763	20,000
McDonnell Douglas:		
DC–6	A–781	20,000
DC–6A (all models)	6A3	20,000
DC–6B (all models)	6A4	20,000
DC–7 (all models)	4A10	20,000
DC–8 (all models)	4A25	50,000
DC–9 (all models)	A6WE	100,000
DC–10–10	A22WE	42,000
DC–10–30, –40	A22WE	30,000
MD–10–10F	A22WE	42,000
MD–10–30F	A22WE	30,000
MD–11 (all models)	A22WE	20,000
MD–80 (all models)	A6WE	50,000
MD–90–30	A6WE	60,000

D. Instructions for Continued Airworthiness (§ 25.571, § 25.1807, § 25.1811, Appendix H)

We propose to require inclusion of the initial operational limit in the ALS of the ICA. This limit would be stated as a number of total accumulated flight cycles or flight hours. We will publish a notice in the **Federal Register** informing the public that the initial operational limits are available on an FAA website when this information is received from the design approval holders.

- For those persons that applied for a TC after the effective date of the rule, the ICA, which includes the ALS, would be provided with an airplane upon delivery. This ICA would also include guidelines to assist in addressing future repairs, alterations, and modifications so that they do not compromise this initial operational limit.
- For those TC holders that currently have an ALS, the ALS would be revised to include the initial operational limit. For those TC holders with airplanes that currently do not have an ALS, the ALS would be established to include the initial operational limit.
- For any person who applies for an extended operational limit, we propose to require inclusion of that limit in a supplement to the ALS. This extended operational limit may include service information documented as airworthiness limitation items that must be accomplished to support the extended operational limit.

The ALS is required by current part 25 and includes those items that have mandatory inspection or replacement times related to structure. However, the current part 25 ALS and ICA requirements apply only to airplanes certified after amendment 25–54 became effective in 1980. As a result, they are not applicable to many current airplanes.

For those TC holders with airplanes that currently do not have an ALS, the ALS would address only initial operational limits. This proposal would not require that the ALS for these airplanes include the other requirements for an ALS established under amendment 25–54 to part 25, or a later amendment.

Assuming the final rule for this proposal is effective December 18, 2006, this proposal would set a 12-month timeframe for development of the ALS, unless previously accomplished, to include initial operational limits. TC holders would be required to comply by December 18, 2007. Persons who have pending applications for TCs would be required to comply by December 18, 2007, or the date a certificate is issued, whichever occurs later. Holders or applicants for STCs, or amendments to TCs, that increase the maximum takeoff gross weight to greater than 75,000 pounds would be required to comply by December 18, 2007, or, in the case of applicants, the date a certificate is issued, whichever occurs later.

In determining the compliance schedules for the proposed requirements, we balanced the safety-related reasons for the rule against the need to give industry sufficient time to comply. Therefore, before setting the proposed compliance dates for analysis completion, we considered the following:

- Alignment with current or planned compliance dates of several aging-related rulemakings, such as the Aging Airplane Safety rule (FR cite), Fuel Tank System safety initiatives (69 FR 45936, 66 FR 23086), and Enhanced Airworthiness Program for Airplane Systems/Fuel Tank Safety (69 FR 58508, October 6, 2005).
- Safety improvements that will result from compliance with this rule.
- Industry's current efforts to incorporate some of these safety initiatives.

However, the rulemaking process took longer than originally anticipated. Consequently, given the specific compliance dates in the proposed rulemaking and the likelihood that finalization of the rules will be later than expected, there may not be as much time allowed for compliance as originally planned. We recognize that compliance intervals may need to be adjusted and will consider your comments on this condition.

E. Service Information and Guidelines for Repairs, Alterations and Modifications (§ 25.1807(g), Appendix H)

The proposal would require affected persons to submit for FAA approval WFD service information and guidelines for addressing repairs, alterations, and modifications. Operators often use manufacturers' data, such as structural repair manuals and service bulletins, to repair or modify their airplanes. Such repairs or modifications could be made at any time during the service life of the airplane. This proposal would require TC holders to evaluate repairs and modifications identified in their structural repair manuals, service bulletins, and other service information and design approvals. The evaluation of these repairs and modifications is necessary to determine if and when WFD is likely to occur. If the evaluation concludes that WFD is likely to occur before the initial operational limit, then service information for maintenance actions must be developed and submitted to the FAA oversight office for approval. Once approved, we would issue ADs that would require operators to perform the maintenance actions.

Because TC holders are the only persons with sufficient knowledge of the airplane to be able to develop the guidelines, they would also be required to develop and submit WFD guidelines for evaluating repairs, alterations, and modifications susceptible to WFD other than those for which they are responsible. The guidelines would use criteria similar to those used to evaluate the full airplane structural configurations discussed above and could include service history, fatigue analysis, test data, or damage tolerance analysis. The guidelines would provide a means to identify repairs, alterations, or modifications that may be susceptible to WFD. As discussed earlier, we have tasked ARAC to provide recommendations for methods to develop this type of guidance. We will provide guidance for development of these guidelines in a proposed AC.

We anticipate the guidelines would have the necessary data to allow others to identify and perform an evaluation of repairs, alterations, and modifications. Also, these guidelines would support identification and evaluations of STCs and repairs, alterations, and modifications to those STCs. They could be used to develop extended operational limits and evaluate repairs, alterations, and modifications for those airplanes with extended operational limits. These guidelines would contain data for development of service information that would include possible maintenance actions that, as stated earlier, may include inspection start points, structural modification points, and inspection intervals and methods.

We propose a compliance date of December 18, 2009, or the date the certificate is issued, whichever occurs later, for affected persons to submit service information and guidelines for approval by the FAA oversight office. We consider development of initial operational limits to be the most pressing concern. Accordingly, we would provide TC holders and applicants with additional time to address repairs, alterations, and modifications after the development of initial operational limits. This will enable TC holders and applicants to use the results of the ARAC tasking discussed earlier.

F. Changes to Type Certificates (STCs and Amended TCs) (§ 25.1809)

STC holders, or applicants for design changes, would be required to perform a WFD evaluation to determine if the design change, or structure affected by the design change, requires maintenance actions prior to the initial operational limit.[7] Affected structure can be new structure installed by a design change or existing structure modified by a design change. Structure may be affected if it is physically changed or there is a change or redistribution of internal loads. The following types of repairs, alterations or modifications are likely to have WFD implications:

- Passenger-to-freighter conversions (including addition of main deck cargo doors).
- Gross weight increases (increased operating weights, increased zero fuel weights, increased landing weights, and increased maximum takeoff weights).
- Installation of fuselage cutouts (passenger entry doors, emergency exit doors or crew escape hatches, fuselage access doors, and cabin window relocations).
- Complete re-engine or pylon modifications.
- Engine hush-kits and nacelle alterations.
- Wing modifications such as installing winglets or changes in flight control settings (flap droop), and alteration of wing trailing edge structure.
- Modified, repaired, or replaced skin splices.
- Any modification, repair, or alteration that affects several stringer or frame bays.
- A modification that covers structure requiring periodic inspection by the operator's maintenance program.
- A modification that results in operational mission change that significantly changes the manufacturer's load or stress spectrum, e.g., passenger-to-freighter conversion.
- A modification that changes areas of the fuselage that prevents external visual inspection, e.g., installation of a large external fuselage doubler that results in hiding details beneath it.

This proposal would require evaluation of affected structure and any additional service information to determine if the structure is susceptible to multiple site damage or multiple element damage. This evaluation would be performed using manufacturers' guidelines or guidelines approved by the FAA oversight office. Affected persons would be required to use one of the approved procedures for screening design changes for standardization purposes. The proposed requirements would impose the same level of evaluation as proposed for TC holders in determining an initial operational limit.

The guidelines would provide affected persons with a means to identify whether affected structure is susceptible to WFD. It would also provide a standardized WFD methodology for evaluating any design changes and determining their impact on surrounding structure. The guidelines would specify criteria to determine if additional maintenance actions are required. If an affected person determines that the design change does not cause a WFD concern, then no further action is required.

For future design changes, the ALS developed with the ICA would include any associated service information that is necessary to enable the airplane to reach the initial operational limit. This service information would be documented as airworthiness limitation items (ALIs). Under § 91.403(c), compliance with airworthiness limitations is mandatory, so the effect of documenting these actions as ALIs is that operators using the design change would be required to do them.

The following compliance dates for evaluating design changes and developing service information for maintenance actions that must be performed to preclude WFD would need to be met:

- Holders of STCs: no later than December 18, 2010.
- Applicants for STCs and for amendments to STCs: no later than December 18, 2010, or the date the certificate is issued, whichever occurs later.

G. Extended Operational Limit (§ 25.1811, § 25.1813)

This proposal, if adopted, would permit operation of an airplane past its existing (initial or extended) operational limit if a person were able to demonstrate that WFD will not occur in the airplane up to the proposed extended operational limit. Any person wanting to operate beyond an existing operational limit would be required to perform an evaluation to that end as part of the amended TC (subpart D of part 21) or STC (subpart E of part 21) process. The extended operational limit may also include specified maintenance actions necessary to preclude WFD, which would be part of the extended operational limit approval. Extended operational limits would be established in an ALS using the requirements of § 25.1529, along with corresponding ALIs. This proposed requirement does not specify a compliance plan since the normal process for obtaining approvals under the provisions of subparts D and E of part 21 already contemplates such a plan.

To establish an extended operational limit, the structural configuration of each affected airplane needs to be identified as follows:

- All model variations and derivatives approved under the type certificate for which extension is sought.
- Any maintenance actions identified by the TC or STC holder as necessary to support the initial operational limit established under § 25. 571 or § 25.1807.
- All structural repairs, alterations, and modifications installed on each affected airplane, whether or not required by AD, up to the date of approval of the extended operational limit.

Unlike the proposed requirements for initial operational limits, applicants might have to conduct separate evaluations on each affected airplane because of configuration differences rather than relying on a single evaluation for a group of airplanes. The configuration for any one airplane may consist of repairs, alterations, or modifications that are unique to that airplane. Applicants might also need to consider additional fatigue testing because the fatigue testing that supported the initial operational limit may not be sufficient to support the proposed extended operational limit. The service information for any necessary maintenance actions would be documented as an ALI.

Extending the operational limit of an airplane raises implications for the validity of any subsequent repairs, alterations or modifications. Accordingly, any person seeking approval for installation of any repair, alteration, or modification would be required to perform an evaluation of that repaired, altered, or modified structure. Persons seeking approval of any repair, alteration, or modification would be required to use the guidelines specified in § 25.1807, or other guidelines approved by the FAA oversight office. The guidelines would provide a standardized WFD methodology for evaluating any repair, alteration, or modification.

The evaluation might conclude that a proposed repair, alteration, or modification is not susceptible to WFD or that WFD is not likely to occur before the subject airplane reaches the extended operational limit. As a result,

[7] Those design changes that increase the maximum takeoff gross weight from 75,000 pounds or less, to greater than 75,000 pounds would be excluded, because they are covered in § 25.1807.

the person seeking approval would not be required to take any further actions for that proposed repair, alteration, or modification. Conversely, the evaluation might conclude that WFD is likely to occur before the affected airplane reaches the extended operational limit. Such an evaluation would require persons seeking approval to show that WFD is not likely to occur up to that limit either by modifying the proposed repair, alteration, or modification or by developing maintenance actions to be performed by the affected operator at identified times.

H. Compliance Plan (section 1807, section 1809)

The FAA intends to establish the requirements for a compliance plan to ensure that affected persons and the FAA have a common understanding and agreement of what is necessary to achieve compliance with these sections. The plan will also ensure that the affected persons produce the ALS and service information and guidelines in a timely manner that are acceptable in content and format. Integral to the compliance plan will be the inclusion of procedures to allow the FAA to monitor progress toward compliance. These aspects of the plan will help ensure that the expected outcomes will be acceptable and on time for incorporation by the affected operators into their maintenance programs in accordance with the operational rules contained in this proposal.

The affected design approval holders would be required to submit a compliance plan that addresses the following:

- The proposed schedule for meeting the compliance dates, including all major milestones.
- A proposed means of compliance with the initial operational limit requirement.
- Any planned deviations from guidance provided in FAA advisory material.
- A draft of all required compliance items not less than 60 days before the stated compliance dates.
- Repairs, alterations, and modifications.
- Continuous assessment of the affected large transport category airplane fleet relative to the potential for WFD prior to the initial operational limit.
- Distribution of approved initial operational limits.

The compliance plan is based substantially on ''The FAA and Industry Guide to Product Certification,'' which describes a process for developing project-specific certification plans for type certification programs, which is available at *http://www.faa.gov/certification/aircraft.*

This guide recognizes the importance of ongoing communication and cooperation between applicants and the FAA. This proposal, while regulatory in nature, is intended to encourage the establishment of the same type of relationship in the process of complying with this section.

One of the items required in the plan is, ''If the proposed means of compliance differs from that described in FAA advisory material, a detailed explanation of how the proposed means will comply with this section.'' We will issue an AC to include guidance on the aspects of a compliance plan. FAA advisory material is never mandatory because it describes one means, but not the only means of compliance. In the area of type certification, applicants frequently propose acceptable alternatives to the means described in advisory circulars. When an applicant chooses to comply by an alternative means, it is important to identify this as early as possible in the certification process to provide an opportunity to resolve any issues that may arise that could lead to delays in the certification schedule.

The same is true of the requirement for design approval holders. As discussed earlier, compliance with this section on time by design approval holders is necessary to enable operators to comply with the operational requirements of this NPRM. Therefore, this item in the plan would enable the FAA oversight office to identify and resolve any issues that may arise with the proposal of the design approval holder without jeopardizing the ability of the design approval holder to comply by the compliance time.

This proposal, if adopted, would require TC holders and applicants to correct a deficient plan, or deficiencies in implementing the plan, in a manner identified by the FAA oversight office. Before the FAA formally notifies a TC holder or applicant of deficiencies, we will communicate with them to try to achieve a complete mutual understanding of the deficiencies and means of correcting them. Therefore, the notification referred to in this paragraph should document the agreed corrections.

The ability of an operator to comply with the proposed operating rules will be dependent on TC holders, certain STC holders, and applicants complying with § 25.1807. The FAA will carefully monitor compliance and take appropriate action if necessary. Failure to comply by the specified dates would constitute a violation of the requirements and may subject the violator to certificate action to amend, suspend, or revoke the affected certificate (49 U.S.C. 44709). It may also subject the violator to a civil penalty of not more than $25,000 per day per certificate until the violator complies with § 25.1807 (49 U.S.C. 46301).

This proposal, if adopted, would require a compliance date of March 18, 2007, for affected persons to submit a compliance plan to the FAA oversight office for approval. For those persons applying after the effective date of the rule for STCs or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds, a plan for WFD compliance would be part of the overall compliance plan for those STCs or amendments to TCs. The affected persons would not have to address WFD until a compliance plan defining the certification basis for the overall STC or amended TC is needed. Those persons would have to comply by March 18, 2007, or within 90 days after the date of application, whichever occurs later.

The proposal also specifies compliance dates for submitting compliance plans for evaluating design changes and developing service information for maintenance actions that must be performed to preclude WFD. The compliance dates for the affected persons are as follows:

- Holders of STCs: no later than March 18, 2008.
- Applicants for STCs and amendments to TCs, if the certificate was not issued before the effective date of the final rule: no later than March 18, 2008, or within 90 days after the date of application, whichever occurs later.

IV. Proposed Operational Rules

In recent years, the FAA has identified a number of fleet-wide continued airworthiness issues that are not limited to particular type designs. Historically, we have issued ADs to require airplane operators to take corrective action to address these airworthiness issues. ADs are described in part 39. They address unsafe conditions that we determine are likely to exist or develop on other products of the same type design. Although ADs may be used to address fleet-wide issues, they are often more effective in addressing individual airplane issues. Accordingly, we believe that general rulemaking may be a more efficient and appropriate way to address fleet-wide safety problems. These new subparts provide locations for these types of requirements.

Earlier in this document, we described the proposed creation of a new subpart I in part 25. That subpart would provide a common location for similar regulatory requirements. We are also proposing new subparts in parts 121 and 129. These new subparts would contain rules from this proposal and other existing and future rules that pertain to continued airworthiness, in particular rules that address aging airplane issues. The FAA believes that the new subparts will enhance the reader's ability to readily identify rules pertinent to continued airworthiness. Unless we say otherwise, our purpose in moving requirements to the new subparts is to ensure easy visibility of those requirements applicable to the continued airworthiness of the airplane. We do not intend to change their legal effect in any other way.

A new subpart AA would be added to part 121 dealing with domestic air carriers and a new subpart B would be added to part 129 foreign air carriers and foreign persons operating U.S.-registered airplanes. This proposal, if adopted, would require persons holding an air carrier or operating certificate under part 119 to support the continued airworthiness of their airplanes. While most of the requirements of these subparts would address the need for improved maintenance, these subparts may also include requirements to modify airplanes or take other actions that we consider necessary for continued airworthiness.

After June 18, 2008, an affected operator could not operate an airplane unless the operator has incorporated an ALS approved under appendix H to part 25 or § 25.1807 into its maintenance program. This ALS would contain the operational limit stated as a number of total accumulated flight cycles or flight hours approved under § 25.571 or § 25.1807. Furthermore, the ALS must be clearly distinguishable within the certificate holder's maintenance program. This means the ALS must be designated as a stand-alone portion of the program.

Under both current and proposed § 25.571, the FAA may issue a type certificate for an airplane model prior to completion of full-scale fatigue testing. Under this proposal, the type certificate holder would establish the initial operational limit upon completion of this testing. As under current § 25.571, the FAA intends for operators to be able to operate these airplanes while the design approval holder is performing the fatigue testing. Therefore, this proposal would not change the current provisions of § 25.571 that, if a type certificate is issued prior to completion of full-scale fatigue testing, the ALS must include a number equal to ½ the number of cycles accumulated on the fatigue test article. As additional cycles on the test article are accumulated, the number may be adjusted accordingly. This number is an Airworthiness Limitation and no airplane may be operated beyond the number stated in the ALS until the fatigue testing is completed and the initial operational limit is established.

Further operation would be prohibited unless an extended operational limit is incorporated into the operator's maintenance program, as discussed below.

To use an extended operational limit, the proposal would require operators to revise their maintenance programs to do the following:

- Incorporate the ALS containing the extended operational limit and any WFD ALI approved under § 25.1811.
- Incorporate the applicable guidelines for identifying and evaluating repairs, alterations, and modifications, that have been developed under § 25.1807, or other guidelines approved by the FAA oversight office.
- Make the extended operational limit, WFD ALIs, and applicable guidelines clearly distinguishable.

The extended operational limit might also have WFD ALIs because the evaluation performed under § 25.1811 concluded that WFD may occur on certain structure before the extended operational limit is reached. These WFD ALIs may include inspection start points, structural modification points, and inspection intervals and methods. WFD ALIs may take the form of inspections, modifications, or replacements of WFD-susceptible structure. The WFD ALI maintenance actions would be performed on airplane structure, including structure that has been repaired, altered or modified to support the extended operational limit. Any future proposed revisions to any of these ALIs would need to be submitted to the FAA oversight office through the Principal Maintenance Inspector (PMI) for approval.

The applicable incorporated guidelines would provide a means for operators to identify and evaluate repairs, alterations, and modifications susceptible to WFD that have been installed on transport category airplanes operating under an extended operational limit. The only repairs, alterations or modifications needing a WFD evaluation would be those identified in the applicable guidelines and would not include TC holder's repairs identified according to § 25.1807(g)(1).

The fatigue life on those repairs would generally be greater than the period of time the airplane has to go from its initial operational limit to its extended operational limit. For example, if a repair that has been identified in the TC holders structural repair manual has been evaluated to support an initial operational limit stated as 60,000 flight cycles, then that repair would generally be valid up to 60,000 flight cycles. If that repair is installed after an airplane is approved for an extended operational limit, the repair would generally be valid up to 60,000 flight cycles after installation. If we assume an extended operational limit of 75,000 total accumulated flight cycles for this example, and the airplane had 61,000 total accumulated flight cycles, the subject repair would generally be valid for the 14,000 flight cycles remaining under the extended operational limit.

The applicable guidelines would also provide a methodology for developing service information to support the extended operational limit. This service information would consist of maintenance actions that may include inspection, modification, or replacement of the repair, alteration, or modification. Operators would be required to perform a WFD evaluation of these repairs, alterations, or modifications using the applicable guidelines. If the evaluation concludes that WFD is likely to occur before the extended operational limit, the operator would need to develop any necessary maintenance actions according to § 25.1813.

The evaluation and proposed maintenance action would be submitted to the FAA oversight office through the operator's PMI for approval. This submittal process keeps PMIs informed and gives them the opportunity to provide comments on the repair, alteration, or modification to the operator and FAA oversight office.

Operators would be required to evaluate any repair, alteration, or modification installed on the airplane after approval of an extended operational limit. The operator would use the guidelines developed according to the proposed § 25.1807 and incorporated under the proposed operating rule. Operators would be required to complete the evaluation and identify any necessary additional maintenance actions, if applicable, within 90 days after returning an airplane to service. The operator would have 90 days after approval by the FAA oversight office to revise its maintenance program to incorporate any approved ALIs. This time period allows

for completion of the WFD evaluation and incorporation of any necessary maintenance actions into an operator's maintenance program. The airplane should not be at risk of structural failure due to WFD within the prescribed time period because WFD is a long-term fatigue problem.

As with other maintenance actions, before returning an airplane to service, operators would be required under existing regulations to ensure that the repair, alteration, or modification meets immediate and short-term strength requirements, such as the ultimate static strength requirements specified in part 25. There may be other actions and approvals associated with returning the affected airplane to service. Those actions and approvals would still apply as before.

Required maintenance program revisions would need to be submitted to the operator's PMI for review and approval. We are in the process of developing guidance for PMIs to ensure that their reviews are consistent and focused on the key implementation issues.

V. Additional Provisions

A. Relationship of This Proposal to Aging Airplane Regulatory Initiatives

As part of our broader review of several important initiatives comprising the Aging Airplane Program, we have revised certain compliance dates in existing rules and pending proposals so that operators can make required modifications during scheduled maintenance. Changing compliance dates affects our ability to expedite some aspects of this program but reduces the costs of the rules and proposals in place to deal with aging airplanes. Notice of these changes and a description of our Aging Airplane Program review appeared in the **Federal Register** on July 30, 2004 (69 FR 45936). In addition to this Widespread Fatigue Damage proposal, the actions affected by these revisions include:

- Fuel Tank Flammability Reduction (proposal),
- Aging Airplane Safety (interim final rule), and
- Enhanced Airworthiness Program for Airplane Systems/Fuel Tank Safety (proposal).

B. FAA Advisory Material

To help those persons affected by this proposed rule better understand what is necessary to show compliance with these proposed requirements, we are developing guidance material to supplement the proposed rule. We are revising AC 25.571–1C and proposing a new AC to include guidelines for the development of operational limits; service information for maintenance actions; and service information and guidelines for identifying and evaluating repairs, alterations, and modifications.

We incorporated, in part, the ARAC recommendation to revise AC 25.571–1C by including a definition for an initial operational limit; guidance for incorporation of the initial operational limit into the Airworthiness Limitations section; and guidance for providing evidence for demonstrating through full-scale fatigue testing that WFD will not occur before the initial operational limit.

We also incorporated, in part, the ARAC recommendations to revise AC 91–56, ''Continuing Structural Integrity Program for Large Transport Category Airplanes.'' AC 91–56A, which was issued on April 29, 1998, added Appendix 2, ''Guidelines for the Development of a Program to Predict and Eliminate Widespread Fatigue Damage.''

We are developing a new AC based, in part, on the ARAC recommendation to provide guidance for type certificate holders and others to perform WFD evaluations. The proposed AC includes:

- Guidelines for conducting a structural WFD evaluation.
- Illustrations of the structure susceptible to MSD and MED. These illustrations are by no means exhaustive and are included to stimulate the review of all possible affected structure.
- Guidance on developing a WFD prediction and verification technique.
- Evaluation of maintenance actions.
- Details of the documentation required by the FAA.
- Examples of structural repairs, alterations, and modifications.

This AC would also provide guidance for operators of affected airplanes on how to incorporate an FAA-approved ALS with an initial operational limit into their FAA-approved maintenance program; incorporate an extended operational limit and any applicable ALI to preclude WFD; and incorporate any new ALI developed as a result of evaluations to address repairs, alterations, and modifications installed after incorporation of an extended operational limit.

We invite public comments on the proposed ACs by separate notice, which will be published in the **Federal Register**.

C. FAA Oversight Office

We are also requiring affected persons to submit various compliance materials related to WFD to the FAA Oversight Office, defined in proposed § 25.1801(b). The FAA Oversight Office is the aircraft certification office or office within the Transport Airplane Directorate having oversight responsibility for the relevant TC or STC, as delegated by the Administrator. In other contexts, we have described the FAA office performing these functions as the ''cognizant FAA office.''

Table 4 lists the FAA offices that currently oversee issuance of TCs and amended TCs for manufacturers of transport category airplanes.

TABLE 4.—FAA OFFICES THAT OVERSEE TYPE CERTIFICATES

Airplane manufacturer	FAA oversight office
Aerospatiale	Transport Airplane Directorate, International Branch, ANM–116.
Airbus	Transport Airplane Directorate, International Branch, ANM–116.
BAE	Transport Airplane Directorate, International Branch, ANM–116.
Boeing	Seattle Aircraft Certification Office.
Bombardier	New York Aircraft Certification Office.
deHaviland	New York Aircraft Certification Office.
Embraer	Transport Airplane Directorate, International Branch, ANM–116.
Fokker	Transport Airplane Directorate, International Branch, ANM–116.
Gulfstream	Atlanta Aircraft Certification Office.
Lockheed	Atlanta Aircraft Certification Office.
McDonnell-Douglas.	Los Angeles Aircraft Certification Office.

D. Need for Training

The FAA recognizes that implementation of the proposed rule will be more complex than any other aging airplane program. We consider it essential that affected persons receive training to carry out the required actions. These persons include FAA PIs, Aviation Safety Inspectors, and ACO engineers, designees, operators, and maintenance personnel. We are developing training material based, in part, on the ARAC recommendations incorporated into this proposal and other considerations.

This training would include, but is not limited to public meetings, FAA-only seminars, formal FAA and industry training sessions, and industry workshops to enhance communication among industry, operators, and the

FAA. The FAA requests comments on this aspect of the proposed rule.

VI. Rulemaking Notices and Analyses

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing

- Minimum standards required in the interest of safety for the design and performance of aircraft;
- Regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft; and
- Regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce.
- This regulation is within the scope of that authority because it prescribes—
- New safety standards for the design of transport category airplanes, and
- New requirements necessary for safety for the design, production, operation, and maintenance of those airplanes, and for other practices, methods and procedures relating to those airplanes.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has sent the information requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Widespread Fatigue Damage.

Summary: This proposal consists of regulatory changes pertaining to widespread fatigue damage in transport category airplanes. Some of these changes would require new information collection. The proposed new information requirements and the persons who would be required to provide that information are described below.

(1) Proposed subpart I would require that existing design approval holders establish initial operational limits for transport category airplanes. Those persons would also be required to revise the Airworthiness Limitation section of the Instructions for Continued Airworthiness (ICA) to include an initial operational limit. This requirement would be necessary to ensure that the affected airplanes are evaluated for WFD and that an initial operational limit is established beyond which an airplane cannot be operated. By establishing this limit it would be assured that WFD, which would adversely affect safety, would be precluded in the airplane.

(2) Proposed subpart I would also require that design approval holders submit to the FAA a plan detailing how they intend to comply with the new requirements. The FAA would use this information to assist the design approval holder in complying with the new requirements. The compliance plan would be necessary to ensure that the design approval holders fully understand the requirements, correct any deficiencies in planning in a timely manner, and are able to provide the information needed by the operators for timely compliance with the rule.

(3) TC holders would be required to develop guidelines for addressing repairs, alterations, and modifications susceptible to MSD or MED. These guidelines would be used to identify and evaluate repairs, alterations, and modifications that may be installed on an affected airplane. This requirement is needed because TC holders have the data necessary to inform others of areas of the airplane that may be susceptible to WFD when repaired, altered, or modified.

(4) TC and STC holders would be required to develop service information to address repairs and modifications that would be susceptible to WFD before the airplane reaches the initial operational limit. Because this susceptibility is an unsafe condition, this service information would be mandated by airworthiness directive (AD) to support a proposed initial operational limit.

(5) Anyone operating an airplane under parts 121 and 129 would be required to revise their maintenance program to incorporate an ALS that includes an initial operational limit. Operators would be prohibited from operating an airplane past the initial operational limit.

(6) As an option, any person may apply for an extended operational limit for affected airplanes. This option would have requirements similar to those imposed on TC holders for establishing an initial operational limit. In addition, repairs, alterations, or modifications installed on an airplane with an extended operational limit would require identification and evaluation under § 25.1807(g). There may be service information developed that would support the extended limit and would be documented as airworthiness limitation items (ALIs). To operate beyond the initial operational limit, an operator would have to incorporate the extended limit and any WFD ALI into its maintenance program.

Use of: This proposal would support the information needs of the FAA in approving design approval holder and operator compliance with the proposed rule.

Average Annual Burden Estimate: The burden would consist of the work necessary to:

- Develop the revision to the existing ICA information
- Develop the compliance plan
- Incorporate the new information into the existing maintenance program

This proposed rulemaking would result in an annual recordkeeping and reporting burden as follows:

Documents required to show compliance with the proposed rule	Average annual hours	Present value discounted cost ($2,000)
FAA-approved revised or new ALS	132	8,606
FAA-approved WFD compliance plan	436	16,759
FAA-approved guidelines for repairs, alterations, and modifications	894	63,542
FAA-approved service information for repairs and modifications relative to initial operational limit	276	16,288
FAA-approved maintenance program revision for operators	29	4,340
FAA-approved program for extended operational limit (if applicable)	132	8,606
Total	1,899	$118,141

The FAA computed the annual recordkeeping (total hours) burden by analyzing the necessary paperwork requirements needed to satisfy each process of the proposed rulemaking. The average cost per hour varies due to the number of affected airplanes in each group, the amount of engineering time required to develop programs, and the amount of time required for each inspection.

The agency is seeking comments to—

- Evaluate whether the proposed information requirement is necessary for the proper performance of the roles of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden;
- Improve the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments to the FAA on the information collection requirement by July 17, 2006. You should send your comments to the address listed in the **ADDRESSES** section of this document.

Under the Paperwork Reduction Act of 1995, (5 CFR 1320.8(b)(2)(vi)), 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 number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

VII. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

This portion of the preamble summarizes the FAA's analysis of the economic impacts of this NPRM. It also includes summaries of the initial regulatory flexibility determination. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined this proposed rule: (1) Has benefits that justify its costs, is a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will have a significant economic impact on a substantial number of small entities; (3) will not reduce barriers to international trade; and does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Total Costs and Benefits of This Rulemaking

The proposed rule is based, in part, on recommendations from the Aviation Rulemaking Advisory Committee (ARAC). Early in 2001, the FAA performed an extensive cost-benefit analysis of the ARAC proposal based on the data then available. Since then the proposed rule has been modified and more recent data has become available. The FAA updated the 2001 analysis to reflect changes in the proposed rule relative to the ARAC proposal. The FAA believes the analysis, as updated, properly reflects the cost and benefit determination. The FAA will further update the analysis, incorporating the latest data and information obtained from the NPRM, for the final rule. The costs of this proposal are the costs of the development of Widespread Fatigue Damage (WFD) programs by the airplane manufacturers and the incorporation of the WFD programs into the maintenance procedures of the airplane operators plus the inspection and structural modifications that may be required of the airplane operators. It is estimated that the total 20-year present value cost of this proposal is about $360 million. The benefits of this proposal consist of accident prevention and the prevention of unscheduled maintenance/downtime of fleets of aircraft. The present value benefits of this proposal, over 20 years, are estimated to be about $809 million.

Who Is Potentially Affected by This Rulemaking?

- Manufacturers of large transport category part 25 airplanes (airplanes with a maximum gross takeoff weight greater than 75,000 pounds).
- Applicants for type certificates or supplemental type certificates after the effective date of the rule for all transport category part 25 airplanes.
- Supplemental type certificate holders and applicants for amended part 25 type certificates.
- U.S. certificate holders and foreign air carriers and foreign persons operating U.S.-registered large transport category part 25 airplanes under 14 CFR parts 121 or 129.

Our Cost Assumptions and Sources of Information

- Discount rate—7%
- Period of analysis—20 years, 2001 through 2020
- Value of fatality averted—$3.0 million (Source: U.S. Department of Transportation, *Treatment of Value of Life and Injuries in Preparing Economic Evaluations,* January 19, 2002)
- Aircraft Values = Aviation Specialists Group (ASG)
- Aircraft Operational Data = Aircraft Analytical System (ACAS) Database
- Aircraft Accident Data = NTSB Database
- Aircraft Forecasts = Boeing
- Unit Cost of WFD Inspections = Airworthiness Assurance Working Group (AAWG)

In the design and certification process of an airplane, a type certificate applicant generally establishes an expected economic life for the airplane, known as a design service goal (DSG). For certain airplanes, design approval holders have performed additional fatigue tests, teardown inspections, and analyses to support changing DSG to extended service goals (ESG).

For purposes of the cost/benefit analysis in this evaluation, we used the existing service goal for an airplane (whether the service goal is a (DSG or ESG) as an analytical starting point for the initial operational limits (IOLs). The existing service goals are listed in Table 3. We have assumed that additional costs of compliance will be incurred at 100% and potentially again at 125% of this service goal. We note that Boeing plans to establish IOLs that would be 130 to 150 percent of the DSG or ESG for their airplanes. Since this action would support an IOL that could be substantially higher than the estimates used for a particular airplane, the costs of inspection and modification could exceed our estimates, while the costs of early retirement of useful airplanes could be less. Manufacturers of aircraft no longer in production, and with only a few airplanes in operation, are likely not to extend the current service goal.

The FAA seeks comments on these assumptions, and future plans to extend DSG or ESG and the establishment of initial operational limits.

Alternatives We Considered

The FAA considered five alternatives to the proposed rule. These were:

1. Exclude small entities.
2. Extend the compliance deadline for small entities.
3. Establish lesser technical requirements for small entities.
4. Expand the requirements to cover more airplanes.
5. Retire airplanes at the manufacturer's design or extended service goal.

The FAA concluded that Alternative 1, the option to exclude small entities from all the requirements of the proposed rule, was not justified. The purpose of the proposed rule is to maintain the airworthy operating condition of airplanes regardless of secondary considerations.

The FAA also considered options that would lengthen the compliance period for small operators (Alternative 2). The FAA believes time extensions only provide modest cost savings and leave the system safety at risk.

The FAA considered establishing lesser technical requirements for small entities (Alternative 3). However, the FAA believes the risks are similarly unreasonable for small entities operating airplanes susceptible to WFD, and that the benefits of including small entities justify the cost.

The FAA considered requiring all operators of existing transport category airplanes to comply with the proposed rule (Alternative 4). Over the past several years, TC holders have been addressing issues with aging airplane programs for airplanes with maximum takeoff gross weights greater than 75,000 pounds. Because of this, the FAA decided to restrict compliance to operators of those airplanes.

The FAA considered mandating the retirement of airplanes at an initial operating limit equivalent to the manufacturer's current service goal (DSG or ESG). This alternative would not allow a DAH to establish a higher initial operation limit based on identifying additional maintenance actions (inspections, modifications, or replacements) that would preclude WFD up to this higher limit.

Such a requirement would result in the removal of about 600 U.S. transport category airplanes at a cost of $7.6 billion or a present value of $3.4 billion. The FAA believes this alternative would present a substantial burden on industry and adversely affected the wide body cargo market. The *Sensitivity Studies* section of the full regulatory evaluation explores this option in more detail.

The FAA concludes the current proposal is the preferred alternative because it has benefits exceeding compliance costs and allows for continued operation of airplanes up to the point where maintenance actions can no longer ensure that the airplanes are free from widespread fatigue damage.

Comments Requested

We requested industry comment, with quantifiable support, for important assumptions made in the regulatory analysis. These comments are summarized below.

- We request manufacturers to identify, by airplane model, anticipated initial operational limits and if they plan to establish an initial operational limit for an airplane model that is higher than the existing service goal shown in Appendix 2 of this document.
- We request that operators identify airplane models that they desire to operate beyond the service goal identified in Appendix 2 of this document.
- We request comment on the future operational costs that this proposal will add for newly type certificated airplanes.
- We request comment from industry on any new technological WFD inspection methods, including costs per individual airplane models.
- We request comments on operators' practice of retiring airplanes beyond the service goal identified in Appendix 2 and the costs to operators of retiring and replacing airplanes at the service goal if the initial operational limit for the airplane is at the service goal for that airplane.
- We request comment on the number of components, by airplane model, likely to be affected by WFD-related problems. The greatest uncertainty with respect to the costs of compliance with the rule relates to the number of components for a fuselage type likely to be affected by WFD-related problems at or above 100% DSG or ESG.

Benefits of This Rulemaking

The present value benefits of this proposal consist of $726 million of accident prevention benefits and $83 million of detection benefits for total present value benefits of $809 million. The detection benefits are the benefits resulting from averted accidents and a reduction in unscheduled maintenance and repairs that would result from this proposal.

Costs of This Rulemaking

The costs of this proposal are those costs incurred by the airplane manufacturers for developing WFD programs, the airplane operators who incur the costs of inspection, aircraft retirement, and modifications to the airplanes, plus the costs incurred by the FAA.

The attributable costs of the rule do not include the expense of making repairs to structure that has been found to be cracked during any inspections resulting from the proposed rule. When any inspection procedure identifies a condition that renders the aircraft unairworthy, current FAA regulations [8] mandate actions to restore the aircraft to an airworthy condition.

To the extent that the repairs would already be required and already be performed under existing regulations, because of an operator's continuing responsibility to maintain the airworthiness of the aircraft, this assumption may overstate the net additional benefits from this rulemaking. This rulemaking is intended to ensure that problems are identified more rapidly, but the FAA assumes that all WFD problems will ultimately be discovered. The FAA and operators might identify WFD issues through other inspections or because of an accident in a similar aircraft, and therefore operators will have to make the repairs at some point. Accordingly, we request commenters to address the appropriate allocation of additional benefits, including, specifically, the nature and timing of repairs that would

[8] Sections 43.13, 91.7(a), 121.153(a)(2), and 129.14.

be undertaken as a result of this rulemaking.

The present value cost of this proposal, estimated over the 20-year study period, is about $360 million.

Under the proposal endorsed by the ARAC in 2001, the responsibility for developing inspection and modification procedures and for putting them into practice was to be borne by airplane operators. The costs of the rule were estimated under that assumption. We now estimate that the airplane manufacturers would incur approximately 10 percent and operators would incur approximately 90 percent of these costs. The total costs remain unchanged, however. We believe it is possible that the manufacturers' assumption of responsibility for testing and development would discover areas where WFD is likely to emerge and may reduce the need for preventive inspection and maintenance in other areas. The FAA is working with industry to develop compliance procedures and welcomes any additional information on the assumptions we made in these cost estimates.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''* * * as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a ''significant economic impact on a substantial number of small entities.'' If the determination is that it will, the agency must prepare a regulatory flexibility analysis, as described in the RFA.

The FAA conducted a complete regulatory flexibility analysis to assess the impact on small entities and discussed in detail following this initial regulatory evaluation. This rule would affect operators of airplanes, in the specified parts of the CFR. For operators, a small entity is defined as one with 1,500 or fewer employees.[9] As there are operators that met those criteria for a small business, the FAA conducted a small business economic impact assessment to determine if the rule would have a significant impact on a substantial number of these operators. As a result of the small business economic impact assessment the FAA believes that this proposal would result in a significant economic impact on a substantial number of small entities. A complete discussion is contained in the full regulatory evaluation filed separately in the docket.

Unfunded Mandates Assessment

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million. This proposed rule does not contain such a mandate. The requirements of Title II of the Act therefore do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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. We therefore determined that this proposed rule would not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to airplanes operated under parts 121 and 129, it could, if adopted, affect intrastate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain English

Executive Order 12866 (58 FR 51735, October 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

VIII. The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter 1 of Title 14, Code of Federal Regulations, parts 25, 121, and 129, as follows:

[9] 13 CFR Part 121.201, Size Strandards Used to Define Small Business Concerns, Sector 48–49 Transportation, Subsector 481 Air Transportation.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Aviation Safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation Safety, Reporting and recordkeeping requirements.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Amend § 25.1 by adding new paragraphs (c) and (d) to read as follows:

§ 25.1 Applicability.

* * * * *

(c) This part also establishes requirements for holders of type certificates and changes to those certificates to take actions necessary to support the continued airworthiness of transport category airplanes.

(d) This part also establishes requirements for persons seeking approval for airplane repairs, alterations, or modifications.

3. Amend § 25.2 by adding a new paragraph (d) to read as follows:

§ 25.2 Special retroactive requirements.

* * * * *

(d) In addition to the requirements of this section, subpart I of this part contains requirements that apply to—

(1) Holders of type certificates and supplemental type certificates;

(2) Applicants for type certificates, amendments to type certificates (including service bulletins describing design changes), and supplemental type certificates; and

(3) Persons seeking approval for airplane repairs, alterations, or modifications.

4. Amend § 25.571 by revising paragraphs (a)(3) introductory text and (b) introductory text to read as follows:

§ 25.571 Damage-tolerance and fatigue evaluation of structure.

(a) * * *

(3) Based on the evaluations required by this section, inspections or other procedures must be established, as necessary, to prevent catastrophic failure, and must be included in the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness required by § 25.1529. The initial operational limit, stated as a number of total accumulated flight cycles or flight hours, established by this section must also be included in the ALS of the Instructions for Continued Airworthiness required by § 25.1529. Inspection thresholds for the following types of structure must be established based on crack growth analyses and/or tests, assuming the structure contains an initial flaw of the maximum probable size that could exist as a result of manufacturing or service-induced damage:

* * * * *

(b) *Damage-tolerance and widespread fatigue damage evaluation.* The evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. Repeated load and static analyses supported by test evidence and (if available) service experience must also be incorporated in the evaluation. Special consideration for widespread fatigue damage must be included where the design is such that this type of damage could occur. An initial operational limit must be established that corresponds to the period of time, stated as a number of total accumulated flight cycles or flight hours, during which it is demonstrated that widespread fatigue damage will not occur in the airplane structure. This demonstration must be by full-scale fatigue test evidence. The type certificate may be issued prior to completion of full-scale fatigue testing, provided the Administrator has approved a plan for completing the required tests, and the Airworthiness Limitations section of the Instructions for Continued Airworthiness required by § 25.1529 of this part specifies that no airplane may be operated beyond a number of cycles equal to ½ the number of cycles accumulated on the fatigue test article, until such testing is completed. The extent of damage for residual strength evaluation at any time within the operational life of the airplane must be consistent with the initial detectability and subsequent growth under repeated loads. The residual strength evaluation must show that the remaining structure is able to withstand loads (considered as static ultimate loads) corresponding to the following conditions:

* * * * *

5. Amend part 25 by adding a new subpart I to read as follows:

Subpart I—Continued Airworthiness and Safety Improvements

Sec.

General

Widespread Fatigue Damage

Subpart I—Continued Airworthiness and Safety Improvements

General

§ 25.1801 Purpose and definition.

(a) This subpart establishes requirements for support of the continued airworthiness of transport category airplanes. These requirements may include performing assessments, developing design changes, developing revisions to Instructions for Continued Airworthiness, and making necessary documentation available to affected persons. This subpart applies to the following persons, as specified in each section of this subpart:

(1) Holders of type certificates and supplemental type certificates.

(2) Applicants for type certificates and changes to type certificates (including service bulletins describing design changes). Applicants for changes to type certificates must comply with the requirements of this subpart in addition to the airworthiness requirements determined applicable under § 21.101 of this subchapter.

(3) Persons seeking approval for airplane repairs, alterations, or modifications that may affect airworthiness.

(b) For purposes of this subpart, the ''FAA Oversight Office'' is the aircraft certification office or office of the Transport Airplane Directorate with oversight responsibility for the relevant type certificate or supplemental type certificate, as determined by the Administrator.

§ 25.1803 [Reserved]

§ 25.1805 [Reserved]

Widespread Fatigue Damage

§ 25.1807 Initial operational limit: Widespread Fatigue Damage (WFD).

(a) *Applicability.* Except as provided in paragraph (i) of this section, this

section applies to transport category airplanes with maximum takeoff gross weights greater than 75,000 pounds as approved during the original type certification of the airplane. It also applies to those airplanes certified with maximum takeoff gross weights of 75,000 pounds or less, and later increased to greater than 75,000 pounds by an amended type certificate or supplemental type certificate. These airplanes are referred to in this section as large transport category airplanes.

(b) *Initial operational limit.* To preclude WFD from occurring in the large transport category airplane fleet, each person identified in paragraph (c) of this section must comply with the following requirements:

(1) Perform an evaluation of airplane structural configurations to determine when WFD is likely to occur for structure susceptible to multiple site damage (MSD) or multiple element damage (MED). The airplane structural configurations to be evaluated consist of—

(i) All model variations and derivatives approved under the type certificate; and

(ii) All structural modifications and replacements, to the airplane structural configurations specified in paragraph (b)(1)(i), mandated by airworthiness directives as of [effective date of the final rule].

(2) Using the results from the evaluation performed in paragraph (b)(1) of this section, establish an initial operational limit, stated as a total number of accumulated flight cycles or flight hours.

(3) If the initial operational limit depends on performance of maintenance actions for which service information has not been mandated by airworthiness directive as of [effective date of the final rule], submit the following to the FAA Oversight Office:

(i) For those maintenance actions for which service information has been issued as of the applicable compliance date specified in paragraph (c) of this section, a list identifying each of those actions.

(ii) For those maintenance actions for which service information has not been issued as of the applicable compliance date specified in paragraph (c) of this section, a list identifying each of those actions and a binding schedule for providing in a timely manner the necessary service information for those actions. Once the FAA Oversight Office approves this schedule, you must comply with that schedule.

(4) Unless previously accomplished, establish an Airworthiness Limitations section (ALS) for each airplane structural configuration evaluated under paragraph (b)(1) and submit it to the FAA Oversight Office for approval. The ALS must include a section titled Widespread Fatigue Damage (WFD) that incorporates the applicable initial operational limit established under paragraph (b)(2) of this section.

(c) *Compliance dates for establishing the initial operational limit.* The following persons must comply with the requirements of paragraph (b) of this section by the specified date.

(1) Holders of type certificates (TC): no later than December 18, 2007.

(2) Applicants for TCs, if the date of application was before [effective date of the final rule]: no later than December 18, 2007, or the date the certificate is issued, whichever occurs later.

(3) Holders of either supplemental type certificates (STCs) or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds: no later than December 18, 2007.

(4) Applicants for either STCs or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds: no later than December 18, 2007, or the date the certificate is issued, whichever occurs later.

(d) *Compliance plan.* Each person identified in paragraph (e) of this section must submit a compliance plan consisting of the following:

(1) A proposed project schedule, identifying all major milestones, for meeting the compliance dates specified in paragraphs (c) and (h) of this section.

(2) A proposed means of compliance with paragraphs (b)(1) through (b)(4) of this section.

(3) If the proposed means of compliance differs from that described in FAA advisory material, a detailed explanation of how the proposed means will be shown to comply with this section.

(4) A proposal for submitting a draft of all compliance items required by paragraphs (b) and (g) of this section for review by the FAA Oversight Office not less than 60 days before the compliance date specified in paragraph (c) or (h) of this section, as applicable.

(5) A proposal for addressing repairs, alterations, and modifications as required by paragraph (g) of this section.

(6) A proposed process for continuously assessing service information related to WFD.

(7) A proposal for how the initial operational limit will be distributed.

(e) *Compliance dates for compliance plans.* The following persons must submit the compliance plan described in paragraph (d) of this section to the FAA Oversight Office by the specified date.

(1) Holders of type certificates (TC): no later than March 18, 2007.

(2) Applicants for TCs, if the date of application was before [effective date of the final rule]: no later than March 18, 2007.

(3) Holders of either supplemental type certificates (STC) or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds: no later than March 18, 2007.

(4) Applicants for either STCs or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds, if the date of application was before [effective date of the final rule]: no later than March 18, 2007.

(5) Applicants for either STCs or amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds, if the date of application was after [effective date of the final rule]: no later than March 18, 2007, or within 90 days after the date of application, whichever occurs later.

(f) *Compliance plan deficiencies.* Each affected person must implement the compliance plan as approved in compliance with paragraph (d) of this section. If either paragraph (f)(1) or (2) of this section applies, the affected person must submit a corrected plan to the FAA Oversight Office and implement the corrected plan within 30 days after such notification.

(1) The FAA Oversight Office notifies the affected person of deficiencies in the proposed compliance plan and how to correct them.

(2) The FAA Oversight Office notifies the affected person of deficiencies in the person's implementation of the plan and how to correct them.

(g) *Widespread fatigue damage service information and guidelines.* Each person identified in paragraph (h) of this section must submit the following to the FAA Oversight Office for approval—

(1) An identification of repairs and modifications described in structural repair manuals, service bulletins, and other service information and design approvals developed by the person, that may be susceptible to WFD along with an evaluation to determine when WFD is likely to occur in affected structure susceptible to multiple site damage or multiple element damage;

(2) Service information for maintenance actions that must be performed to preclude WFD from occurring before the airplane reaches the established initial operational limit, if the evaluation required by paragraph

(g)(1) of this section concludes that WFD is likely to occur before the initial operational limit established under paragraph (b) of this section; and

(3) Guidelines for—

(i) Identifying repairs, alterations, and modifications, other than those specified in paragraph (g)(1) of this section, that may be susceptible to WFD;

(ii) Evaluating repairs, alterations, and modifications identified in paragraph (g)(3)(i) of this section to determine when WFD is likely to occur in affected structure; and

(iii) Developing service information for maintenance actions that must be performed to preclude WFD for those repairs, alterations, and modifications identified in paragraph (g)(3)(i) of this section.

(4) Once approved by the FAA Oversight Office, the documents required by this paragraph must be made available to owners and operators of affected airplanes subject to this section and to affected persons subject to § 25.1809 of this subpart.

(h) *Compliance dates for establishing the service information and guidelines.* The following persons must comply with the requirements of paragraph (g) of this section by the specified date.

(1) Holders of type certificates (TC): no later than December 18, 2009.

(2) Applicants for TCs, if the date of application was before [effective date of the final rule]: no later than December 18, 2009, or the date the certificate is issued, whichever occurs later.

(3) Applicants for amendments to TCs that increase maximum takeoff gross weights from 75,000 pounds or less, to greater than 75,000 pounds: no later than December 18, 2009, or the date the certificate is issued, whichever occurs later.

(i) This section does not apply to the following airplane models:

(1) Bombardier BD–700

(2) Gulfstream G–V

(3) Gulfstream G–VSP

(4) British Aerospace, Aircraft Group and Societe Nationale Industrielle Aerospatiale Concorde Type 1

§ 25.1809 Changes to type certificates: Widespread Fatigue Damage (WFD).

(a) *Applicability.* Except as stated in paragraph (b) of this section, this section applies to supplemental type certificates (STCs) and amendments to type certificates (ATC)—

(1) For transport category airplanes for which initial operational limits are established under § 25.1807 of this subpart; and

(2) That are identified using the guidelines developed according to § 25.1807(g)(3) of this subpart.

(b) This section does not apply to STCs or ATCs covered by § 25.1807(c)(3) or (4) of this subpart.

(c) *WFD Evaluation.* Each person identified in paragraph (d) of this section must do the following:

(1) Perform an evaluation to determine if any new structure or any structure affected by the change is susceptible to WFD and, if so, when WFD is likely to occur. This evaluation must be performed using:

(i) Guidelines specified in § 25.1807(g)(3)(i) and (ii) of this subpart; or

(ii) Guidelines approved by the FAA Oversight Office.

(2) If the evaluation required by paragraph (c)(1) of this section concludes that WFD is likely to occur before the initial operational limit, develop the maintenance actions that must be performed to preclude WFD from occurring before the airplane reaches the established initial operational limit. These maintenance actions must be developed using:

(i) Guidelines specified in § 25.1807(g)(3)(iii) of this subpart; or

(ii) Guidelines approved by the FAA Oversight Office.

(3) Submit to the FAA Oversight Office for approval the maintenance actions required by paragraph (c)(2) of this section. Once approved, service information for those actions must be made available to owners and operators of affected airplanes subject to this section.

(d) *Compliance dates for evaluating changes to type certificates.* The following persons must comply with the requirements of paragraph (c) of this section by the dates specified.

(1) Holders of STCs: No later than December 18, 2010.

(2) Applicants for STCs or for amendments to TCs: no later than December 18, 2010, or the date the certificate is issued, whichever occurs later.

(e) *Compliance plan.* Each person identified in paragraph (f) of this section must submit a compliance plan consisting of the following:

(1) A proposed project schedule, identifying all major milestones, for meeting the compliance dates specified in paragraph (d) of this section.

(2) A proposed means of compliance with paragraphs (c)(1) through (c)(3) of this section.

(3) If the proposed means of compliance differs from that described in FAA advisory material, a detailed explanation of how the proposed means will be shown to comply with this section.

(4) A proposal for submitting a draft of all compliance items required by paragraph (b) of this section, as applicable, for review by the FAA Oversight Office not less than 60 days before the compliance dates specified in paragraph (d) of this section, as applicable.

(5) A proposed process for continuously assessing service information related to WFD.

(6) A proposal for how the approved service information will be distributed.

(f) *Compliance dates for compliance plans.* The following persons must submit the compliance plan described in paragraph (e) of this section to the FAA Oversight Office by the specified dates.

(1) Holders of STCs: no later than March 18, 2008.

(2) Applicants for STCs or amendments to TCs: No later than March 18, 2008, or within 90 days after the date of application, whichever occurs later.

(g) *Compliance plan deficiencies.* Each affected person must implement the compliance plan as approved in compliance with paragraph (e) of this section. If either paragraph (g)(1) or (2) of this section applies, the affected person must submit a corrected plan to the FAA Oversight Office and implement the corrected plan within 30 days after such notification.

(1) The FAA Oversight Office notifies the affected person of deficiencies in the proposed compliance plan and how to correct them.

(2) The FAA Oversight Office notifies the affected person of deficiencies in the person's implementation of the plan and how to correct them.

§ 25.1811 Extended operational limit: Widespread Fatigue Damage (WFD).

(a) *Applicability.* Any person may apply to extend an operational limit approved under § 25.571 of subpart C, § 25.1807 of this subpart, or this section. Extending the operational limit is a major change. The applicant must comply with the relevant provisions of subparts D or E of part 21 of this subchapter and paragraph (b) of this section:

(b) *Extended operational limit.* To preclude WFD from occurring in the transport category airplane fleet, each person applying for an extended operational limit must comply with the following requirements:

(1) Perform an evaluation of the airplane structural configuration to determine when WFD is likely to occur for structure susceptible to multiple site damage or multiple element damage. The airplane structural configuration to be evaluated consists of—

(i) All model variations and derivatives approved under the type

certificate for which approval for an extension is sought; and

(ii) All structural repairs, alterations, and modifications installed on each affected airplane, whether or not required by airworthiness directive, up to the date of approval of the extended operational limit.

(2) Using the results from the evaluation performed in paragraph (b)(1) of this section, establish an extended operational limit, stated as a total number of accumulated flight cycles or flight hours.

(3) Establish a supplement to the Airworthiness Limitations section (ALS) and submit it to the FAA Oversight Office for approval. The supplemental ALS must include a section titled Widespread Fatigue Damage (WFD) that incorporates the applicable extended operational limit established under paragraph (b)(2) of this section.

(4) Develop the maintenance actions determined by the WFD evaluation performed in paragraph (b)(1) of this section to be necessary to preclude WFD from occurring before the airplane reaches the proposed extended operational limit. These maintenance actions must be documented as airworthiness limitation items in the ALS and submitted to the FAA Oversight Office for approval.

§ 25.1813 Repairs, alterations, and modifications: Widespread Fatigue Damage (WFD).

(a) *Applicability.* This section applies to modifications identified according to § 25.1807(g)(1) of this chapter and to repairs, alterations, and modifications identified using the guidelines developed under § 25.1807(g)(3) of this subpart, that are proposed for installation on transport category airplanes with an extended operational limit approved under § 25.1811 of this subpart.

(b) *Repairs, alterations, or modification requirements.* Each person seeking approval for any repair, alteration, or modification must comply with the following:

(1) Perform an evaluation according to the applicable guidelines developed under section § 25.1807(g)(3) of this subpart to determine if any new structure or any structure affected by the repair, alteration, or modification is susceptible to WFD and, if so, when it is likely to occur. This evaluation must be performed using those guidelines or guidelines approved by the FAA Oversight Office.

(2) If the evaluation required by paragraph (b)(1) of this section concludes that WFD is likely to occur before the extended operational limit established under § 25.1811 of this subpart, either—

(i) Modify the proposed repair, alteration, or modification to preclude WFD from occurring before the airplane reaches the extended operational limit; or

(ii) Develop the maintenance actions that must be performed to preclude WFD from occurring before the airplane reaches the extended operational limit. These maintenance actions must be developed using:

(A) Guidelines specified in § 25.1807(g)(3)(iii) of this subpart; or

(B) Guidelines approved by the FAA Oversight Office.

(3) The maintenance actions identified in paragraph (b)(2) of this section must be documented as airworthiness limitation items, submitted to the FAA Oversight Office for approval, and be made available to owners and operators of affected airplanes subject to this section.

Appendix H to Part 25—Instructions for Continued Airworthiness

* * * * *

6. Amend H25.3 of Appendix H by adding paragraph (h) to read as follows:

H25.3 *Content*

* * * * *

(h) Guidelines for identifying and evaluating repairs, alterations, and modifications to structure that may be susceptible to WFD and compromise the ability of the airplane to reach the initial operational limit.

7. Amend H25.4 of Appendix H by revising paragraph (a)(1), adding and reserving paragraph (a)(3), and adding paragraph (a)(4) to read as follows.

Appendix H to Part 25—Instructions for Continued Airworthiness

* * * * *

H25.4 *Airworthiness Limitations Section*

* * * * *

(a) * * *

(1) Each mandatory modification time, replacement time, structural inspection interval, and related structural inspection procedures approved under § 25.571.

* * * * *

(4) An operational limit, stated as a total number of accumulated flight cycles or flight hours, approved under § 25.571 of this part.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

8. The authority citation for part 121 continues to read:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

9. Amend § 121.1 by adding a new paragraph (g) to read as follows:

§ 121. Applicability.

* * * * *

(g) This part also establishes requirements for operators to take actions to support the continued airworthiness of each airplane.

10. Amend part 121 by adding subpart AA to read as follows:

Subpart AA—Continued Airworthiness and Safety Improvements

Sec.

Subpart AA—Continued Airworthiness and Safety Improvements

§ 121.1101 Purpose and definition.

(a) This subpart requires persons holding an air carrier or operating certificate under part 119 of this chapter to support the continued airworthiness of each airplane. These requirements may include, but are not limited to, revising the maintenance program, incorporating design changes, and incorporating revisions to Instructions for Continued Airworthiness.

(b) For purposes of this subpart, the ''FAA Oversight Office'' is the aircraft certification office or office of the Transport Airplane Directorate with oversight responsibility for the relevant type certificate or supplemental type certificate, as determined by the Administrator.

§ 121.1103–§ 121.1113 [Reserved]

§ 121.1115 Widespread fatigue damage.

(a) *Applicability.* This section applies to certificate holders operating transport category airplanes for which an operational limit has been established under § 25.571, § 25.1807, or § 25.1811 of this chapter.

(b) *Operational limit.* No certificate holder may operate an airplane identified in paragraph (a) of this section after June 18, 2008, unless an Airworthiness Limitations section (ALS) approved under appendix H to part 25 or § 25.1807 of this chapter is incorporated into its maintenance program. The ALS must—

(1) Include an operational limit approved under § 25.571 or § 25.1807 of this chapter, as applicable, except as provided in paragraph (c) of this section; and

(2) Be clearly distinguishable within its maintenance program.

(c) *Extended operational limit.* No certificate holder may operate an airplane beyond the operational limit specified in paragraph (b)(1) of this section, unless the following conditions are met:

(1) An ALS must be incorporated into its maintenance program that—

(i) Includes an extended operational limit and any widespread fatigue damage (WFD) airworthiness limitation items (ALIs) approved under § 25.1811 of this chapter; and

(ii) Is approved under § 25.1811 of this chapter;

(2) Its maintenance program must incorporate the applicable guidelines for identifying and evaluating repairs, alterations, and modifications that have been developed according to § 25.1807(g)(3), or other guidelines approved by the FAA Oversight Office.

(3) The extended operational limit, WFD ALIs, and applicable guidelines must be clearly distinguishable within its maintenance program.

(d) *Repairs, alterations, and modifications.* This paragraph applies to modifications identified according to § 25.1807(g)(1) of this chapter and to repairs, alterations, and modifications identified in the applicable guidelines developed according to § 25.1807(g)(3) of this chapter, when installed on airplanes operating under an extended operational limit. Any certificate holder returning an airplane to service after such a repair, alteration, or modification must do the actions required by paragraph (d)(1) and (d)(2) of this section. These actions are in addition to any other actions and approvals required by this chapter.

(1) Within 90 days after return to service—

(i) Perform a WFD evaluation of the repair, alteration, or modification;

(ii) Develop any necessary maintenance actions according to § 25.1813 of this chapter; and

(iii) Submit the evaluation and proposed maintenance actions to the FAA Oversight Office through the Principal Maintenance Inspector for approval.

(2) Within 90 days after approval by the FAA Oversight Office, revise the maintenance program to incorporate any WFD ALI approved under this section.

(e) *Principal Inspector approval.* Certificate holders must submit the maintenance program revisions required by paragraphs (b), (c), and (d) of this section to the Principal Maintenance Inspector for review and approval.

§ 121.368 [Redesignated]

11. Redesignate § 121.368 as new § 121.1105.

§ 121.368 [Reserved]

12. A new § 121.368 is added and reserved.

§ 121.370 [Redesignated]

13. Redesignate § 121.370 as new § 121.1107.

§ 121.370 [Reserved]

14. A new § 121.370 is added and reserved.

§ 121.370a [Redesignated]

15. Redesignate § 121.370a as new § 121.1109.

§ 121.370a [Reserved]

16. A new § 121.370a is added and reserved.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

17. The authority citation for part 129 continues to read:

Authority: 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec. 104.

18. Amend § 129.1 by revising paragraph (b), and adding a new paragraph (d) to read as follows:

§ 129.1 Applicability and definitions.

* * * * *

(b) *Operations of U.S.-registered aircraft solely outside the United States.* In addition to the operations specified under paragraph (a) of this section, §§ 129.14 and 129.20 and subpart B of this part also apply to U.S.-registered aircraft operated solely outside the United States in common carriage by a foreign air carrier or foreign person.

* * * * *

(d) This part also establishes requirements for a foreign air carrier or foreign person to take actions to support the continued airworthiness of each airplane.

19. Amend part 129 by adding subpart A heading to read as set forth below, and designating §§ 129.1, 129.11, 129.13 through 129.15 and §§ 129.17 through 129.21, and §§ 129.23, 129.25, 129.28, and 129.29 into subpart A to read as follows:

Subpart A—General

* * * * *

20. Amend part 129 by adding subpart B to read as follows.

Subpart B—Continued Airworthiness and Safety Improvements

Subpart B—Continued Airworthiness and Safety Improvements

§ 129.101 Purpose and definition.

(a) This subpart requires a foreign air carrier or foreign person operating a U.S.-registered airplane in common carriage to support the continued airworthiness of each airplane. These requirements may include, but are not limited to, revising the maintenance program, incorporating design changes, and incorporating revisions to Instructions for Continued Airworthiness.

(b) For purposes of this subpart, the ''FAA Oversight Office'' is the aircraft certification office or office of the Transport Airplane Directorate with oversight responsibility for the relevant type certificate or supplemental type certificate, as determined by the Administrator.

§ 129.103–§ 129.113 [Reserved]

§ 129.115 Widespread fatigue damage.

(a) *Applicability.* This section applies to foreign air carriers or foreign persons operating U.S.-registered transport category airplanes for which an operational limit has been established under § 25.571, § 25.1807, or § 25.1811 of this chapter.

(b) *Operational limit.* No foreign air carrier or foreign person may operate a U.S.-registered airplane identified in paragraph (a) of this section after June 18, 2008, unless an Airworthiness Limitations section (ALS) approved under appendix H to part 25 or § 25.1807 of this chapter is incorporated into its maintenance program. The ALS must—

(1) Include an operational limit approved under § 25.571 or § 25.1807 of this chapter, as applicable, except as provided in paragraph (c) of this section; and

(2) Be clearly distinguishable within its maintenance program.

(c) *Extended operational limit.* No foreign air carrier or foreign person may operate an airplane beyond the operational limit specified in paragraph (b)(1) of this section, unless the following conditions are met:

(1) An ALS must be incorporated into its maintenance program that—

(i) Includes an extended operational limit and any widespread fatigue damage (WFD) airworthiness limitation items (ALIs) approved under § 25.1811 of this chapter; and

(ii) Is approved under § 25.1811 of this chapter;

(2) Its maintenance program must incorporate the applicable guidelines for identifying and evaluating repairs, alterations, and modifications that have been developed according to § 25.1807(g)(3), or other guidelines approved by the FAA Oversight Office.

(3) The extended operational limit, WFD ALIs, and applicable guidelines must be clearly distinguishable within its maintenance program.

(d) *Repairs, alterations, and modifications.* This paragraph applies to modifications identified according to § 25.1807(g)(1) of this chapter and to repairs, alterations, and modifications identified in the applicable guidelines developed according to § 25.1807(g)(3) of this chapter, when installed on airplanes operating under an extended operational limit. Any foreign air carrier or foreign person returning an airplane to service after such a repair, alteration, or modification must do the actions required by paragraph (d)(1) and (d)(2) of this section. These actions are in addition to any other actions and approvals required by this chapter.

(1) Within 90 days after return to service—

(i) Perform a WFD evaluation of the repair, alteration, or modification;

(ii) Develop any necessary maintenance actions according to § 25.1813 of this chapter; and

(iii) Submit the evaluation and proposed maintenance actions to the FAA Oversight Office through the Principal Maintenance Inspector or cognizant Flight Standards International Field Office for review and approval.

(2) Within 90 days after approval by the FAA Oversight Office, revise the maintenance program to incorporate any WFD ALI approved under this section.

(e) *Principal Inspector approval.* Foreign air carriers or foreign persons must submit the maintenance program revisions required by paragraphs (b), (c), and (d) of this section to the Principal Maintenance Inspector or Flight Standards International Field Office for review and approval.

§ 129.16 [Redesignated]

21. Redesignate § 129.16 as new § 129.109.

§ 129.16 [Reserved]

22. A new § 129.16 is added and reserved.

§ 129.32 [Redesignated]

23. Redesignate § 129.32 as new § 129.107.

§ 129.32 [Reserved]

24. A new § 129.32 is added and reserved.

§ 129.33 [Redesignated]

25. Redesignate § 129.33 as new § 129.105.

§ 129.33 [Reserved]

26. A new § 129.33 is added and reserved.

Issued in Washington, DC on April 11, 2006.

John M. Allen,

Acting Director, Flight Standards Service, Aviation Safety.

Dorenda D. Baker,

Acting Director, Aircraft Certification Service, Aviation Safety.

[FR Doc. 06–3621 Filed 4–17–06; 8:45 am]

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Federal Register

Tuesday,
April 18, 2006

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Listing Determination for the Gunnison Sage-Grouse as Threatened or Endangered; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Listing Determination for the Gunnison Sage-Grouse as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final listing determination.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a final listing determination for the Gunnison sage-grouse (*Centrocercus minimus*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). After reviewing the best available scientific and commercial information, we find that listing is not warranted. Thus, we no longer consider the species to be a candidate for listing. We ask the public to submit to us any new information that becomes available concerning the status of or threats to the species. This information will help us monitor and encourage the conservation of this species.

DATES: The determination announced in this document was made on April 11, 2006. Although further listing action will not result from this determination, we request that you submit new information concerning the status of or threats to this species whenever it becomes available.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final listing determination, will be available for inspection, by appointment, during normal business hours at the Western Colorado Ecological Services Field Office, U.S. Fish and Wildlife Service, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506–3946. Submit new information, materials, comments, or questions concerning this species to the Service at the above address.

FOR FURTHER INFORMATION CONTACT: Allan Pfister, Western Colorado Supervisor (see **ADDRESSES** section), by telephone at (970) 243–2778, by facsimile at (970) 245–6933, or by electronic mail at *fw6_sagegrouse@fws.gov*.

SUPPLEMENTARY INFORMATION:

Previous Federal Action

On January 18, 2000, the Director of the Service designated the Gunnison sage-grouse as a candidate species under the Act, with a listing priority of 5. The **Federal Register** notice regarding this decision was not published until December 28, 2000 (65 FR 82310, December 28, 2000). Candidates are species for which the Service has determined that the species warrants listing as a threatened or endangered species, but listing is precluded by higher listing priorities for other species. A listing priority of 5 indicates that there is a high magnitude of threats, but they are considered non-imminent.

On January 26, 2000, The American Lands Alliance, Biodiversity Legal Foundation, and others petitioned the Service to list the species (Webb 2000). On January 10, 2001, some of the same plaintiffs sued the Service alleging the Service had not made required petition findings. In 2003, the U.S. District Court ruled that the Service's determination that the Gunnison sage-grouse was a candidate constituted a 12-month finding on the petition (*American Lands Alliance* v. *Gale A. Norton*, C.A. No. 00–2339, (D.D.C., 2003).

The 2003 Candidate Notice of Review elevated the species' listing priority number to 2 (69 FR 24876), as the imminence of the perceived threats had increased. The 2004 Candidate Notice of Review (70 FR 24870) maintained the listing priority number as a 2.

Plaintiffs amended their complaint in May 2004 to allege that the Service's warranted-but-precluded finding and decision not to emergency list the Gunnison sage-grouse were in violation of the Act. The parties filed a stipulated settlement agreement with the court on November 14, 2005, which includes a provision that the Service would make a listing determination by March 31, 2006. On March 28, 2006, the plaintiffs agreed to a one week extension (April 7, 2006) for this determination.

Section 4(b)(1)(A) of the Act requires us to consider the best scientific and commercial data available as well as efforts being made by States or other entities to protect a species when making a listing decision. To meet this standard we collected information on the Gunnison sage-grouse, its habitats, threats, and environmental factors affecting the species from a wide array of sources. Most of the available scientific literature on Gunnison sage-grouse is summarized in the Gunnison Sage-grouse Rangewide Conservation Plan, a document published in April 2005 under the auspices of the Gunnison Sage-grouse Rangewide Steering Committee [GSRSC]. The GSRSC is comprised of biologists from state and Federal agencies with responsibility for managing the Gunnison sage-grouse or its habitat. The scientific literature on Gunnison sage-grouse and its sagebrush habitats is limited. Where information on Gunnison sage-grouse life history was lacking, we used, as appropriate information on greater sage-grouse to analyze habitat usage, threats, and environmental factors affecting the Gunnison sage-grouse. In addition we received a substantial amount of unpublished information from other Federal agencies, States, counties, environmental organizations, and individuals. We also solicited information on all Federal, State, or local conservation efforts currently in operation or planned for the Gunnison sage-grouse or its habitats.

In April 2005, Colorado Division of Wildlife (CDOW) applied to the Service for a Gunnison sage-grouse Enhancement of Survival Permit pursuant to section 10(a)(1)(A) of the Act. The permit application included a proposed Candidate Conservation Agreement with Assurances (CCAA) between CDOW and the Service. The standard that a CCAA must meet is that the benefits of the conservation measures implemented under a CCAA, when combined with those benefits that would be achieved if it is assumed that conservation measures were also to be implemented on other necessary properties, would preclude or remove any need to list the species. The CCAA, the permit application, and the Environmental Assessment were made available for public comment on July 6, 2005 (70 FR 38977). Public comments and other internal comments from the Service and CDOW were incorporated into revisions of the CCAA and Environmental Assessment; the documents are scheduled to be finalized shortly. Landowners with eligible property in southwestern Colorado who wish to participate can voluntarily sign up under the CCAA and associated permit through a Certificate of Inclusion. These participants provide certain Gunnison sage-grouse habitat protection or enhancement measures on their lands. If the Gunnison sage-grouse is listed under the Act, the permit authorizes incidental take of Gunnison sage-grouse due to otherwise lawful activities in accordance with the terms of the CCAA (e.g., crop cultivation, crop harvesting, livestock grazing, farm equipment operation, commercial/residential development, etc.), as long as the participating landowner is performing activities identified in the Certificate of Inclusion. Although we strongly encourage continued conservation of the Gunnison sage-

grouse, we did not rely upon this CCAA to support our listing determination.

Species Information

In this determination, we use information specific to the Gunnison sage-grouse where available. However, where such information is lacking we use information on life history, habitat requirements, and effects of threats on greater sage-grouse. Except where referenced, the following life history information is taken from the Schroeder *et al.* (1999) literature review on sage-grouse (*Centrocercus* spp.).

The sage-grouse is the largest grouse in North America and was first described by Lewis and Clark in 1805 (Schroeder *et al.* 1999). Sage-grouse are most easily identified by their large size, dark brown color, distinctive black bellies, long, pointed tails and association with sagebrush habitats. They are dimorphic in size, with females being smaller. Both sexes have yellow-green eye combs, which are less prominent in females. Sage-grouse are known for their elaborate mating ritual where males congregate on strutting grounds called leks and ''dance'' to attract a mate. During the breeding season males have conspicuous filoplumes (specialized erectile feathers on the neck), and exhibit yellow-green apteria (fleshy bare patches of skin) on their breasts (Schroeder *et al.* 1999).

For many years sage-grouse were considered a single species. Young *et al.* (2000) identified Gunnison sage-grouse (*Centrocercus minimus*) as a distinct species based on morphological (Hupp and Braun 1991; Young *et al.* 2000), genetic (Kahn *et al.* 1999; Oyler-McCance *et al.* 1999), and behavioral (Barber 1991; Young 1994; Young *et al.* 2000) differences and geographical isolation. Based on these differences, the American Ornithologist's Union (2000) accepted the Gunnison sage-grouse as a distinct species. The current ranges of the two species are not overlapping (Schroeder *et al.* 2004). We have considered the Gunnison sage-grouse as a distinct species consistent with the petition under review here. We acknowledge that there are questions regarding the validity of this taxon, however it is not the purpose of this action to elucidate taxonomic questions. The purpose of this action is to determine the status of the taxon within the context of the ESA.

Gunnison sage-grouse and greater sage-grouse have similar life histories and habitat requirements (Young 1994). Nesting success for Gunnison sage-grouse is highest in areas where forbs and grass covers are found below a sagebrush canopy cover of 15 to 30 percent (Young *et al.* 2000). These numbers are comparable to those reported for the greater sage-grouse (Connelly *et al.* 2000a). Connelly *et al.* (2000a) also state that nest success for greater sage-grouse is greatest where grass cover is present. Therefore, factors identified in the greater sage-grouse literature that affect nesting habitat quality can affect Gunnison sage-grouse nesting habitat in a similar manner if those factors occur within the range of the Gunnison sage-grouse. Characteristics of sage-grouse winter habitats are also similar through the range of both species (Connelly *et al.* 2000a). In winter, Gunnison sage-grouse are restricted to areas of 15 to 30 percent sagebrush cover, similar to the greater sage-grouse (Connelly *et al.* 2000a; Young *et al.* 2000). However, they may also use areas with more deciduous shrubs during the winter (Young *et al.* 2000).

Dietary requirements of the two species also are similar, being composed of nearly 100 percent sagebrush in the winter (Schroeder *et al.* 1999; Young *et al.* 2000). Forbs and insects are important during the summer and early fall. Gunnison and greater sage-grouse do not possess muscular gizzards and, therefore, lack the ability to grind and digest seeds (Rasmussen and Griner 1938; Leach and Hensley 1954). Gunnison sage-grouse chick dietary requirements of insects and forbs also are expected to be similar to greater sage-grouse and other grouse species (Tony Apa, CDOW, pers. comm. 2005).

In the spring, sage-grouse gather on traditional breeding areas referred to as leks (Patterson 1952). Lek displaying occurs from mid-March through late May, depending on elevation (Rogers 1964). For Gunnison sage-grouse, 87 percent of all nests were located less than 6 kilometers (km) (4 miles (mi)) from the lek of capture (Apa 2004). Mean clutch size for Gunnison sage-grouse is 6.8 ± 0.7 eggs (Young 1994). Most eggs hatch in June, with a peak between June 10 and June 20. Renesting rates following the loss of the original nest appear very low in Gunnison sage-grouse, with one study reporting 4.8 percent (Young 1994).

During the pre-egg laying period, female sage-grouse select forbs that have generally higher amounts of calcium and crude protein than sagebrush has (Barnett and Crawford 1994). Chicks are precocial and leave the nest with the hen shortly after hatching. Females with chicks move to areas containing succulent forbs and insects, often in wet meadow habitat, where cover is sufficiently tall to conceal broods and provide shade. The availability of food and cover are key factors that affect chick and juvenile survival. During the first 3 weeks after hatching, insects are the primary food of chicks (Patterson 1952; Klebenow and Gray 1968; Peterson 1970; Johnson and Boyce 1990; Johnson and Boyce 1991; Drut *et al.* 1994b; Pyle and Crawford 1996; Fischer *et al.* 1996b). Diets of 4- to 8-week-old greater sage-grouse chicks were found to have more plant material (Peterson 1970). Succulent forbs are predominant in the diet until chicks exceed 3 months of age, at which time sagebrush becomes a major dietary component (Klebenow 1969; Connelly and Markham 1983; Connelly *et al.* 1988; Fischer *et al.* 1996b).

During late summer and early fall, intermixing of broods and flocks of adult birds is common and the birds move from riparian areas to sagebrush-dominated landscapes that continue to provide green forbs. From late autumn through early spring the diet of greater and Gunnison sage-grouse is almost exclusively sagebrush (Rasmussen and Griner 1938; Batterson and Morse 1948; Patterson 1952; Leach and Hensley 1954; Barber 1968; Wallestad *et al.* 1975; Young *et al.* 2000). Many species of sagebrush can be consumed (Remington and Braun 1985; Welch *et al.* 1988, 1991; Myers 1992). Flock size in winter is variable (15 to 100+), and flocks frequently consist of a single sex (Beck 1977; Hupp 1987). During particularly severe winters, sage-grouse are dependent on tall sagebrush, which is exposed even above deep snow, providing a consistently available food source. In response to severe winters, Gunnison sage-grouse have been documented to move as far as 27 km (17 mi) (Root 2002). The extent of movement varies with severity of winter weather, topography, and vegetation cover. Sage-grouse may travel short distances or many miles between seasonal ranges. Movements in fall and early winter (September–December) exceed 3 km (2 mi).

In one study, Gunnison sage-grouse survival from April 2002 through March 2003 was 48 (± 7) percent for males and 57 (± 7) percent for females (Apa 2004). Higher survival rate of female sage-grouse may be due to sexual dimorphism (Schroeder *et al.* 1999). Gunnison sage-grouse female survival in small isolated populations was 52 (± 8) percent, compared to 71 (± 11) percent survival in the Gunnison Basin, the only population with greater than 500 individuals (Apa 2004). Other factors affecting survival rates include year and age (Zablan 1993).

Habitat

Sage-grouse are sagebrush obligates (Patterson 1952; Connelly *et al.* 2000a). They depend on a variety of shrub-steppe habitats throughout their life cycle and are considered obligate users of several species of sagebrush (Patterson 1952; Braun *et al.* 1976; Schroeder *et al.* 1999; Connelly *et al.* 2000a; Connelly *et al.* 2004). Sagebrush serves as a primary food for adults year-round (Wallestad *et al.* 1975) and also provides cover for nests (Connelly *et al.* 2000a). Sage-grouse move between seasonal ranges based on suitable habitat availability. Connelly *et al.* (2000a) segregated habitat requirements into four seasons: (1) Breeding; (2) summer—late brood-rearing; (3) fall; and (4) winter. Depending on habitat availability and proximity, some seasonal habitats may be indistinguishable.

Breeding habitat includes leks and pre-laying, nesting, and early brood-rearing areas. Male Gunnison sage-grouse attend leks from mid-March to mid-May. Leks are typically in the same location from year to year; some Gunnison sage-grouse leks have been used since the 1950s (Rogers 1964). Leks are usually flat to gently sloping areas of less than 15 percent grade in broad valleys or on ridges (Hanna 1936; Patterson 1952; Giezentanner and Clark 1974; Wallestad 1975; Autenrieth 1981; Klott and Lindzey 1989). Leks have good visibility and low vegetation structure (Tate *et al.* 1979; Connelly *et al.* 1981; Gates 1985), and acoustical qualities that allow sounds of breeding displays to carry (Patterson 1952; Wiley 1973, 1974; Bergerud 1988; Phillips 1990). Leks are often surrounded by denser shrub-steppe cover, which is used for escape, thermal, and feeding cover. Leks can be formed opportunistically at any appropriate site within or adjacent to nesting habitat (Connelly *et al.* 2000a) and, therefore, lek habitat availability is not considered to be a limiting factor for sage-grouse (Schroeder 1997). A relatively small number of dominant males accounts for the majority of breeding on each lek (Schroeder *et al.* 1999).

The pre-laying period is from late-March to April. Pre-laying habitats for sage-grouse need to provide a diversity of vegetation including forbs that are rich in calcium, phosphorous, and protein to meet the nutritional needs of females during the egg development period (Barnett and Crawford 1994; Connelly *et al.* 2000a).

Nesting occurs from mid-April to June. Gunnison sage-grouse typically select nest sites under sagebrush cover with some forb and grass cover (Young 1994), and successful nests were found in higher shrub density and greater forb and grass cover than unsuccessful nests (Young 1994). The sagebrush understory of productive sage-grouse nesting areas contains native grasses and forbs, with horizontal and vertical structural diversity that provides an insect prey base, herbaceous forage for pre-laying and nesting hens, and cover for the hen while she is incubating (Schroeder *et al.* 1999; Connelly *et al.* 2000a; Connelly *et al.* 2004). Shrub canopy and grass cover provide concealment for sage-grouse nests and young, and are critical for reproductive success (Barnett and Crawford 1994; Gregg *et al.* 1994; DeLong *et al.* 1995; Connelly *et al.* 2004). Few herbaceous plants are growing in April when nesting begins, so residual herbaceous cover from the previous growing season is critical for nest concealment in most areas (Connelly *et al.* 2000a).

Young (1994) found that radio-tracked Gunnison sage-grouse nested an average of 4.3 km (2.7 mi) from the lek nearest to their capture site, with almost half nesting within 3 km (2 mi) of their capture site. While earlier studies indicated that most greater sage-grouse hens nest within 3 km (2 mi) of a lek, more recent research indicated that many hens actually move much further from leks to nest based on nesting habitat quality (Connelly *et al.* 2004). Female sage-grouse have been documented to travel more than 20 km (13 mi) to their nest site after mating (Connelly *et al.* 2000a). Female Gunnison and greater sage-grouse exhibit fidelity to nesting locations (Connelly *et al.* 1988; Young 1994; Lyon 2000, Connelly *et al.* 2004, Holloran and Anderson 2005). The degree of fidelity to a specific nesting area appears to diminish if the female's first nest attempt in that area was unsuccessful (Young 1994; Connelly *et al.* 2004). However, there is no statistical indication that movement to new nesting areas results in increased nesting success (Connelly *et al.* 2004).

Early brood-rearing habitat is found close to nest sites (Connelly *et al.* 2000a), although individual females with broods may move large distances (Connelly 1982; as cited in Connelly *et al.* 2000a). Young (1994) found that Gunnison sage-grouse with broods used areas with lower slopes than nesting areas, high grass and forb cover, and relatively low sagebrush cover and density. Broods frequently used hay meadows, but were often flushed from interfaces of wet meadows and habitats providing more cover, such as sagebrush or willow-alder (*Salix-Alnus).* Forbs and insects are essential nutritional components for sage-grouse chicks (Klebenow and Gray 1968; Johnson and Boyce 1991; Connelly *et al.* 2004). Therefore, early brood-rearing habitat must provide adequate cover adjacent to areas rich in forbs and insects to assure chick survival during this period (Connelly *et al.* 2004).

As fall approaches sage-grouse move from riparian to upland areas and start to shift to a winter diet (GSRSC 2005). By late summer and into the early fall, individuals become more social, and flocks are more concentrated (Patterson 1952). This is the period when Gunnison sage-grouse can be observed in atypical habitat such as agricultural fields (Commons 1997). However, radio-tracking studies in the Gunnison Basin have found that broods typically do not use hay meadows further away than 50 meters (m) (165 feet [ft]) of the edge of sagebrush stands (Gunnison Basin Conservation Plan 1997).

Movements to winter ranges are slow and meandering. Sagebrush stand selection in winter is influenced by snow depth (Patterson 1952; Connelly 1982 as cited in Connelly *et al.* 2000a) and in some areas, topography (Beck 1977; Crawford *et al.* 2004). Winter areas are typically characterized by canopy cover greater than 25 percent and sagebrush greater than 30 to 41 cm (12 to 16 in) tall (Shoenberg 1982) associated with drainages, ridges, or southwest aspects with slopes less than 15 percent (Wallestad 1975; Beck 1977). Lower flat areas and shorter sagebrush along ridge tops provide roosting areas. In extreme winter conditions, greater sage-grouse will spend nights and portions of the day burrowed into ''snow roosts'' (Back *et al.* 1987).

Hupp and Braun (1989) found that most Gunnison sage-grouse feeding activity in the winter occurred in drainages and on slopes with south or west aspects in the Gunnison Basin. During a severe winter in the Gunnison Basin in 1984, less than 10 percent of the sagebrush was exposed above the snow and available to sage-grouse. In these conditions, the tall and vigorous sagebrush typical in drainages was an especially important food source.

Historical Distribution

Based on historical records, museum specimens, and potential sage-grouse habitat, Schroeder *et al.* (2004) concluded that Gunnison sage-grouse historically occurred in southwestern Colorado, northwestern New Mexico, northeastern Arizona, and southeastern Utah. Accounts of Gunnison sage-grouse in Kansas and Oklahoma, as suggested by Young *et al.* (2000), are not

supported with museum specimens, and Schroeder *et al.* (2004) found inconsistencies with the historical records and the sagebrush habitat currently available in those areas. Applegate (2001) found that none of the sagebrush species closely associated with sage-grouse occurred in Kansas. He attributed historical, anecdotal reports as mistaken locations or misidentification of lesser prairie chickens. For these reasons, southwestern Kansas and western Oklahoma are not considered within the historic range of Gunnison sage-grouse (Schroeder *et al.* 2004). The GSRSC (2005) modified the historic range from Schroeder *et al.* (2004), based on more complete knowledge of historic and current habitat and the distribution of the species (GSRSC 2005). Based on this information, the maximum Gunnison sage-grouse historical (presettlement) range is estimated to have been 55,350 square kilometers (sq km) (21,370 square miles [sq mi]) (GSRSC 2005). To be clear, only a portion of the historical range would have been occupied at any one time, while all of the current range is considered occupied. Also, we do not know what portion of the historical range was occupied, or what the total population was.

Rogers (1964) qualitatively discussed a decrease in sagebrush range due to overgrazing from the 1870's until about 1934. Additional effects occurred as a result of newer range management techniques implemented to support livestock by the Bureau of Land Management (BLM), Soil Conservation Service, and U.S. Forest Service (Rogers 1964). Rogers (1964) discussed sagebrush eradication (by spraying and burning) in the 1950s, and used two examples (Uncompaghre Plateau, Flattop Mountain in Gunnison County, CO) within the current range to illustrate the large acreages (3–5,000 acres) treated, but stated that long-term effects were yet to be determined. Rogers (1964) demonstrated a much broader distribution of sagebrush in Colorado than what currently exists. Rogers (1964) also presents maps that show decreases in distribution from previous literature.

Much of what was once sagebrush was already lost prior to 1958. Through the use of low-level aerial photography, Oyler-McCance *et al.* (2001) documented a loss of only or 155,673 ha (20 percent) of sagebrush habitat from 1958 to 1993 within Gunnison sage-grouse range. Thirty-seven percent of the plots sampled underwent substantial fragmentation of sagebrush vegetation during that same time period. Oyler-McCance *et al.* (2001) stated that sage-grouse habitat in southwestern Colorado (the range of Gunnison sage-grouse) has been more severely impacted than sagebrush habitat elsewhere in Colorado. However, the Gunnison Basin was not as significantly affected as other areas.

The Colorado River Storage Project (CRSP) resulted in construction of three reservoirs within the Gunnison Basin in the mid-late 1960s (Blue Mesa and Morrow) and mid-1970s (Crystal). Several projects associated with CRSP were constructed in this same general timeframe to provide additional water storage and resulted in the loss of an unquantified, but likely small, amount of sagebrush habitat. These projects provide water storage and, to a certain extent, facilitate agricultural activities throughout the range of Gunnison sage-grouse.

Riebsame *et al* (1996) discussed a greater rural growth rate in Colorado from the 1970s through the 1990s, compared to the rest of the U.S., which has resulted in land use conversion. They noted a pattern of private ranches shifting to residential communities within Gunnison sage-grouse habitat. The Gunnison Basin Working Group Research Sub-committee (February, 2006) cited two regions within the Basin to be of the highest priority for conservation easements due to development pressures.

In summary, a substantial amount of sagebrush habitat within the range of the Gunnison sage-grouse had been lost prior to 1960. In the years since, habitat loss and fragmentation has slowed, although development pressures have been on the rise. Conservation efforts are being developed to help address development-related issues.

Current Distribution and Population Estimates

Gunnison sage-grouse currently occur in seven widely scattered and isolated populations in Colorado and Utah, occupying 4,720 sq km (1,820 sq mi) (GSRSC 2005). The seven populations are Gunnison Basin, San Miguel Basin, Monticello-Dove Creek, Piñon Mesa, Crawford, Cerro Summit-Cimarron-Sims Mesa, and Poncha Pass (Figure 1). A comparative summary of the seven populations is presented in Table 1.

Figure 1. Locations of Current Gunnison Sage-grouse Populations.

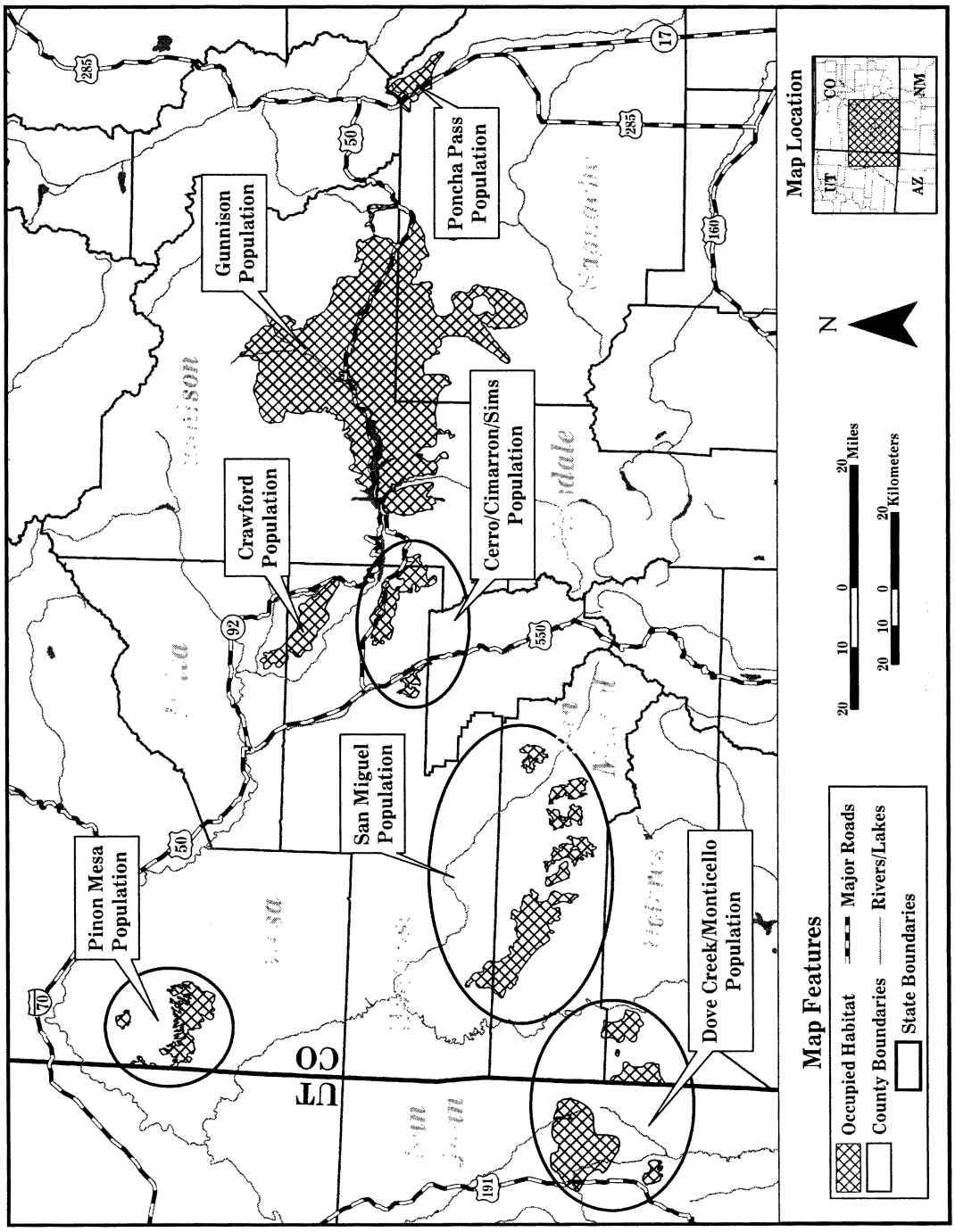

TABLE 1.—POPULATION SIZE, EXTENT OF OCCUPIED HABITAT, LAND OWNERSHIP, AND URBAN DEVELOPMENT PRESSURES

Name of population	Population size range 1995–2005*	2005 population estimate	Currently occupied area	Land ownership	Development pressure
Gunnison Basin Population.	2,203–4,763	4,763	240,000 hectares (ha) 593,000 (ac).	51 percent BLM, 14 percent USFS, 2 percent NPS, 1 percent CDOW, 1 percent Colorado State Land Board, 31 percent private (GSRSC 2005).	Gunnison County currently has a low population density of 5 people/sq mi in 2000 (GSRSC 2005), with projected growth rates ranging from .1 to 1.6 percent per year. These rates result in a population increase of about 5700 people by 2030 (41 percent or 7 people/sq mi) (CDLA 2004). A 30 percent housing increase is projected from 2000–2020 (GSRSC 2005).
San Miguel Basin Population.	206–446	334	40,500 ha (100,500 ac).	*Dry Creek*—57 percent BLM, 12 percent, CDOW, 1 percent, Colorado State Land Board, 30 percent private. *Hamilton Mesa*—85 percent private, 11 percent Colorado State Land Board, 4 percent BLM. *Miramonte*—76 percent private, 15 percent CDOW, 7 percent USFS, 2 percent BLM. *Gurley Reservoir*—91 percent private, USFS 4 percent, BLM 3 percent, the Colorado State Land Board 2 percent. *Beaver Mesa*—99.5 percent private, 0.5 percent BLM. *Iron Springs*—89 percent private, 6 percent USFS, 5 percent Colorado State Land Board (GSRSC 2005).	The population in San Miguel County is expected to double to 18 people/sq mi between 2000 and 2030 (CDLA 2004), accompanied by a 62 percent increase in housing units by 2020 (GSRSC 2005).
Monticello-Dove Creek Population.	162–510 (Combined). 123–280 (Monticello). 10–358 (Dove Creek).	196 (162 Monticello and 34 Dove Creek).	40,000 ha (98,920 ac) (Combined). Monticello—28,500 ha (71,000 ac). Dove Creek—11,500 ha (28,000 ac).	Monticello—95 percent private, 4 percent BLM, 1 percent State of Utah land. Dove Creek—87 percent privately owned, 13 percent BLM (GSRSC 2005).	The Monticello, UT group has approximately 2 people/sq mi (GSRSC 2005) with a projected increase of roughly 18% to 2600 people (2.4 people/sq mi) by 2030 (Utah Governor's Office of Planning and Budget 2005).
Piñon Mesa Population.	79–206	167	16,000 ha (39,000 ac).	70 percent private, 28 percent BLM, 2 percent USFS (GSRSC 2005).	Population density of 55 people/sq mi in 2000 (GSRSC 2005) with a projected increase to 105 people/sq mi by 2030 (CDLA 2004).

TABLE 1.—POPULATION SIZE, EXTENT OF OCCUPIED HABITAT, LAND OWNERSHIP, AND URBAN DEVELOPMENT PRESSURES—Continued

Name of population	Population size range 1995–2005*	2005 population estimate	Currently occupied area	Land ownership	Development pressure
Crawford Population.	118–314	191	14,000 ha (35,000 ac).	63 percent BLM, 13 percent NPS, 24 percent private (GSRSC 2005).	Estimate of 24 people/sq mi living in and near this population in 2000 (GSRSC 2005). Montrose County contains the southeastern 75 percent of the current range of the Crawford population. The county was identified as one of the fastest growing counties in the country, with human population expected to double from 2000–2030 (CDLA 2004) and housing expected to increase by 68 percent by 2020. The northwestern 25 percent of the current range is in Delta County, which is projected to increase in population by 79 percent by 2030 (CDLA 2004) with an increase in housing of 58 percent by 2020 (GSRSC 2005).
Cerro Summit-Cimarron-Sims Mesa Population.	25–83	25	15,000 ha (37,000 ac).	43 percent private, 51 percent BLM, 6 percent CDOW (GSRSC 2005).	Population threats not evaluated.
Poncha Pass Population.	5–44	44	8,300 ha (20,400 ac).	48 percent BLM, 26 percent USFS, 24 percent in private holdings, 2 percent Colorado State Land Board (GSRSC 2005).	Population threats not evaluated.

*The numbers presented are the lowest and highest population estimates during the 11-year period. The lows and highs did not all fall in the same years for each population.

Gunnison Basin Population—The Gunnison Basin is an intermontane basin that includes parts of Gunnison and Saguache Counties, Colorado. The current Gunnison Basin population is distributed across approximately 240,000 ha (593,000 ac), roughly centered on the town of Gunnison. Elevations in the area range from 2,300 to 2,900 m (7,500 to 9,500 ft). Big sagebrush (*Artemesia tridentata*) dominates the upland vegetation and has a highly variable growth form depending on local site conditions. Up to 84 leks have been surveyed annually for breeding activity in the Gunnison Basin (CDOW, unpubl. lit. 2005a). Approximately 37 percent of these leks occur on private land and 63 percent on public land, primarily BLM (GSRSC 2005). In 2005, 44 of these leks were active, 38 inactive, and 2 are of unknown status. Rogers (1964) stated that Gunnison County had one of the largest sage-grouse populations in Colorado.

San Miguel Basin Population—The San Miguel Basin population is in Montrose and San Miguel Counties in Colorado, and is composed of six groups using different areas—Dry Creek Basin, Hamilton Mesa, Miramonte Reservoir, Gurley Reservoir, Beaver Mesa, and Iron Springs. Some of these six areas are used year-round by sage-grouse, and others are used seasonally. Recent radiotelemetry studies have suggested that sage-grouse in the San Miguel Basin move widely and between these areas (Apa 2004; Stiver, unpubl. lit. 2005).

Sagebrush habitat in the Dry Creek Basin area is patchily distributed and the understory is either lacking in grass and forb diversity or nonexistent. Where irrigation is possible, private lands in the southeast portion of Dry Creek Basin are cultivated. Sagebrush habitat on private land has been heavily thinned, or removed entirely (GSRSC 2005). Gunnison sage-grouse use the Hamilton Mesa area in the summer, but use during other seasons is unknown. Miramonte Reservoir occupied sage-grouse habitat is approximately 4,700 ha (11,600 ac) (GSRSC 2005). Sagebrush stands are generally contiguous with a mixed grass and forb understory. Occupied habitat at the Gurley Reservoir area is heavily fragmented and the understory is a mixed grass and forb community. Farming attempts in the early 20th century led to the removal of much of the sagebrush, although agricultural activities now are restricted primarily to the seasonal irrigation and sagebrush has reestablished in most of the failed pastures. However, grazing pressure and competition from introduced grasses have kept the overall sagebrush representation low (GSRSC 2005). Sagebrush stands in the Iron Springs and Beaver Mesa areas are contiguous with a mixed grass understory. The Beaver Mesa area has numerous scattered patches of oakbrush (*Quercus gambelii*).

The 2005 population estimate for the entire San Miguel Basin was 334 (CDOW, unpubl. lit. 2005b) on 9 leks. Rogers (1964) reported that all big sagebrush-dominated habitats in San Miguel and Montrose Counties were historically used by sage-grouse. The historic distribution was highly fragmented by forests, rocky canyons and dry basins void of sagebrush habitats.

Monticello-Dove Creek Population—This population has two disjunct groups of Gunnison sage-grouse. Currently, the largest group is near the town of Monticello, Utah. Gunnison sage-grouse in this group inhabit a broad plateau on the northeast side of the Abajo Mountains with fragmented patches of sagebrush interspersed with large grass pastures and agricultural fields. The Utah Division of Wildlife Resources (UDWR) estimates that Gunnison sage-grouse currently occupy about 24,000 ha (60,000 ac) in the Monticello group. The 2005 population estimate for Monticello was 162 individuals with 2 active and 2 inactive leks (G. Wallace, UDWR pers. comm. 2005). Leks in the Monticello area were first identified and counted in 1968.

The Dove Creek group is located primarily in western Dolores County, Colorado, north and west of Dove Creek, although a small portion of occupied habitat extends north into San Miguel County. Habitat north of Dove Creek is characterized as mountain shrub habitat, dominated by oakbrush interspersed with sagebrush. The area west of Dove Creek is dominated by sagebrush, but the habitat is highly fragmented. Lek counts in the Dove Creek area were over 50 males in 1999, suggesting a population of about 245 birds, but declined to 7 males in 2005 (CDOW, unpubl. lit. 2005c). All leks are located in agricultural fields on private lands. Low sagebrush canopy cover, as well as low grass height, exacerbated by drought, may have led to nest failure and subsequent population declines (Connelly *et al.* 2000a; Apa 2004). Rogers (1964) reported that all sagebrush-dominated habitats in Dolores and Montezuma Counties within Gunnison sage-grouse range in Colorado were historically used by sage-grouse.

Piñon Mesa Population—The Piñon Mesa population occurs on the northwest end of the Uncompahgre Plateau in Mesa County, about 35 km (22 mi) southwest of Grand Junction, Colorado. Eight leks are known (CDOW, unpubl. lit. 2004). However, one is inactive and another was not active in 2005 (CDOW unpubl. lit. 2005d). The Piñon Mesa area may have additional leks, but the high percentage of private land, a lack of roads, and heavy snow cover during spring makes locating additional leks difficult. Gunnison sage-grouse likely occurred historically in all suitable sagebrush habitat in the Piñon Mesa area, including the Dominguez Canyon area of the Uncompaghre Plateau, southeast of Piñon Mesa proper (Rogers 1964). Their current distribution has been substantially reduced from historic levels (GSRSC 2005).

Crawford Population—The Crawford population of Gunnison sage-grouse is in Montrose County, Colorado, about 13 km (8 mi) southwest of the town of Crawford and north of the Gunnison River. Basin big sagebrush (*A. t. tridentata*) and black sagebrush (*A. nova*) dominate the mid-elevation uplands (GSRSC 2005). The 2005 population estimate for Crawford is 191 (CDOW, unpubl. lit. 2005e). Currently there are four active leks in the Crawford population on BLM lands in sagebrush habitat adjacent to an 11-km (7-mi) stretch of road. This area represents the largest contiguous sagebrush-dominated habitat within the Crawford boundary (GSRSC 2005).

Cerro Summit-Cimarron-Sims Mesa Population—This population is in Montrose County, Colorado. The Cerro Summit-Cimarron group is centered about 24 km (15 mi) east of Montrose. The habitat consists of patches of sagebrush habitat fragmented by oakbrush and irrigated pastures. Three leks are known in the Cerro Summit-Cimarron group, but only one was verified to be active in 2005. Rogers (1964) noted a small population of sage-grouse in the Cimarron River drainage, but did not report population numbers. He noted that lek counts at Cerro Summit in 1959 listed four individuals.

The Sims Mesa area about 11 km (7 mi) south of Montrose consists of small patches of sagebrush that are heavily fragmented by pinyon-juniper, residential and recreational development, and agriculture. The one known lek in Sims Mesa is inactive. Rogers (1964) counted eight males in a lek count at Sims Mesa in 1960. It is not known if sage-grouse move between the Cerro-Summit-Cimarron and Sims Mesa groups.

Poncha Pass Population—The Poncha Pass sage-grouse population is located in Saguache County, approximately 16 km (10 mi) northwest of Villa Grove, Colorado. This population was established through the introduction of 30 birds from the Gunnison Basin in 1971 and 1972 during efforts to reintroduce the species to the San Luis Valley (GSRSC 2005). The known population distribution is in sagebrush habitat from the summit of Poncha Pass extending south for about 13 km (8 mi) on either side of U.S. Highway 285. Sagebrush in this area is extensive and continuous with little fragmentation; sagebrush habitat quality throughout the area is adequate (Nehring and Apa 2000). San Luis Creek runs through the area, providing a year-round water source and lush, wet meadow riparian habitat for brood-rearing. The 2005 Poncha Pass sage-grouse population estimate is 44 (CDOW, unpubl. lit. 2005f). The only current lek is located on BLM-administered land. In 1992, a CDOW effort to simplify hunting restrictions inadvertently opened the Poncha Pass area to sage-grouse hunting and at least 30 grouse were harvested from this population. Due to declining population numbers since the 1992 hunt, CDOW transplanted 24 additional birds from the Gunnison Basin (Nehring and Apa 2000). In 2001 and 2002, 20 and 7 birds respectively also were moved to the Poncha Pass by CDOW (GSRSC 2005). Transplanted females have bred successfully (Apa, CDOW, pers. comm. 2004) and display activity resumed on the historic lek in spring 2001.

Population Trends

Trends in abundance were analyzed for individual populations and the species rangewide using male lek count data from CDOW and UDWR (Garton 2005). Due to inconsistencies in data collection over time, trend analyses were conducted for two time periods—the entire number of years lek data have been collected (1957–2005), and from 1995–2005 when sampling methodologies have been more consistent. Raw data collected for 2005 show a large increase in the numbers of males attending leks. Because of this, the analyses were conducted both with and without 2005 data; estimates did not change significantly when the 2005 lek counts were omitted in this analysis. Statistical analyses of the Cerro Summit-Cimarron-Sims Mesa and Dove Creek populations could not be completed due to low lek counts and inconsistencies in sampling over time. Similarly, the small Poncha Pass population was not analyzed because it has been surveyed for only 6 years and in that time the population was augmented with birds from Gunnison Basin.

The long-term analysis (1957–2005) found that the rangewide population of Gunnison sage-grouse was neither increasing nor decreasing during that time period. Annual rates of change were highly variable, most likely as a result of sampling error rather than actual changes in population sizes. The shorter analysis period (1995–2005) yielded the same results, although the variability was reduced, likely due to more consistent data collection methods. Individual populations reflected the trends in the rangewide analysis, in that some populations were slightly increasing and some were slightly decreasing (Table 2). As with similar analyses conducted for the

greater sage-grouse (Connelly *et al.* 2004), density-dependent models appeared to more accurately describe observed population trends (Garton 2005).

TABLE 2.—SUMMARY OF POPULATION TRENDS FOR THE GUNNISON SAGE-GROUSE [1]

Population	Finite rate of change
Rangewide	1.049
Gunnison Basin	1.05
Piñon Mesa	1.09
San Miguel Basin	0.9
Crawford	0.999
Monticello	0.99

[1] Values are the finite rate of change in the population, where 1 is no change, numbers less than 1 indicate a decline, and numbers greater than 1 indicate an increase. The analysis is for 1995–2005 (data from Garton 2005).

Because we relied on the population trend analyses conducted by Garton (2005), we asked six peer reviewers to evaluate the report. We received comments from five of the reviewers, three generally favorable towards the report and its conclusions and two expressing concerns regarding limitations in the data sets, assumptions, and/or analyses. For example, one would have to assume that habitat availability over time would remain stable in order to conclude that Gunnison sage-grouse numbers are unlikely to experience a substantial decline in the future. Also, while the conclusions showed that the number of males per lek remained relatively stable over time, the proportion of leks on which males were counted appeared to have declined, which could be indicative of an overall population decline. In discussing the historic distribution of Gunnison sage-grouse, we concluded that much of the habitat loss, and by inference population decline, occurred prior to 1958.

It was also suggested that more appropriate statistical tests would need to be applied to come to any conclusion about potential population trends and that emphasis should be on an independent analysis of each geographically isolated population because each population exhibits independent population dynamics. Population trend analyses were conducted on a population basis (as well as rangewide). However, to further subdivide the data analyzed into smaller units (*i.e.* subpopulations) would have compromised the statistical integrity of the analysis due to small sample sizes. There was concern expressed that habitat loss over time was not accounted for, that population declines would go unnoticed, and that population trends would appear far too optimistic.

An identical population trend analysis was peer reviewed by the Ecological Society of America in the ''Conservation Assessment of Greater Sage-grouse and Sagebrush Habitats'' (Connelly *et al.* 2004). Additional clarifying information regarding model assumptions, the primary concern of the peer reviewers, was provided by Garton after the peer review was complete. Based on this late submission, and after careful review of the analysis, we believe that Garton (2005) constitutes the best currently available information.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). As part of our analysis, we chose, out of an abundance of caution, not to rely on the Cerro Summit-Cimarron-Sims Mesa and Poncha Pass populations and the Dove Creek group of the Monticello-Dove Creek population for the longterm conservation of the species because of their small, isolated status. We also determined that these populations do not comprise a significant portion of the Gunnison sage-grouse range. Therefore, these populations/group were not evaluated further for future threats. Although we are not relying on these populations/group for the longterm conservation of the species, we nonetheless believe that conservation of these populations is worthwhile, and we will continue to support and encourage those efforts. However, we analyze the threats applicable to the remaining populations/group to determine whether the species as a whole meets the definition of threatened or endangered.

The Service considers the foreseeable future in Gunnison sage-grouse to be between 30 and 100 years based on 10 Gunnison sage-grouse generations to 2 sagebrush habitat regeneration cycles. This is consistent with our 12-month finding for the greater sage-grouse (70 FR 2244). Because the Gunnison sage-grouse has the same generation time and occupies habitat similar to the greater sage-grouse, we consider it prudent to use the same definition for the foreseeable future.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Data indicate that the Gunnison sage-grouse was found in central and southwest Colorado, southeast Utah, northwestern New Mexico, and northeastern Arizona prior to European settlement (GSRSC 2005, modified from Schroeder *et al.* 2004). Gunnison sage-grouse currently occupy 4,719 sq km (1,822 sq mi) in southwestern Colorado and southeastern Utah (GSRSC 2005, modified from Schroeder *et al.* 2004). The following describes the issues affecting Gunnison sage-grouse within their current range.

Current Threats Due to Habitat Fragmentation: Habitat fragmentation is the separation or splitting apart of previously contiguous, functional habitat. Fragmentation of sagebrush habitats has been cited as a primary cause of the decline of sage-grouse populations (Patterson 1952; Connelly and Braun 1997; Braun 1998; Johnson and Braun 1999; Connelly *et al.* 2000a; Miller and Eddleman 2000; Schroeder and Baydack 2001; Aldridge and Brigham 2003; Connelly *et al.* 2004; Schroeder *et al.* 2004). While sage-grouse are dependent on interconnected expanses of sagebrush (Patterson 1952; Connelly *et al.* 2004), data are not available regarding optimum or even minimum sagebrush patch sizes necessary to support sage-grouse populations. In addition, there is a lack of data to assess how fragmentation influences specific sage-grouse life-history parameters such as productivity, density, and home range.

Oyler-McCance *et al.* (2001) documented loss and fragmentation of sagebrush vegetation in southwestern Colorado. In a genetic study of Gunnison sage-grouse populations, Oyler-McCance *et al.* (2005) concluded that gene flow among populations of Gunnison sage-grouse is limited.

Notwithstanding the lack of specificity on effects of fragmentation, it is clear that as a whole, fragmentation can have an adverse effect on sage-grouse populations. The following sections examine activities that can contribute to habitat fragmentation to determine whether they threaten Gunnison sage-grouse habitat.

Conversion to Agriculture and Water Development

In the mid-1800s, western rangelands were converted to agricultural lands on a large scale beginning with the series of Homestead Acts in the 1800s (Braun 1998; Hays *et al.* 1998), especially where suitable deep soil terrain and

water were available (Rogers 1964). Influences resulting from agricultural activities adjoining sagebrush habitats extend into those habitats, and include increased predation and reduced nest success due to predators associated with agriculture (Connelly *et al.* 2004).

Agricultural conversion can provide some limited benefits for sage-grouse. Some crops such as alfalfa (*Medicago sativa*) and young bean sprouts (*Phaseolus* spp.) are eaten or used for cover by sage-grouse (C. Braun, CDOW, pers. comm. 1998). However, crop monocultures do not provide adequate year-round food or cover (GSRSC 2005). Gunnison sage-grouse will use hay pastures for foraging within about 50 m (165 ft) of the edge of the field but do not forage further into the pasture due to lack of suitable habitat (Gunnison Basin Conservation Plan 1997).

In the Gunnison Basin approximately 17,328 ha (42,800 ac) or 8 percent of the current range was converted to agricultural activities in the past and for the most part is no longer occupied (GSRSC 2005). Approximately 5,700 ha (14,000 ac) or 7 percent of the current range in the San Miguel Basin has been converted to agriculture and for the most part is unoccupied (GSRSC 2005). The arrangement of these converted lands has contributed to habitat fragmentation in these areas, although it is not negatively influencing sage-grouse numbers in this population (Garton 2005).

Approximately 30 percent of the 40,048 ha (98,920 ac) of the current range in the Monticello-Dove Creek population has been converted to agriculture and for the most part is no longer occupied (GSRSC 2005). In the Monticello group, 43 percent has been converted to pasture (GSRSC 2005). San Juan County, Utah, where the Monticello group resides, also has approximately 15,000 ha (37,000 ac) enrolled in Conservation Reserve Program (CRP), of which about half is within current sage-grouse range (San Juan County Gunnison Sage-grouse Work Group [GSWG], unpubl. lit. 2005; GSRSC 2005). Under CRP, cropland is planted to pastureland and, except in emergency situations, not hayed or grazed. The CRP fields are used heavily by grouse as brood-rearing areas but vary greatly in plant diversity and forb abundance, and generally lack any shrub cover (GSRSC 2005). Sagebrush patches have progressively become smaller and more fragmented limiting the amount of available winter habitat for the Monticello group (GSRSC 2005). Significant use of CRP as nesting or winter habitat will require establishment of sagebrush stands in these fields. The CRP has protected this area from more intensive agricultural use and development, and approximately 16,000 ha (40,000 ac) of CRP are up for renewal under the Farm Bill in the next 2–3 years.

Conversion to agriculture is limited in the Piñon Mesa area, with only 5 percent (500 ha (1,214 ac)) of the current range planted to grass/forb rangeland and for the most part no longer occupied (GSRSC 2005). Sagebrush occurs in some areas that may be converted to grassland for livestock (BLM, unpubl. lit. 2005a), but the continued conversion is considered to be a minor impact in the foreseeable future. Habitat conversion in the Crawford area due to agricultural activities has been limited (GSRSC 2005).

Although past conversion to agriculture has resulted in the loss of sagebrush habitat, we have no evidence to conclude that ongoing or anticipated agricultural conversion of sagebrush habitats is likely to threaten or endanger the Gunnison sage-grouse. Existing agricultural activities may fragment the species current range, but we have no data to determine that this is actually occurring, or is likely to occur.

Past development of irrigation projects has also resulted in loss of sage-grouse habitat (Braun 1998). Reservoir development in the Gunnison Basin flooded 3,700 ha (9,200 ac or 1.5 percent) of likely sage-grouse habitat (S. McCall, Bureau of Reclamation, pers. comm. 2005), and three other reservoirs inundated approximately 2 percent of habitat in the San Miguel Basin population area (J. Garner, CDOW, pers. comm. 2005). We are unaware of any plans for additional reservoir construction in the foreseeable future and do not consider water development a threat to the species.

Roads

Impacts from roads may include direct habitat loss, direct mortality, creation of barriers to migration to seasonal habitats (Forman and Alexander 1998), facilitation of mammalian (Forman and Alexander 1998; Forman 2000) and corvid predation (Connelly *et al.* 2000b; Aldridge and Brigham 2003; Connelly *et al.* 2004) and expansion into previously unused areas, spread of invasive weeds (Forman and Alexander 1998; Forman 2000; Gelbard and Belnap 2003; Knick *et al.* 2003; Connelly *et al.* 2004), noise in the vicinity of leks (Braun 1986; Forman and Alexander 1998; Holloran 2005), and increased recreational use and associated human disturbances (Forman and Alexander 1998; Massey 2001; Wyoming Game and Fish Department 2003). Specific effects of these factors on sage-grouse are discussed below.

Lyon (2000) suggested that roads may be the primary impact of oil and gas development to greater sage-grouse, due to their persistence and continued use even after drilling and production have ceased. Braun *et al.* (2002) suggested that daily vehicular traffic along road networks for oil wells can impact Gunnison and greater sage-grouse breeding activities based on a documented decrease in males at leks. Modeling done in Connelly *et al.* (2004) found that the number of active leks, lek persistence and lek activity increased with increasing distance from an interstate highway. Other than this single predictive model output, we have no quantitative information on the current impact of roads to Gunnison sage-grouse. It is unclear what specific factor relative to roads sage-grouse are responding to, and Connelly *et al.* (2004) caution that they have not included other potential sources of disturbance (e.g., powerlines) in their analyses.

Roads may have additional indirect effects that result from birds' behavioral avoidance of road areas because of noise, visual disturbance, pollutants, and predators moving along them. The absence of screening vegetation in arid and semiarid regions further exacerbates any problems (Suter 1978). Male sage-grouse depend on acoustical signals to attract females to leks (Gibson and Bradbury 1985; Gratson 1993). If noise interferes with mating displays, and thereby female attendance, it is possible that younger males will not be drawn to the lek and eventually leks will become inactive (Braun 1986; Holloran 2005). Dust from roads and exposed roadsides can damage vegetation through interference with photosynthetic activities; the actual amount of potential damage depends on winds, wind direction, the type of surrounding vegetation and topography (Forman and Alexander 1998). Chemicals used for road maintenance, particularly in areas with snowy or icy precipitation, can affect the composition of roadside vegetation (Forman and Alexander 1998). While all of these potential effects are actually occurring or whether they have actually affected sage-grouse populations individually or at a species level.

Gunnison sage-grouse habitat is currently fragmented by a number of roads (BLM, unpubl. lit. 2005b, Colorado Department of Transportation (CDOT) 2004, Jim Ferguson, BLM, pers. comm. 2005, San Juan County GSWG,

unpubl. lit. 2005), and road development within Gunnison sage-grouse habitats has precluded sage-grouse movement between the resultant patches (Oyler-McCance *et al.* 2001). New roads and increased traffic on existing roads may cause some impact to the Dry Creek Basin birds in the San Miguel Basin, primarily due to ongoing gas field development and exploration on both the eastern and western edges of the current range. Increases in truck traffic have been noted on 24 km (15 mi) of roads that cross the center of the current range in Dry Creek Basin. However, only two sage-grouse have been killed on the roads in Dry Creek Basin since 2003 (CDOW, unpubl. lit. 2006). No paved roads occur in the current range for the Piñon Mesa population, but with projected human population increases of 91 percent by 2030 (Colorado Department of Local Affairs [CDLA] 2004), we anticipate that new or existing roads will be paved in the foreseeable future.

This information suggests new roads may result in additional habitat loss and fragmentation. It may also increase disturbance and chance of direct mortality. However, based on the data available to us, we have no data to support that the effects of existing roads in general, and the new roads specifically will impact Gunnison sage grouse at the species level.

Powerlines

The most detrimental effect that powerlines have is to provide a convenient perch for predators. There are reports that they can also directly affect sage-grouse by posing a collision and electrocution hazard (Braun 1998; Connelly *et al.* 2000a), and can have indirect effects by increasing predation (Connelly *et al.* 2004), fragmenting habitat (Braun 1998), and facilitating the invasion of exotic annual plants (Knick *et al.* 2003; Connelly *et al.* 2004). However, although death through collision and electrocution are widely referenced, only one citation actually provides data to support the claim with a report of three adult sage-grouse dying as a result of colliding with a telegraph line in Utah (Borell 1939). Both Braun (1998) and Connelly *et al.* (2000a) report that sage-grouse collisions with powerlines occur, although no specific instances were presented.

In areas where the vegetation is low and the terrain relatively flat, power poles provide an attractive hunting and roosting perch, as well as nesting stratum for many species of raptors (Steenhof *et al.* 1993; Connelly *et al.* 2000a; Manville 2002; Vander Haegen *et al.* 2002). Power poles increase a raptor's range of vision, allow for greater speed during attacks on prey, and serve as territorial markers (Steenhof *et al.* 1993; Manville 2002). Raptors may actively seek out power poles where natural perches are limited. For example, within 1 year of construction of a 596-km (373-mi) transmission line in southern Idaho and Oregon, raptors and common ravens (*Corvus corax*) began nesting on the supporting poles (Steenhof *et al.* 1993). Within 10 years of construction, 133 pairs of raptors and ravens were nesting along this stretch (Steenhof *et al.* 1993). The increased abundance of raptors and corvids within the current Gunnison sage-grouse range could result in increased predation (Oyler-McCance *et al.* 2001). Ellis (1985) reported that golden eagle predation on greater sage-grouse increased from 26–73 percent after completion of a transmission line within 200 m (656 ft) of an active sage-grouse lek in northeastern Utah. The lek was eventually abandoned. Ellis (1985) concluded that the presence of the powerline resulted in changes in sage-grouse dispersal patterns and fragmentation of the habitat. Leks within 0.4 km (0.25 mi) of new powerlines constructed for coalbed methane development in the Powder River Basin of Wyoming had significantly lower growth rates, as measured by recruitment of new males onto the lek, compared to leks further from these lines (Braun *et al.* 2002). The presence of a powerline may fragment sage-grouse habitats even if raptors are not present. Braun (1998) found that use of otherwise suitable habitat by sage-grouse near powerlines increased as distance from the powerline increased for up to 600 m (1,969 ft) and reported that the presence of powerlines may limit sage-grouse use within 1 km (0.6 mi) in otherwise suitable habitat.

Linear corridors through sagebrush habitats can facilitate the spread of invasive species, such as cheatgrass (*Bromus tectorum*) (Connelly *et al.* 2004). However, we were unable to find any information regarding the amount of invasive species incursion as a result of powerline construction.

On 121,000 ha (300,000 ac) of BLM land in Gunnison Basin there are 36 rights-of-way for power facilities, power lines, and transmission lines, which have resulted in the direct loss of 350 ha (858 ac) of occupied habitat (BLM, unpubl. lit. 2005c). A transmission line runs through the Dry Creek Basin group in the San Miguel Basin population, and the Beaver Mesa group has two. None of the transmission lines in the San Miguel Basin have raptor proofing (BLM, unpubl. lit. 2005d), nor do most distribution lines (Jim Ferguson, BLM, pers. comm. 2005). One major electric transmission line runs east-west in the northern portion of the current range of the Monticello group (San Juan County GSWG, unpubl. lit. 2005). Powerlines do not appear to be present in sufficient density to pose a significant threat to Gunnison sage-grouse in the Piñon Mesa population at this time. One transmission line parallels Highway 92 in the Crawford population and distribution lines run from there to homes on the periphery of the current range (J. Ferguson, BLM, pers. comm. 2005). The projected human population growth rate in and near Gunnison sage-grouse populations is low (see discussion under urban development). Therefore we expect a low rate of increase in powerlines with a concomitant small increase in predation from raptors and corvids. We do not expect these to be substantial threats at the population level.

Fences

Fences are used to delineate property boundaries and to manage livestock (Braun 1998; Connelly *et al.* 2000a). The effects of fencing on sage-grouse include direct mortality through collisions, creation of predator (raptor) perch sites, the potential creation of a predator corridor along fences (particularly if a road is maintained next to the fence), and incursion of exotic species along the fencing corridor (Call and Maser 1985; Braun 1998; Connelly *et al.* 2000a; Knick *et al.* 2003; Connelly *et al.* 2004).

Sage-grouse frequently fly low and fast across sagebrush flats and new fences can create a collision hazard (Call and Maser 1985). Thirty-six carcasses of greater sage-grouse were found near Randolph, Utah, along a 3.2-km (2-mi) fence within 3 months of its construction (Call and Maser 1985). Twenty-one incidents of mortality through fence collisions near Pinedale, Wyoming, were reported in 2003 to the BLM (Connelly *et al.* 2004). Fence collisions continue to be identified as a source of mortality for both Gunnison and greater sage-grouse (Braun 1998; Connelly *et al.* 2000a; Oyler-McCance *et al.* 2001; Connelly *et al.* 2004, San Juan County GSWG, unpubl. lit. 2005), although effects on populations are not understood. Braun (1998) suggested that collision with fences, especially woven wire fences, was a potential factor in sage-grouse decline. Connelly *et al.* (2000a) noted that grouse have been observed hitting or narrowly missing fences and that grouse remains are frequently found next to fences. The impact of collisions on populations of grouse has not been investigated.

Fences provide perch sites for avian predation and, depending on their design, may also cause habitat loss and fragmentation. Where there are maintained trails alongside the fence, invasive weeds may increase (Connelly *et al.* 2000a; Oyler-McCance *et al.* 2001; Braun *et al.* 2002; Gelbard and Belnap 2003; Knick et al 2003; Connelly *et al.* 2004). Where sage-grouse avoid habitat adjacent to fences, presumably to minimize the risk of predation, habitat fragmentation occurs even if the actual habitat is not removed (Braun 1998).

There are at least 1,540 km (960 mi) of fence within BLM lands within the Gunnison Basin (BLM, unpubl. lit. 2005e) and an unquantified amount on other land ownerships. While these fences contribute to habitat fragmentation in this area and increase the potential for loss of individual grouse through collisions or enhanced predation, such effects have been ongoing since the first agricultural conversions occurred in sage-grouse habitat. Because we do not expect a major increase in the number of fences and Gunnison sage-grouse populations are relatively stable in the affected areas, we do not believe fencing is a significant threat to Gunnison sage-grouse at the species level.

Urban Development

It is estimated that 3–5 percent of all sage-grouse historical habitat in Colorado has been converted into urban areas (Braun 1998). Interrelated effects from urban/suburban development include construction of associated infrastructure (roads, powerlines, and pipelines), which has been discussed, as well as predation threats from the introduction of domestic pets and increases in predators subsidized by human activities (*e.g.*, landfills). Urban expansion into rural areas also is resulting in direct habitat loss and conversion, as well as alteration of remaining sage-grouse habitats around these areas due to the presence of humans and pets (Braun 1998; Connelly *et al.* 2000a). Specific affects of these factors on sage-grouse are discussed below.

U.S. Census Bureau projections show that human population growth varies widely across the current distribution of Gunnison sage-grouse (CDLA 2004). Public ownership in the Crawford area and Gunnison Basin, and portions of the San Miguel Basin will limit potential impacts from development in those particular areas. However, even these public lands are intersected by private lands. ''No development'' conservation easements may help alleviate potential impacts of the expansion effects of urban and suburban development (existing and contemplated conservation easements in the Gunnison sage-grouse range are addressed in more detail under State regulatory protection considerations in Factor D).

Aldridge (2005) used spatial modeling to determine various habitat, climatic, and anthropogenic factors that influence greater sage-grouse nest and brood habitat selection and to determine nest and brood success. He determined that broods avoided habitats with a high density of urban development and areas close to cropland. A single human-use feature did not appear to affect nest occurrence but sage-grouse strongly avoided nesting in areas when roads, well sites, urban habitats, and cropland were analyzed in combination. Aldridge (2005) agreed with Fuhlendorf *et al.* (2002) that this may be due to predator avoidance behavior.

It is possible that residential development that is not managed to account for the needs of the Gunnison sage-grouse could destroy and fragment habitat for the Gunnison Basin population. Gunnison County currently has a low population density of 5 people/sq mi in 2000 (GSRSC 2005), with projected growth rates ranging from .1 to 1.6 percent per year. These rates result in a population increase of about 5,700 people by 2030 (41% or 7 people/sq mi) (CDLA 2004). A 30 percent housing increase is projected from 2000–2020 (GSRSC 2005). Growth from the town of Crested Butte, on the northern end of the Gunnison Basin population, is expanding southward. Population growth estimates are not available for the portion of Saguache County that comprises approximately 25 percent of the Gunnison Basin population's current range, although county-wide the projected population growth from 3 people/sq mi in 2000 (GSRSC 2005) to 2030 is 45 percent (CDLA 2004). Currently, an estimated 100–500 people live in the Gunnison Basin portion of Saguache County so the estimated population in 2030 will be between 145 and 725 people.

Dry Creek Basin is the only group within the San Miguel Basin population with significant Federal and State land ownership (70 percent). This population is made up of six disjunct sage-grouse groups. San Miguel County had 9 people/sq mi in 2000 (GSRSC 2005); most residents live in the town of Telluride or several smaller communities, including Norwood. The population in San Miguel County is expected to double to 18 people/sq mi between 2000 and 2030 (CDLA 2004), accompanied by a 62 percent increase in housing units by 2020 (GSRSC 2005). Based upon the location of current subdivided areas, expansion into sage-grouse habitat is certain without some action by local government (GSRSC 2005). Residential development is likely to affect the Iron Springs Mesa and Gurley Reservoir groups (GSRSC 2005). Subdivision development increased during 2003 and 2004 and at Gurley Reservoir, a 260-ha+ (640-ac+) area has been broken up into 16, 16-ha (40-ac) tracts for development. Approximately 8 percent of the current range for this portion of the San Miguel Basin population will be developed. Continued development in the area threatens to cause habitat loss, fragmentation, and future connection of the San Miguel Basin population to other Gunnison sage-grouse populations. The Miramonte Reservoir group has a long-term threat of housing development (GSRSC 2005). However, the Dry Creek Basin group, which is the largest and principally in Federal ownership, has little expected threat from development (GSRSC 2005).

The Monticello group of the Monticello-Dove Creek population is in San Juan County, Utah, which has approximately 2 people/sq mi (GSRSC 2005) with a projected increase to 3.6 people/sq mi by 2030 (Utah Governor's Office of Planning and Budget 2005) and a 54 percent increase in housing by 2020 (GSRSC 2005). Almost all the current range in both States is in private ownership.

The Piñon Mesa population is in Mesa County, which had a population density of 55 people/sq mi in 2000 (GSRSC 2005) with a projected increase to 105 people/sq mi by 2030 (CDLA 2004) and 56 percent in housing units by 2020 (GSRSC 2005). Approximately 70 percent of the current range is in private ownership. Expansion of growth from the nearby city of Grand Junction poses a threat of permanent habitat loss and fragmentation. The eastern 33 percent of the current range (approximately 13,000 ha or 32,000 ac) is privately-owned and contains 810 ha (2,000 ac) in tracts, each less than 65 ha (160 ac), and an additional 1,500 ha (3,600 ac) in tracts between 65 and 130 ha (160 and 320 ac), all of which can be further subdivided (GSRSC 2005). However, 19 percent of the private land containing all occupied habitat is currently in conservation easements with additional lands being negotiated for conservation easements with the landowners, thereby limiting the threat of development (See Factor D for further discussion of easements).

There were an estimated 24 people/sq mi living in and near the Crawford Area population in 2000 (GSRSC 2005).

Montrose County contains the southeastern 75 percent of the current range of the Crawford population. The county was identified as one of the fastest growing counties in the country, with human population expected to double from 2000–2030 (CDLA 2004) and housing expected to increase by 68 percent by 2020. Growth will likely fragment and destroy current habitat and potential linkages to the San Miguel population (GSRSC 2005), creating further isolation of this population (see Factor E for further discussion). The northwestern 25 percent of the current range is in Delta County, which is projected to increase in population by 79 percent by 2030 (CDLA 2004) with an increase in housing of 58 percent by 2020 (GSRSC 2005).

Human population growth and housing development is occurring in all of the Gunnison sage-grouse populations and is projected to continue to do so over the next 2 decades. Some populations (Gunnison and Crawford) have public lands as potential buffers for the anticipated human population growth. Additionally, with the exception of the Piñon Mesa population, projected human population densities in all sage-grouse populations are low and do not appear to pose a significant threat. At Piñon Mesa, the threat of development may be diminished by current conservation easements with additional easements planned.

Energy Development

The development of oil and gas resources requires surveys for economically recoverable reserves, construction of well pads and access roads, subsequent drilling and extraction, and transport of oil and gas, typically through pipelines. Ancillary facilities can include compressor stations, pumping stations and electrical facilities (Connelly *et al.* 2004). Surveys for recoverable resources occur primarily through seismic activities, using vibroesis trucks or shothole explosives. Well pads vary in size from 0.10 ha (0.25 ac) for coalbed natural gas wells in areas of level topography to greater than 7 ha (17 ac) for deep gas wells (Connelly *et al.* 2004). Pads for compressor stations require 5–7 ha (12–17 ac) (Connelly *et al.* 2004). Well densities and spacing are typically designed to maximize recovery of the resource and are administered by State agencies (Connelly *et al.* 2004). Well densities and spacing on Federal lands are governed by land management plans which include resource analysis and mitigation requirements. All the sage grouse are considered species of special concern and effects on grouse and habitat are part of the considerations for permit conditions imposed by the BLM.

Direct habitat losses result from construction of well pads, roads, pipelines, powerlines, and the crushing of vegetation during seismic surveys. As disturbed areas are reclaimed, sage-grouse may repopulate the area. However, re-population may take 20–30 years, as habitat conditions are not immediately restored (Braun 1998). For most developments, return to pre-disturbance population levels is not expected due to a net loss and fragmentation of habitat (Braun *et al.* 2002). After 20 years, sage-grouse have not recovered to pre-development numbers in Alberta, even though well pads in these areas have been reclaimed (Braun *et al.* 2002). In some reclaimed areas, sage-grouse have not returned (Aldridge and Brigham 2003). However in Jackson County, Colorado, sage-grouse have repopulated, although not to the pre-development levels.

Noise can drive away wildlife, cause physiological stress, and interfere with auditory cues and intraspecific communication, as discussed previously. Aldridge and Brigham (2003) reported that, in the absence of stipulations to minimize the effects, mechanical activities at well sites may disrupt sage-grouse breeding and nesting activities. Greater sage-grouse hens that bred on leks within 3 km (2 mi) of oil and gas development in the upper Green River Basin of Wyoming selected nest sites with higher total shrub canopy cover and average live sagebrush height than hens nesting away from disturbance (Lyon 2000). The author hypothesized that exposure to road noise associated with oil and gas drilling may have been one cause for the difference in habitat selection. However, noise could not be separated from the potential effects of increased predation resulting from the presence of a new road. Above-ground noise is typically not regulated to mitigate effects to sage-grouse or other wildlife (Connelly *et al.* 2004). Gunnison sage-grouse were observed flushing from a lek when a compressor station switched on, disrupting breeding behavior (Jim Garner, CDOW, pers. comm. 2004). However, this was a single incident, and we have no information to conclude that noise from energy development poses a significant threat to the species.

Water quality and quantity may be affected in oil and gas development areas. However, since, sage-grouse do not require free water (Schroeder *et al.* 1999) we anticipate that impacts to water quality from mining activities would have minimal effects on them.

Increased human presence resulting from oil and gas development also can impact sage-grouse either through avoidance of suitable habitat, disruption of breeding activities, or increased hunting and poaching pressure (Aldridge and Brigham 2003; Braun *et al.* 2002; BLM 2003). Sage-grouse also may be at increased risk for collision with vehicles simply due to the increased traffic associated with oil and gas activities (BLM 2003).

Only a few studies have examined the effects of oil and gas development on sage-grouse. While each of these studies reported sage-grouse population declines, specific causes for the negative impacts were not determined. In Alberta, Canada, the development of well pads and associated roads in the mid-1980s resulted in the abandonment of three greater sage-grouse lek complexes within 200 m (656 ft) of these features (Braun *et al.* 2002). Those leks have not been active since that time. A fourth lek complex has gone from three to one lek with fewer numbers of sage-grouse on it (Braun *et al.* 2002). The well pads have since been reclaimed, but greater sage-grouse numbers have not recovered (we do not have information on post-reclamation vegetation). Subsequent to the development of the Manyberries Oil Field in high quality greater sage-grouse habitat in Alberta, male sage-grouse counts fell to the lowest known level (Braun *et al.* 2002). Two additional leks were directly disturbed, and neither of these leks has been active within the past 10 years (Braun *et al.* 2002). The development of oil reserves in Jackson County, Colorado, was concurrent with decline of greater sage-grouse numbers in the oil field area (Braun 1998). Sage-grouse populations still occur in at least one long-term oil field development in Colorado where leks are not within line-of-sight of an active well or powerline (Braun *et al.* 2002). Although the number of active leks has declined in this field, sage-grouse have been consistently documented there since 1973.

Of particular relevance to estimating oil and gas development impacts is the fidelity of sage-grouse hens to nesting and summer brood-rearing areas demonstrated by Lyon and Anderson (2003). Hens that have successfully nested will return to the same areas to nest every year. If these habitats are affected by oil and gas development, there is a strong potential that previously successful hens will return but not initiate nesting (Lyon 2000). Depending on the number of hens affected, local populations could decline.

The reauthorization of the Energy Policy and Conservation Act in 2000 dictated reinventory of Federal oil and gas reserves, which identified extensive reserves in the Greater Green River Basin of Colorado, Utah, and Wyoming, and the San Juan Basin of New Mexico and Colorado (Connelly *et al.* 2004). Energy development on Federal (BLM and USFS) lands is regulated by the BLM and can contain conservation measures for wildlife species (see Factor D for a more thorough discussion). The BLM (1999) classified the area encompassing all Gunnison sage-grouse habitat for its gas and oil potential. Three of the populations have areas with high (San Miguel Basin, Monticello group) or medium (Crawford) oil and gas potential. San Miguel County, where much oil and gas activity has occurred in the last few years, ranked 8 out of 64 in counties producing natural gas in 2002 (Colorado Oil and Gas Conservation Commission 2004).

In the current sage-grouse range in the Gunnison Basin, 33 percent of the area ranked as low potential with the remainder having no potential for oil and gas development (BLM 1999; GSRSC 2005). No federally-leased lands exist within the population area (BLM, unpubl. lit. 2005f). However, one active well and six inactive wells are on non-Federal lands in the current range in the northern part of the Gunnison Basin (BLM, unpubl. lit. 2005f).

The entire San Miguel Basin population area is classified as having high potential for oil and gas development (BLM 1999; GSRSC 2005)). Natural gas exploration in the San Miguel Basin has increased in recent months (CDOW, unpubl. lit. 2005g), with 49 percent of the current range on public and private land with Federal leases for gas development (BLM, unpubl. lit. 2005f). As a general practice, all currently unleased BLM lands within the current sage-grouse range in the San Miguel Basin are being deferred for oil and gas leasing until completion of the Resource Management Plans (RMPs) covering the habitat for this population (anticipated in 2007 and 2008).

The Colorado State Land Board (CSLB) offered four sections of State school section land for oil and gas leasing in the San Miguel Basin population in February 2006. One of these is in occupied habitat of the Miramonte Reservoir group and the other three are in the Dry Creek Basin group. The San Miguel County Board of Commissioners requested that they withdraw those sections or at least place a ''no surface occupancy'' prescription on the land with adherence to conservation measures in the RCP (San Miguel County, unpubl. lit. 2006). The CSLB stipulated that well pads would be placed out of Gunnison sage-grouse habitat [to the extent possible] on one parcel in Dry Creek Basin where the surface and the mineral rights are owned by the CSLB (Linda Luther, San Miguel County, pers. comm. 2006). However, the other three parcels are split estate (private surface, CSLB-owned minerals) and the CSLB was unwilling to, or believed they could not, put stipulations for sage-grouse on those parcels. San Miguel County will continue to work with the landowners, CSLB, and oil and gas companies to place stipulations on the parcels (Linda Luther, San Miguel County, pers. comm. 2006) but whether stipulations will occur is uncertain. Nonetheless, this illustrates a strong conservation commitment by the County for the San Miguel Basin population.

One oil and gas operator, who holds several leases in the San Miguel Basin, has decided to temporarily abandon drilling on its leases in the Hamilton Mesa, Miramonte Reservoir, Gurley Reservoir, Beaver Mesa, and Iron Springs Mesa areas because they are not expected to be economically feasible. However, exploration and production may continue in the future (CDOW, unpubl. lit. 2005g). Fifty-one oil and gas wells have been developed in the current range in the San Miguel Basin. All but 1 is in the Dry Creek Basin and 47 are on federally-leased land (BLM, unpubl. lit. 2005f). Additional wells on existing leases are proposed for this area in the next 10 years. Five gas pipelines are proposed for this development, one of which is expected to transect winter habitat and another will remove habitat in places (BLM, unpubl. lit. 2005g). The exact locations of any future drill sites are not known, but because the area is small, they will likely lie within 3 km (2 mi) of one of only three leks in this group (CDOW, unpubl. lit. 2005g).

The Monticello group is in an area of high energy potential (GSRSC 2005). Oil and gas leases with State and Federal mineral rights have been acquired or applied for on over 2,000 ha (5,000 ac) (6 percent) in the current range (Tammy Wallace, BLM, pers. comm. 2005). One new well pad was constructed in 2005 (San Juan County GSWG, unpubl. lit. 2005) and additional drilling is expected to occur in the next few years. However, BLM is currently deferring new leases in the current range.

No oil and gas wells are within the current range in the Pinon Mesa area, although oil and gas leases occupy 17 percent of this habitat (BLM, unpubl. lit. 2005f). The remaining portion of the current range has no potential for oil or gas in this area except for a small portion on the eastern edge of the largest habitat block (BLM 1999; GSRSC 2005). The Crawford population is in an area with high to medium potential for oil and gas development (BLM 1999; GSRSC 2005). However, no Federal leases and only one well (on non-Federal lease property) are in the current range (BLM, unpubl. lit. 2005f). The BLM has deferred Federal oil and gas leases in the current range in this population until resource management plans addressing Gunnison Sage Grouse are adopted. Future development could occur on State and private land in the Crawford area under Colorado Oil and Gas Commission regulation and on BLM land if their future RMP allows it.

In summary, some Gunnison sage-grouse habitat is in areas with high potential for oil and gas development, particularly in the San Miguel Basin. A few studies on greater sage-grouse reported population declines in response to oil and gas development (Braun *et al.* 2002; Lyon and Anderson 2003), although specific causes for the declines were not determined. A recent study of greater sage-grouse in Wyoming found that as oil and gas development increased (Holloran 2005). Negative impacts to active leks extended to a distance of 5 km (3 mi) from an active drilling rig. Similarly, juvenile male recruitment to impacted leks also fell. Nesting females avoided areas with high well densities, although site fidelity to previous nesting locations may result in delayed population response to the habitat changes associated with development. While some birds were displaced by the disturbance, Holloran (2005) also found that many sage-grouse discontinued breeding attempts, and others died at a higher rate than birds from unaffected areas. He concluded that natural gas field development contributes to localized greater sage-grouse extirpations, but that regional populations levels, although negatively impacted, are not as severely influenced.

Application of these impacts from gas development to the San Miguel and Crawford populations and Monticello group could threaten their long-term persistence. However, the immediate threat to Gunnison sage-grouse is curtailed by BLM lease deferments. Additionally, available information suggests that economic infeasibility of extraction will act to minimize the likelihood this development will occur at a significant enough level to imperil Gunnison sage-grouse.

Colorado has been the largest producer of coalbed methane in the

country since 2002, and production has increased (Cappa *et al.* 2005). Deposits exist under the current range of the San Miguel and Crawford populations (Cappa *et al.* 2005), although no wells have been drilled to date in those areas (D. Spencer, BLM, pers. comm. 2005) leading us to believe this does not represent a significant threat to these populations and therefore to the species.

Renewable energy resources, such as windpower, require many of the same features for construction and operation as do nonrenewable energy resources. Therefore, we anticipate that potential impacts from direct habitat losses, habitat fragmentation through roads and powerlines, noise, and increased human presence (Connelly *et al.* 2004) will generally be the same as already discussed for nonrenewable energy development. Windpower may have additional mortalities resulting from sage-grouse flying into turbine rotors or meteorological towers (Erickson *et al.* 2001), although the magnitude of such losses is unquantified. One greater sage-grouse was found dead within 45 m (148 ft) of a turbine on the Foote Creek Rim wind facility in south-central Wyoming, presumably from flying into a turbine (Young *et al.* 2003). During 3 years of monitoring operation, this is the only known sage-grouse mortality at this facility.

Current interest and speculation in wind energy exists in the Monticello area. A wind test tower (anemometer) has been erected at a site approximately 2.4 km (1.5 mi) from a lek (GSRSC 2005), and landowners in the area have been contacted by power company contractors about leases for wind power development. If wind turbines are placed near leks and other important habitat in the Monticello group, depending on the location and number of turbines, Gunnison sage-grouse in this area may be affected. We are not aware of any other wind energy development proposed throughout the rest of the Gunnison sage-grouse current range. We have no evidence that current or future wind energy development threatens or endangers the long-term persistence of the species.

Mining

Surface mining for any mineral resource (coal, uranium, copper, bentonite, gypsum, oil shale, phosphate, limestone, gravel, etc.) will result in direct habitat loss for Gunnison sage-grouse if the mining occurs in current sagebrush range. Direct loss of sage-grouse habitat also can occur if the overburden and/or topsoil resulting from mining activities are stored in sagebrush habitats. The actual effect of this loss depends on the quality, amount, and type of habitat disturbed, the scale of the disturbance, and the availability of adjacent habitats (Proctor *et al.* 1983; Remington and Braun 1991).

Regulation of non-coal mining in the United States is at the discretion of the individual States. New vegetation types including exotic species may become established on mined areas (Moore and Mills 1977), altering their suitability for sage-grouse. If reclamation plans call for the permanent conversion of the mined area to a different habitat type (e.g., agriculture) the habitat loss becomes permanent. Invasive exotic plants also may establish on the disturbed surfaces. Removal of the overburden and target mineral may result in changes in topography, subsequently resulting in changes in microclimates and microhabitats (Moore and Mills 1977). Additional habitat losses can occur if supporting infrastructure, such as roads, railroads, utility corridors, buildings, etc., become permanent landscape features after mining and reclamation are completed (Moore and Mills 1977), which is allowed in Colorado (Colorado Statute Title 34, Article 32) and Utah (R647–4–110).

Other indirect effects from mining can include reduced air quality from fugitive dust, degradation of surface water quality and quantity, disturbance from noise, human presence, and mortality from collision with mining equipment (Moore and Mills 1977; Brown and Clayton 2004). Fugitive dust could affect local vegetative and insect resources (Moore and Mills 1977). Most large surface mines are required to control fugitive dust, so these impacts are probably limited.

Since sage-grouse do not require free water (Schroeder *et al.* 1999), we anticipate that impacts to water quality from mining activities would have minimal population-level effects. The possible exception is degradation or loss of riparian areas, which could result in brood habitat loss. The effects on sage-grouse of noise from mining are unknown, but sage-grouse also depend on acoustical signals to attract females to leks (Gibson and Bradbury 1985; Gratson 1993). If noise does interfere with mating display and thereby female attendance, younger males will not attend the lek, and eventually leks will become inactive (Amstrup and Phillips 1977; Braun 1986). Mining also can impact sage-grouse through the increased presence of human activity, either through avoidance of suitable habitat adjacent to mines or through collisions with vehicles associated with mining operations (Moore and Mills 1977; Brown and Clayton 2004). However, we were unable to find any information regarding increased mortality of Gunnison sage-grouse as a result of this effect.

Within Gunnison sage-grouse current range, coal, uranium, and vanadium are the most commonly mined minerals and have begun to attract increased interest in recent years (Cappa *et al.* 2005). These minerals were mined historically in the San Miguel area and affected an unknown amount of the historical range of the Gunnison sage-grouse. Uranium deposits are within the current range of the San Miguel Basin population and Monticello group (Coker 2001; Cappa *et al.* 2005) and three mines near the San Miguel Basin population were reopened in 2004 (Cappa *et al.* 2005). Due to the exploratory nature of this mineral activity to date and the somewhat speculative nature of its occurrence in the future, we do not believe that this activity will be a significant threat to the species in the foreseeable future.

Six active hardrock, gravel or road fill mines are located on BLM land in sage-grouse habitat in the Gunnison Basin (BLM, unpubl. lit. 2005c). Total disturbance, excluding roads, is 39 ha (96 ac). Two hundred ninety-one inactive or abandoned mines and numerous miles of roads have caused unquantified past habitat loss and fragmentation (BLM, unpubl. lit. 2005b), but future impact of hardrock, gravel, or road fill mines are likely limited.

We conclude that present and future mining activities appear to be limited and do not pose a significant threat to Gunnison sage-grouse.

Grazing

Grazing is the dominant use of sagebrush rangelands in the West (Connelly *et al.* 2004); almost all sagebrush areas are managed for livestock grazing (Knick *et al.* 2003). Although we lack information on the proportion of occupied Gunnison sage-grouse habitat that is grazed, we expect that it is a vast majority. Excessive grazing by domestic livestock during the late 1800s and early 1900s, along with severe drought, significantly affected sagebrush ecosystems (Knick *et al.* 2003). Although current livestock stocking rates are substantially lower than high historical levels (Laycock *et al.* 1996), long-term effects from this overgrazing, including changes in plant communities and soils, persist today. Although it is likely that livestock grazing and associated land treatments have altered plant composition, increased topsoil loss, and increased spread of exotic plants, the impacts on sage-grouse are not clear. Few studies have directly addressed the effect of

livestock grazing on sage-grouse (Beck and Mitchell 2000; Wamboldt *et al.* 2002; Crawford *et al.* 2004), and there is little direct experimental evidence linking grazing practices to sage-grouse population levels (Braun 1987, Connelly and Braun 1997). Rowland (2004) conducted a literature review and found no experimental research that demonstrates grazing alone is responsible for reduction in sage-grouse numbers.

The GSRSC (2005) could not find a direct correlation between historic grazing and reduced sage-grouse numbers. It has been demonstrated that the reduction of grass heights due to livestock grazing of sage-grouse nesting and brood-rearing habitat negatively affects nesting success by reducing cover necessary for predator avoidance (Gregg *et al.* 1994; Delong *et al.* 1995; Connelly *et al.* 2000a). Nest success in Gunnison sage-grouse habitat is related to greater grass and forb height and shrub density (Young 1994). In addition, livestock consumption of forbs may reduce food availability for sage-grouse. This is particularly important for pre-laying hens, as forbs provide essential calcium, phosphorus, and protein. A hen's nutritional condition affects nest initiation rate, clutch size, and subsequent reproductive success (Connelly *et al.* 2000a). Livestock grazing can reduce the forage availability in breeding and brood-rearing habitat, with possible subsequent negative effects on sage-grouse populations (Braun 1987; Young 1994; Dobkin 1995; Beck and Mitchell 2000). Exclosure studies have demonstrated that domestic livestock grazing also reduces water infiltration rates and cover of herbaceous plants and litter, as well as compacting soils and increasing soil erosion (Braun 1998). This results in a change in the proportion of shrub, grass, and forb components in the affected area, and an increased invasion of exotic plant species that do not provide suitable habitat for sage-grouse (Miller and Eddleman 2000). Hulet (1983, as cited in Connelly *et al.* 2000a) found that heavy grazing could lead to increases in ground squirrel numbers; ground squirrel depredate sage-grouse nests. Thus, livestock stocking levels and season and duration of use are important factors of livestock operations related to impacts on sage-grouse include

Other consequences of grazing include several related to livestock trampling. Outright nest destruction by livestock trampling does occur, and the presence of livestock can cause sage-grouse to abandon their nests (Rasmussen and Griner 1938; Patterson 1952; Call and Maser 1985; Crawford *et al.* 2004). Call and Maser (1985) indicate that forced movements of cattle and sheep could have significant effects on nesting hens and young broods caught in the path of these drives. Livestock also may trample sagebrush seedlings thereby removing a source of future sage-grouse food and cover (Connelly *et al.* 2000a), and trampling of soil by livestock can reduce or eliminate biological soil crusts making these areas susceptible to cheatgrass invasion (Mack 1981 as cited in Miller and Eddleman 2000; Young and Allen 1997; Forman and Alexander 1998).

Livestock grazing also may compete directly with sage-grouse for rangeland resources. Aldridge and Brigham (2003) suggest that poor livestock management in mesic sites results in a reduction of forbs and grasses available to greater sage-grouse chicks, thereby affecting chick survival. The effects of direct competition between livestock and sage-grouse depend on condition of the habitat and grazing practices.

Development of springs and other water sources to support livestock in upland shrub-steppe habitats can artificially concentrate domestic and wild ungulates in important sage-grouse habitats, thereby exacerbating grazing impacts in those areas through vegetation trampling, etc. (Braun 1998). Diverting water sources has the secondary effect of changing the habitat present at the water source before diversion. This could result in the loss of either riparian or wet meadow habitat important to sage-grouse as sources of forbs or insects.

Sagebrush removal to increase herbaceous forage and grasses for domestic and wild ungulates is a common practice in sagebrush ecosystems (Connelly *et al.* 2004). Herbicide, especially Tebuthiuron applications were commonly used to kill large expanses of sagebrush, but it also killed many forbs used for brood-rearing (Crawford *et al.* 2004). Thinning, rather than removal, of sagebrush using Tebuthiuron has been the focus of some treatments (Emmerich 1985; Olson and Whitson 2002).

Sage-grouse response to herbicide treatments depends on the extent to which forbs and sagebrush are killed. Chemical control of sagebrush has resulted in declines of sage-grouse breeding populations through the loss of live sagebrush cover (Connelly *et al.* 2000a). Herbicide treatment also can result in sage-grouse emigration from affected areas (Connelly *et al.* 2000a), and has been documented to have a negative effect on nesting, brood carrying capacity (Klebenow 1970), and winter shrub cover essential for food and thermal cover (Pyrah 1972 and Higby 1969 as cited in Connelly *et al.* 2000a). Carr and Glover (1970) found that greater sage-grouse would use block-sprayed areas for strutting but not for other activities. They found that adults would move the 1.6 km (1.0 mi) across the sprayed areas but believed that movement across the area may cease as dead standing sagebrush deteriorated. They also determined that broods were impeded from moving to a previously used riparian area due to killing of the sagebrush between nesting sites and the riparian area. Winter use also did not occur in the area due to lack of live sagebrush for forage.

Small treatments interspersed with non-treated sagebrush habitats did not affect sage-grouse use, presumably due to minimal effects on food or cover (Braun 1998). Also, application of herbicides in early spring to reduce sagebrush cover may enhance some brood-rearing habitats by increasing the coverage of herbaceous plant foods (Autenrieth 1981).

Mechanical treatments are designed to either remove the above-ground portion of the sagebrush plant (mowing, roller chopping, and rotobeating), or to uproot the plant from the soil (grubbing, bulldozing, anchor chaining, cabling, railing, raking, and plowing; Connelly *et al.* 2004). These treatments were begun in the 1930s and continued at relatively low levels to the late 1990s (Braun 1998). Mechanical treatments, if carefully designed and executed, can be beneficial to sage-grouse by improving herbaceous cover, improving forb production, and resprouting sagebrush (Braun 1998). However, adverse effects also have been documented (Connelly *et al.* 2000a). Mechanical treatments in blocks greater than 100 ha (247 ac), or of any size seeded with exotic grasses, degrade sage-grouse habitat by altering the structure and composition of the vegetative community (Braun 1998).

For Gunnison sage-grouse, the best measure of potential grazing impacts is derived from monitoring habitat conditions in grazing allotments and comparing that information to grouse habitat objectives. BLM developed habitat objectives for Gunnison sage-grouse from habitat objectives in each of the local conservation plans. They are similar to the grazing management guidelines that were later developed for the RCP (GSRSC 2005). Where information is available, the comparison between BLM's habitat conditions and habitat objectives is presented below.

Within the current range in the Gunnison Basin, 23 of 66 BLM grazing

allotments have sage-grouse habitat objectives incorporated into the allotment management plans or Records of Decision for permit renewals (BLM, unpubl. lit. 2005h). In 2002, 50 percent of the Wyoming big sagebrush/Indian ricegrass (*Achnathrum hymenoides*) vegetation, which accounts for a significant portion of the nesting/early brood-rearing habitat, met the desired condition on BLM lands in the area (GSRSC 2005). In 2003, 75 percent of 32,000 ha (80,000 ac) of nesting/early brood-rearing habitat monitored met habitat objectives (BLM, unpubl. lit. 2004). Under 50 percent of the 579 km (360 mi) of riparian areas, which are important for brood-rearing, met desired conditions identified in the Gunnison Basin Conservation Plan (1997) and 85 percent met short-term stubble height objectives (nesting cover) (BLM, unpubl. lit. 2004). In 2004, 23,000 ha (56,000 ac) were monitored within a 3-km (2-mi) radius of a lek, and less than 2 percent met the local (Gunnison Basin Conservation Plan 1997) objectives for grass stubble height (BLM, unpubl. lit. 2005i). However, grass growth may have been suppressed by effects of drought, which appeared to be impacting habitat in most populations in 2004 (See Factor E for further drought discussion).

We were able to acquire information on grazing intensity for only the Dry Creek Basin group of the San Miguel Basin population. No sage-grouse habitat objectives or conservation measures are in allotment management plans or grazing permits for BLM allotments in that area (BLM, unpubl. lit. 2005d and 2005g). Sagebrush patches there continue to succeed to a late-seral sagebrush community lacking in understory.

Eight BLM grazing allotments totaling 2,700 ha (6,700 ac) occur within the current range in the Monticello group (San Juan County GSWG, unpubl. lit. 2005). Few or no habitat objectives have been incorporated into BLM allotment management plans, nor have changes in grazing intensity been implemented for sage-grouse in the group. No data are available on whether grazing lands on BLM or private land are meeting sage-grouse habitat objectives for the Monticello group. The CRP has provided a considerable amount of brood-rearing habitat in the Monticello group because of its forb component. Grazing of CRP in Utah occurred in 2002 under emergency Farm Bill provisions due to drought. Radio-collared males and non-brood-rearing females exhibited temporary avoidance of grazed fields during and after grazing (San Juan County GSWG, unpubl. lit. 2005), although one hen with a brood continued to use a grazed CRP field.

Fifty grazing allotments on BLM land are within the current range in the Piñon Mesa population (BLM, unpubl. lit. 2005a). We do not know the extent of grazing on the private land within the Piñon Mesa sage-grouse range. Only three BLM allotments (6 percent) have Gunnison sage-grouse habitat objectives incorporated into the allotment management plan or grazing permit in this area. We have no information on habitat conditions in any of the allotments in the population area.

In the Crawford population there are nine BLM grazing allotments, totaling about 8,500 ha (21,000 ac) or 60 percent of the habitat. Sage-grouse conservation measures have been incorporated into seven of the allotment plans. On BLM land in the Crawford population, Animal Unit Months have been reduced and grazing management was recently changed (BLM unpubl. lit. 2005d). The Gunnison Gorge Land Health Assessment showed that 34,000 out of 44,000 ha (84,000 out of 110,000 ac), or 76 percent of the current range, met the land health standard for threatened and endangered species (including Gunnison sage-grouse habitat). The extent of livestock grazing on private land is unknown.

In conclusion, habitat manipulations to improve livestock forage can affect sage-grouse habitat. In the Gunnison Basin, BLM habitat conditions are adequate for approximately 50 to 75 percent of the area measured, depending on the parameters and year they were measured. The Gunnison Basin population has been stable over time (see Table 2 and Garton 2005), suggesting that grazing is not negatively affecting the population in this area. In the Crawford area 76 percent of the current range met standards, so we do not consider grazing to be a threat there. Although we do not have specific information on the remaining BLM lands, it is reasonable to assume similar conditions exist on the remainder of the BLM lands. In the Monticello area, private lands enrolled in CRP are usually left ungrazed. We lack data on the extent of private land grazing on Gunnison Sage-Grouse habitat in the remainder of its range. However, based on the data available to us, we conclude that there is insufficient data that demonstrates grazing is a threat to the species.

We lack adequate information on the effect of deer and elk grazing on Gunnison sage-grouse and their habitat to fully address this potential impact. Overgrazing by deer and elk may cause local degradation of habitats by removal of forage and residual hiding and nesting cover. Hobbs *et al.* (1996) documented a decline in available perennial grasses as elk densities increased. Such grazing could negatively impact nesting cover for sage-grouse. Excessive but localized deer and elk grazing has been documented in the Gunnison Basin (BLM, unpubl. lit. 2005i; Paul Jones, CDOW, pers. comm. 2005). The winter range of deer and elk overlaps the year-round range of the Gunnison sage-grouse. Deer and elk herds were above the carrying capacity of their winter range before the 2002 drought and were not significantly reduced during or after (BLM, unpubl. lit. 2005i). However, no evidence exists that competition for resources is limiting Gunnison sage-grouse in the Gunnison Basin. Although grazing by deer and elk occurs in all population areas, information on overgrazing by deer or elk and its potential effect on other populations has not been reported.

Invasive Weeds

Invasive species have been defined as those that are not native to an ecosystem and whose introduction causes, or is likely to cause, economic or environmental harm or harm to human health (Executive Order 13112, 1999). Invasive species often cause declines in native plant populations by reducing light, water, and nutrients, and they grow so quickly that they outcompete other species (Wooten *et al.* 1996). Exotic plants can reduce and eliminate populations of plants that sage-grouse use for food and cover. Frequent fires with short intervals within sagebrush habitats favor invasion of cheatgrass, which is unsuitable as sage-grouse habitat (Schroeder *et al.* 1999). Cheatgrass then shortens the fire interval (from approximately 30 years down to 5 years), perpetuating its own persistence and spread, and exacerbating the effects of fire in remaining sage-grouse habitats (Whisenant 1990; Billings 1994; Grahame and Sisk 2002; Connelly *et al.* 2004). A cheatgrass invasion into sagebrush habitat can lead to an eventual conversion of sagebrush/perennial grass community to sagebrush/annual grass or annual grass rangeland (Connelly *et al.* 2000a; Miller and Eddleman 2000). Rehabilitation of an area to sagebrush after cheatgrass becomes established is extremely difficult (Connelly *et al.* 2004). In some cases cheatgrass invasion encourages other exotic species such as knapweed and thistle (Grahame and Sisk 2002).

Cheatgrass has invaded areas in Gunnison sage-grouse range, supplanting sagebrush habitat. Connelly

et al. (2000a) indicated that some greater sage-grouse populations have been affected and some will decline due to projected, continuing spread of cheatgrass domination in the absence of effective management. There has not been a demonstrated change in fire cycle in any population of Gunnison sage-grouse, so they may not be as threatened as greater sage-grouse. While all of the Colorado Gunnison sage-grouse counties have noxious weed programs, none identify cheatgrass as a noxious weed for control purposes (Colorado Department of Agriculture 2003). The BLM, on whose land many acres of cheatgrass occur, is currently restricted to application of 6 ha (15 ac) of an effective herbicide per Field Office per year, limiting their ability to control this noxious weed (BLM, unpubl. lit. 2005i).

Approximately 14,249 ha (35,200 ac) have been invaded by cheatgrass in the Gunnison Basin, equaling 6 percent of the current range (BLM, unpubl. lit. 2005i) with 405 ha (1,000 ac) considered dominated by cheatgrass (Sandy Borthwick, BLM, pers. comm. 2005) despite past treatments to control this weed (Gunnison Watershed Noxious Weed Program, unpubl. lit. 2005). In addition, cheatgrass has been found at 50 other locations and 21 roads or road segments throughout the Gunnison Basin population's range. Although disturbed areas contain the most weeds, they can readily spread into undisturbed habitat. Given its invasive nature, cheatgrass may increase in the Gunnison Basin in the future, but the actual extent or rate of increase is uncertain. Cheatgrass is present throughout much of the current range in the San Miguel Basin (BLM, unpubl. lit. 2005d). It is sparsely scattered in the five Gunnison sage-grouse groups east of Dry Creek Basin, which are at higher elevation, and does not appear to pose a serious threat to them (CDOW, unpubl. lit. 2005g). Because cheatgrass can readily dominate native plant communities at lower elevations (CDOW, unpubl. lit. 2005g), it may affect the Dry Creek Basin group, which comprises 62 percent of the San Miguel Basin population. Invasive species are present at low levels in the Monticello groups (San Juan County GSGWG, unpubl. lit. 2005). However, there is no evidence that they are affecting the population. Cheatgrass dominates 10–15 percent of the sagebrush understory in the current range of the Piñon Mesa population (R. Lambeth, BLM, pers. comm. 2005). It occurs in the lower elevation areas below Piñon Mesa that were formerly Gunnison sage-grouse range. It invaded two small prescribed burns in or near occupied habitat conducted in 1989 and 1998 (BLM, unpubl. lit. 2005a), and continues to be a concern with any ground disturbing projects. Four invasive weedy forbs also occur in the area, but occupy less than 4 ha (10 ac) (BLM, unpubl. lit. 2005a). Invasive weeds, especially cheatgrass, occur primarily along roads, other disturbed areas, and isolated areas of untreated vegetation in the Crawford population. No current estimates of the extent of weed invasion are available (BLM, unpubl. lit. 2005d).

Although invasive weeds, especially cheatgrass, have affected some sage-grouse habitat, the impacts do not appear to be threatening individual populations or the species rangewide. We have no basis for expecting on the potential spread of cheatgrass into sage grass habitat, and we have not information that suggests that it will be a threat in the future.

Fire and Fire Management

There have been significant changes in fire frequency, distribution, and intensity since European settlement (Young *et al.* 1979; Miller and Eddleman 2000). The effects of fire on sagebrush habitats vary according to the species and subspecies of sagebrush and other plant species present (e.g., the understory) and the frequency, size and intensity of fires. Widely variable estimates of mean fire intervals have been described in the literature—35–100 years (Brown 2000), greater than 50 years for big sagebrush communities (McArthur 1994), 12–15 years for mountain big sagebrush (*Artemesia tridentata vaseyana*) (Miller and Rose 1999), 20–100 years (Peters and Bunting 1994), 10–110 years depending on sagebrush species or subspecies and specific geographic area (Kilpatrick 2000), and 13–25 years (Frost 1998 cited in Connelly *et al.* 2004).

Fire tends to extensively reduce the sagebrush component within the burned areas. Time needed for most sagebrush species and subspecies to reestablish after burning suggests they evolved in an environment where wildfire was infrequent (interval of 30–50 years) and patchy in distribution (Braun 1998). Prior to European settlement, fire patterns in sagebrush communities were patchy, particularly in Wyoming big sagebrush, due to the discontinuous and limited fuels and unburned islands that remained after a fire (Miller and Eddleman 2000). Huff and Smith (2000) noted that these unburned islands appear to be important to the future recolonization of the sagebrush community by providing sources of sagebrush seed. Where sagebrush habitat has become fragmented and limited, there is potential for fire to eliminate the existing seed source, reducing the likelihood of natural regeneration.

A variety of techniques have been attempted at re-establishing sagebrush post-fire, with mixed success (Quinney *et al.* 1996, Livingston 1998). Restoration of the sagebrush biome following a fire has been complicated not only by the invasion of exotic annual plant species, but the difficulty associated with establishing sagebrush seedlings (Boltz 1994). Wirth and Pyke (2003) reported that forb response post-fire is dependant on the forb community pre-burn.

A clear positive response of sage-grouse to fire has not been demonstrated (Braun 1998). A number of studies have found adverse effects to sage grouse populations resulting from fire. (Call and Maser 1985; Rowland and Wisdom 2002; Nelle *et al.* 2000; Byrne 2002; Connelly *et al.* 2000c; Fischer *et al.* 1996a). However, Klebenow (1970), Gates (1983, as cited in Connelly *et al.* 2000c), Sime (1991 as cited in Connelly *et al.* 2000a), and Pyle and Crawford (1996) all indicated that fire could improve brood-rearing habitat.

Three prescribed burns have occurred in the Gunnison Basin since 1984, totaling 700 ha (1,700 ac). The fires created large sagebrush-free areas that were further degraded by poor post-burn livestock management (BLM, unpubl. lit. 2005i). Two prescribed burns conducted in 1986 (105 ha (260 ac)) and 1992 (140 ha (350 ac)) on BLM land in the San Miguel Basin on the north side of Dry Creek Basin had negative impacts on sage-grouse. The burns were conducted for big game forage improvement, but Land Health Assessments in 2004, noted that sagebrush had died and largely been replaced with weeds (BLM, unpubl. lit. 2005g). The 2002 Burn Canyon fire in the Dry Creek Basin and Hamilton Mesa areas created a short-term habitat loss of 890 ha (2,200 ac). Fire has apparently not occurred recently in the Monticello group.

One wildfire in the Gunnison Basin burned 445 ha (1,098 ac) in June 2002 (Sandy Borthwick, BLM, pers. comm. 2006). There appears to be a good response to the fire from grass and forbs. Mountain big sagebrush also appears to have responded well based on seedling establishment in seeded and non-seeded areas. Some cheatgrass, suspected to have come in with the sagebrush seed, was observed on the seeded sites but was sparse (Sandy Borthwick, BLM, pers. comm. 2006). At least four

wildfires in the last 20 years burned 39,300 ha (97,200 ac) in the current range in the Piñon Mesa area and created large expanses almost devoid of sagebrush and invaded by cheatgrass and Russian thistle (Salsola spp) (BLM, unpubl. lit. 2005a). Some wildfire suppression has occurred in sage-grouse habitat in the vicinity of residences. Fire occurs infrequently in the Crawford area. The Fruitland wildfire burned 240 ha (600 ac) of pinyon-juniper and old sagebrush in 1996. Two efforts to reseed the area with sagebrush and native forbs and grasses failed and the area is now dominated by cheatgrass (BLM, unpubl. lit. 2005d). Spread of cheatgrass into other areas is an increasing threat due to its establishment in the burned area.

Where fire suppression has occurred, sagebrush communities may advance successionally to pinyon pine and juniper (Burkhardt and Tisdale 1969; Young and Evans 1981; Miller and Rose 1995; Miller *et al.* 2000; Wrobleski and Kauffman 2003), eventually resulting in a near total loss of shrubs and sage-grouse habitat (Miller and Eddleman 2000). Gambel oak invasion as a result of fire suppression also has been identified as a potential threat to Gunnison sage-grouse (CDOW, unpubl. lit. 2002). Trees provide perches for raptors; consequently, Gunnison sage-grouse avoid areas with pinyon-juniper (Commons *et al.* 1999).

Native tree or shrub encroachment on 11,336 ha (28,000 ac) or 5 percent of the current range has occurred in the Gunnison Basin. Oakbrush encroachment is a potential threat in the San Miguel Basin, especially in the five easterly and higher elevation groups. Approximately 2,955 ha (7,300 ac) or 9 percent of the current range in these areas are dominated by oakbrush. Mountain shrubs also have encroached on about 3,280 ha (8,100 ac) or 9 percent of habitat in the San Miguel Basin population (GSRSC 2005). No pinyon-juniper dominated areas are within the current range.

The Monticello area has 1,170 ha (2,889 ac) or 5 percent of the current range dominated by oakbrush (GSRSC 2005). Pinyon and juniper trees are reported to be encroaching throughout the current range in the Monticello group, based on a comparison of historical versus current aerial photos, but there has been no quantification or mapping of the encroachment (San Juan County GSWG, unpubl. lit. 2005). A relatively recent invasion of pinyon and juniper trees between the Dove Creek and Monticello groups appears to be contributing to their isolation from each other (GSRSC 2005).

About 1,600 ha (3,935 ac) of trees and shrubs dominate 16 percent of the current range in the Piñon Mesa area (GSRSC 2005). In addition to limiting habitat, tree and shrub encroachment is further isolating Piñon Mesa from the Crawford and San Miguel populations, thereby impacting connectivity and maintenance of genetic diversity (see discussion under Factor E). Approximately 9 percent of the 1,300 ha (3,200 ac) of the current range in the Crawford population is classified as dominated by pinyon-juniper (GSRSC 2005). However, BLM (unpubl. lit. 2005d) estimates that as much as 20 percent of the population area is occupied by pinyon-juniper. The Crawford population also has about 400 ha (953 ac) or 3 percent of oakbrush-dominated land in the current range (GSRSC 2005).

Although fire suppression has likely caused low to moderate levels of native tree and shrub encroachment in the populations we considered, none of the encroachment is sufficient to pose a significant threat to the Gunnison sage-grouse at a population or rangewide level. Fires can cause spread of weeds and burn suitable sage-grouse habitat, but they do not threaten the species currently and we do not anticipate that they will in the future. Fires can be beneficial by rejuvenating forbs and grasses and reducing encroachment of native trees and shrubs.

Conclusion for Factor A

Habitat fragmentation has affected the exchange of individuals among populations of Gunnison sage-grouse. Population isolation is most pronounced in Pinon Mesa and Monticello. There also is some evidence that the Monticello and Dove Creek groups have recently been separated from each other by habitat changes; however, there is no evidence that habitat fragmentation has limited exchange of sage-grouse within other populations, including the San Miguel Basin population which has six groups separated by 1–4 air miles.

Forty-three percent of the occupied habitat in the Monticello group was converted to agriculture in the past, but little conversion is expected there in the future. Other occupied population areas have had lower percentages of past conversions with no current or future conversion expected. There is evidence that Gunnison sage-grouse will not use agricultural fields further than about 50 m (160 ft) from the edge for foraging but no evidence that agricultural conversion currently threatens the sage-grouse rangewide. Reservoirs caused fragmentation and/or loss of a small percentage of habitat in the Gunnison Basin population and the Gurley and Miramonte groups in the San Miguel Basin population. However, there is no evidence that reservoir development has caused range-wide or population-wide threats to the Gunnison sage-grouse.

Other than two direct mortalities in the San Miguel Basin population, we were unable to find any data substantiating effects of roads to impacts on Gunnison sage-grouse populations. Based on the stable population trend, the current network of roads does not appear to be a threat to the species, and we have no information that indicates that future road development will pose a threat to the species rangewide. Despite the presence of powerlines in all populations there also is no evidence that they are threatening Gunnison sage-grouse populations rangewide or within populations.

Urban or exurban development does not appear to be a threat to the sage-grouse based on the low human population densities in all but one county with Gunnison sage-grouse. Projections of human population growth and housing development are not known to be a rangewide threat.

High potential for oil and gas development only exists in the San Miguel Basin population and Monticello group; high to medium potential exists in the Crawford population. Low or no potential exists in the Gunnison Basin and Pinon Mesa populations. Energy development on Federal lands can contain conservation measures for wildlife species (see Factor D for a more thorough discussion). We have no evidence that oil and gas development will threaten the Gunnison sage-grouse rangewide in the foreseeable future. Other energy development activities, such as wind turbine development, are not expected to cause a threat to the Gunnison sage-grouse rangewide in the foreseeable future. Additionally, coal or hardrock mining appears to pose little threat to occupied habitat.

Although overgrazing can affect habitat, it is unclear whether effects from current livestock grazing management practices, such as reduction of vegetation below suitable conditions or spread of weeds threaten the Gunnison sage-grouse at a population or rangewide level. Cheatgrass may impact sage-grouse habitat in nearly all Gunnison sage-grouse populations. However, there has not been a demonstrated change in fire cycle in any population, nor is it documented that cheatgrass, at its current distribution and density, will threaten the Gunnison sage-grouse in the foreseeable future. Invasive weeds

other than cheatgrass occur in some populations but at levels that do not cause a threat to the Gunnison sage-grouse.

Fires can cause spread of weeds and burn suitable sage-grouse habitat, but also may be beneficial by rejuvenating forbs and grasses and reducing encroachment of native trees and shrubs. Fire can be both beneficial and detrimental depending on location, size, and intensity and is not expected to be a rangewide threat in the foreseeable future. Although there has been low to moderate levels of native tree and shrub encroachment in nearly all the populations, most likely as a result of fire suppression, none of the encroachment is great enough to cause a documented threat to the Gunnison sage-grouse at a rangewide level.

Although various factors discussed in this section are believed to, or could potentially be, impacting the populations, these factors have not caused significant declines in the species rangewide. Thus, based on the best scientific and commercial data available, we have concluded that destruction, modification, or curtailment of its habitat or range does not threaten or endanger the Gunnison sage-grouse throughout all or a significant portion of its range in the foreseeable future.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Hunting

Studies suggest that recreational hunting of sage-grouse may be compensatory (i.e., harvest replaces mortality that would have happened otherwise due to causes such as predation; or mortality is compensated by increased productivity (Crawford 1982)), have no measurable effect on sage-grouse densities (Braun and Beck 1996), or may be additive (i.e., harvest adds more deaths per year to the total otherwise attributable to other causes, and is not compensated by increased productivity (Zunino 1987; Connelly *et al.* 2000a)). Johnson and Braun (1999) concluded that harvest mortality may be additive for sage-grouse if adult females and young birds sustain the highest hunting mortality within a population. No studies have demonstrated that regulated hunting is a primary cause of widespread reduced numbers of greater sage-grouse (Connelly *et al.* 2004).

Hunting of Gunnison sage-grouse is regulated by the State wildlife agencies (GSRSC 2005). Hunting in the Gunnison Basin appears to have been compensatory, as it had little if any impact on the population (CDOW, unpubl. lit. 2005g). However, sage-grouse hunting was eliminated in the Gunnison Basin in 2000 due to concerns with meeting population objectives as suggested in the Gunnison Basin Conservation Plan (1997). It is not known if hunting contributed to the failure to meet these objectives. Hunting has not occurred in the other Colorado populations of Gunnison sage-grouse since 1995 when the Pinon Mesa area was closed (GSRSC 2005). Utah has not allowed hunting since 1989. Both States have committed to disallow hunting until the species is no longer a candidate for listing or no longer federally-listed and will only consider hunting if populations can be sustained (GSRSC 2005). With this finding that situation will no longer be applicable. However, the Gunnison Basin Plan calls for a minimum of 500 birds before hunting will occur. Although that level is substantially exceeded in the Gunnison Basin, we believe the States sensitivity to the status of the species would preclude them from opening a hunting season until at least a majority of the populations have achieved such a status. We do not anticipate hunting to be opened in the foreseeable future in the smaller populations, or in the near future in the Gunnison Basin. Furthermore, any hunting will be restricted to only 5–10 percent of the fall population, and will be structured to limit harvest of females to the extent possible (GSRSC 2005). Public input will be considered when determining if hunting seasons should be reinstated (GSRSC 2005). We are not aware of any studies or other data that demonstrate that poaching (illegal harvest) has contributed to Gunnison sage-grouse population declines in either State.

Lek Viewing

The Gunnison sage-grouse is a newly designated species, which prompts bird watchers to view it for their ''life lists'' and may lead to disturbance in commonly known leks. Daily human disturbances on sage-grouse leks could cause a reduction in mating, and some reduction in total production (Call and Maser 1985). Boyko *et al.* (2004, as cited in GSRSC 2005) determined that human disturbance, particularly if additive to disturbance by predators, could reduce the time a lek is active, as well as reduce its size by lowering male attendance. Smaller lek sizes have been hypothesized to be less attractive to females, thereby conceivably reducing the numbers of females mating there. Disturbance during the peak of mating also could result in some females not breeding (GSRSC 2005). Lek viewing might affect nesting habitat selection by females (GSRSC 2005), as leks are typically close to areas in which females nest. If females move to poorer quality habitat farther away from disturbed leks, nest success could decline. If chronic disturbance causes sage-grouse to move to a new lek site away from preferred and presumably higher-quality areas, both survival and nest success could decline. Whether any or all of these have significant population effects would depend on timing and degree of disturbance (GSRSC 2005).

The BLM closed a lek in the Gunnison Basin to viewing in the late 1990s due to declining population counts which were perceived as resulting from recreational viewing activities, although no scientific studies were conducted (BLM, unpubl. lit. 2005i; GSRSC 2005). A comparison of male counts on a designated viewing lek versus male counts on other leks in the general area, show that the viewing lek's counts followed the same trend line as leks in the rest of the area (GSRSC 2005). Lek viewing protocols on designated leks have generally been followed (GSRSC 2005). Two lek-viewing tours are organized and led by UDWR per year in the Monticello group without noticeable effects (Guy Wallace, UDWR, pers. comm. 2006). Data collected by CDOW indicates that controlled lek visitation also has not impacted greater sage-grouse (GSRSC 2005).

Scientific Research

Gunnison sage-grouse have been the subject of scientific research studies, some of which included the capture and handling of the species. Few, direct mortalities have occurred during recent studies and it does not appear that research is having any significant impacts on the sage-grouse (Apa 2004; CDOW, unpubl. lit. 2005g). Most research is conducted in the Gunnison and San Miguel Basin populations; the two largest populations. Based on the available information, we believe scientific research on Gunnison sage-grouse is a relatively minor impact, with only short-term effects to individuals in localized areas.

Conclusion for Factor B

We have no evidence suggesting that hunting has resulted in overutilization of Gunnison sage-grouse. Future hunting restrictions should adequately conserve Gunnison sage-grouse. Based on limited data it appears that lek viewing has not affected the Gunnison sage-grouse and lek viewing protocols designed to reduce disturbance have generally been followed. Scientific research appears to be limited to short-

term impacts of individuals in localized areas and is not a rangewide threat. We know of no overutilization for commercial or educational purposes. Thus, based on the best scientific and commercial data available, we have concluded that overutilization for commercial, recreational, scientific, or educational purposes does not threaten or endanger the sage-grouse throughout all or a significant portion of its range in the foreseeable future.

C. Disease or Predation

Disease

Nothing has been published about the types or pathology of diseases in Gunnison sage-grouse. However, multiple bacterial and parasitic diseases have been documented in greater sage-grouse (Patterson 1952; Schroeder *et al.* 1999). Some early studies have suggested that greater sage-grouse populations are adversely affected by parasitic infections (Batterson and Morse 1948). No parasites have been documented to cause mortality in Gunnison sage-grouse, but the protozoan, *Eimeria* spp., which causes coccidiosis, has been reported to cause death (Connelly *et al.* 2004). Infections tend to be localized to specific geographic areas and no cases of greater sage-grouse mortality resulting from coccidiosis have been documented since the early 1960s (Connelly *et al.* 2004).

Parasites also have been implicated in greater sage-grouse mate selection, with potentially subsequent effects on the genetic diversity of this species (Boyce 1990; Deibert 1995). Connelly *et al.* (2004) note that while these relationships may be important to the long-term ecology of greater sage-grouse, they have not been shown to be significant to the immediate status of populations. However, Connelly *et al.* (2004) have suggested that diseases and parasites may limit isolated sage-grouse populations such as most of the Gunnison sage-grouse populations. However, we have no evidence indicating that bacterial or parasitic diseases are affecting Gunnison sage-grouse individuals or populations.

Greater sage-grouse also are subject to a variety of bacterial, fungal, and viral pathogens. The bacteria *Salmonella* spp., has caused mortality in the greater sage-grouse; the bacteria is apparently contracted through exposure to contaminated water supplies around livestock stock tanks (Connelly *et al.* 2004). Other bacteria found in sage-grouse include *Escherichia coli*, botulism (*Clostridium* spp.), avian tuberculosis (*Mycobacterium avium*), and avian cholera (*Pasteurella multocida*). These bacteria have never been identified as a cause of mortality in greater sage-grouse and the risk of exposure and hence, population effects, is low (Connelly *et al.* 2004). We have no reason to expect that mortality and exposure risk are different in Gunnison sage-grouse.

West Nile virus (WNv; *Flavivirus*) was first diagnosed in greater sage-grouse in 2003, and has been shown to affect their survival rates. Experimental results, combined with field data, suggest that a widespread WNv infection could negatively affect greater sage-grouse (Naugle *et al.* 2004; Naugle *et al.* 2005). Summer habitat requirements of sage-grouse potentially increase their exposure to WNv. Sage-grouse hens and broods congregate in mesic habitats in the mid- to late summer, thereby placing them in the same potential habitats as the WNv mosquito (*Culex* spp.), vector when the mosquitoes are likely to be active. Surface water sources that have been created for agricultural, livestock, and energy and mining activities may increase the contact between sage-grouse and the mosquito vector. To date, WNv has not been documented in Gunnison sage-grouse despite the presence of WNv-positive mosquitoes in all counties throughout their range (Colorado Department of Public Health 2004; U.S. Centers for Disease Control and Prevention 2004). Although WNv may be a potential threat, the data available to date suggest that it is not a significant threat to Gunnison sage-grouse.

Predation

Predation is the most commonly identified cause of mortality in sage-grouse (Bergerud 1988; Schroeder *et al.* 1999; Connelly *et al.* 2000b). The composition and density of predator communities can vary greatly across space and time (Greenwood 1986; Johnson *et al.* 1989; Sargeant *et al.* 1993; Sovada *et al.* 1995). The effect of predation on the demographic structure and population fluctuations of Gunnison sage-grouse is unknown will depend on the composition of the predator community, grouse population levels, and habitat condition. In a study of nesting Gunnison sage-grouse, Young (1994) documented only 1 predation event in 37 nesting attempts. Predation on greater sage-grouse has been well documented. Predators of adult greater sage-grouse include coyotes (*Canis latrans*), bobcats (*Lynx rufus*), weasels (*Mustela* spp.), golden eagles, red-tailed hawks (*Buteo jamaicensis*), Swainson's hawks (*B. swainsoni*), and ferruginous hawks (*B. regalis*) (Hartzler 1974; Schroeder *et al.* 1999; Schroeder and Baydack 2001). Avian predators, primarily corvids (*Corvus* spp.), were major predators of greater sage-grouse nests in Idaho (Autenrieth 1981) and Washington (Vander Haegen 2002), while ground squirrels and badgers (*Taxidea taxus*) were major nest predators in Wyoming (Patterson 1952). Most mammalian predation is on eggs; only coyotes and red foxes (*Vulpes vulpes*) are likely to prey on all sage-grouse life stages (GSRSC 2005). Young (1994) found that the most common predators of Gunnison sage-grouse eggs were weasels, ground squirrels, coyotes, and corvids. Most other raptor predation of sage-grouse is on juveniles and older age classes (GSRSC 2005).

Predation rates vary seasonally. The period of highest mortality for yearling and adult males occurs during the lekking season, as they are very conspicuous while performing their mating display. Adult female greater sage-grouse are most susceptible to predators while on the nest or during brood-rearing when they are with young chicks (Schroeder and Baydack 2001). Autenrieth (1981) concluded that predation of eggs was the most important population constraint in Idaho at that time, and this appears to be the case for Gunnison sage-grouse, based on limited data (Young 1994). Schroeder and Baydack (2001) suggest that high variation in nest success may be due to nest predators. Nest predation may be higher, more variable, and have a greater impact on small, fragmented Gunnison sage-grouse populations (GSRSC 2005).

The population viability analysis of Gunnison sage-grouse (GSRSC 2005) found that mortality of chicks and breeding-age hens contributed substantially to increasing the relative probability of extinction because these two groups contribute most significantly to population productivity. Gregg *et al.* (2003a, 2003b) found that chick predation mortality in greater sage-grouse ranged from 10 to 51 percent from 2002–2003 on three study sites in Oregon. The juvenile mortality rate, during the first few weeks after hatching, has been estimated to be 63 percent (Wallestad 1975 in Schroeder and Baydack 2001). While chicks are very vulnerable to predation during this period, other causes of mortality, such as weather, are included in this estimate.

Female Gunnison sage-grouse with nests that were predated nested in sites with lower shrub density and lower forb and grass cover (Young 1994). Habitat alteration that reduces cover for young greater sage-grouse chicks can increase

the rate of predation on this age class (Schroeder and Baydack 2001).

Increasing residential development increases the likelihood that feral cats (*Felis domesticus*) and dogs (*Canis domesticus*) will be introduced into local Gunnison sage-grouse populations. Development also can contribute to increased populations of predators (*e.g.*, red foxes, American crows (*Corvus americanus*)) that are frequently associated with altered landscapes (GSRSC 2005). Agricultural development, landscape fragmentation, and human populations have the potential to increase predation pressure by forcing birds to nest in marginal habitats, by increasing travel time through habitats where they are vulnerable to predation, and by increasing the diversity and density of predators (Ritchie *et al.* 1994; Schroeder and Baydack 2001; Connelly *et al.* 2004; Summers *et al.* 2004). Where greater sage-grouse habitat has been altered in localized areas, the influx of predators can limit populations (Gregg *et al.* 1994; Braun 1998; DeLong *et al.* 1995; Schroeder and Baydack 2001). Habitat fragmentation and the resultant predation increase may be a limiting factor for the Gunnison sage-grouse (Oyler-McCance *et al.* 2001).

Municipal solid waste landfills have been shown to contribute to increases in common raven populations (Knight *et al.* 1993; Restani *et al.* 2001). Ravens are known to prey on sage-grouse and have been considered a restraint on sage-grouse population growth in some locations (Batterson and Morse 1948; Autenrieth 1981). However, no studies could be found that linked landfill presence, common raven populations, and sage-grouse population levels.

The effect of predation on the fluctuations and viability of sage-grouse populations has never been investigated (Connelly and Braun 1997; Connelly *et al.* 2000b; Schroeder and Baydack 2001). Research conducted to determine survival and nest success in greater sage-grouse concluded that predation typically does not limit sage-grouse numbers (Connelly and Braun 1997; Connelly *et al.* 2000a; Connelly *et al.* 2000b; Wambolt *et al.* 2002). This conclusion is supported by evidence showing that predator removal does not have long-lasting effects on sage-grouse population size or stability over large regions (Cote and Sutherland 1997; Schroeder *et al.* 1999; Wambolt *et al.* 2002). For example, Slater (2003) demonstrated that coyote control failed to produce an effect on greater sage-grouse nesting success in southwestern Wyoming. In their review of literature regarding predation, Connelly *et al.* (2004) noted that only two of nine studies examining survival and nest success indicated that predation had limited a sage-grouse population by decreasing nest success. However, both studies indicated that low nest success due to predation was ultimately related to poor nesting habitat. Connelly *et al.* (2004) further noted that the idea that predation is not a widespread factor depressing sage-grouse populations is supported by studies of nest success rates, by the relatively high survival of adult birds, and by the lack of an effect on nesting success as a result of coyote control.

In a study of 28 radio-collared Gunnison sage-grouse in the Monticello group, 11 birds died, but only 4 of these could be attributed to predation by coyotes or eagles (San Juan County GSWG, unpubl. lit. 2005). However, demographic studies of Gunnison sage-grouse in the San Miguel Basin population suggests, but does not conclusively prove, that predation may be affecting this population (CDOW, unpubl. lit. 2005g). No information is available for the other populations considered.

Conclusion for Factor C

No rangewide or population level impacts of bacterial, viral, fungal, or parasitic diseases on Gunnison sage-grouse have been reported, including WNv. Predation is occurring at some level in all populations, but we have no evidence to suggest that it is a population or rangewide threat to Gunnison sage-grouse. Thus, based on the best scientific and commercial data available, we have concluded that disease and predation do not threaten or endanger the sage-grouse throughout all or a significant portion of its range in the foreseeable future.

D. The Inadequacy of Existing Regulatory Mechanisms

Local Laws and Regulations

Approximately 43 percent of occupied Gunnison sage-grouse habitat is privately owned (GSRSC 2005). Gunnison County and San Miguel County, Colorado, are the only entities that have ordinances within the species' range that provide a level of conservation consideration specifically for the Gunnison sage-grouse or their habitats on private land (Dolores County 2002; Mesa County, unpubl. lit. 2003; Montrose County 2003). In 2001, Gunnison County, Colorado developed Land Use Resolutions (LUR) to be consistent with the Memorandum of Agreement (MOA) signed for the Gunnison Basin Conservation Plan in 1998 (Gunnison County 2001). In the MOA, Gunnison County agreed to ''* * * reasonably consider sage-grouse conservation actions in its regulation of land use * * *'' and to implement the Gunnison Basin Conservation Plan to the best of their ability. The County is attempting to utilize this LUR to optimize sage-grouse conservation. In 2003, the LUR was revised slightly to allow two houses on 35 acres rather than one house without County review, thereby increasing the housing density that could occur in sage-grouse habitat. In 2005, San Miguel County amended its Land Use Codes to include consideration and implementation, to the extent possible, of conservation measures for the sage-grouse when considering land use activities and development located in Gunnison sage-grouse habitat (San Miguel County, unpubl. lit. 2005). In addition to the county protections, Gunnison County has hired a Gunnison Sage-grouse Coordinator and organized a Strategic Committee to facilitate implementation of conservation measures in the Gunnison Basin under both the local Conservation Plan and RCP. San Miguel County has recently hired a Gunnison Sage-grouse Coordinator for the San Miguel Basin population. The efforts of these two counties reflect positively on their willingness to conserve Gunnison sage-grouse.

Colorado State statute (C.R.S. 30–28–101) exempts parcels of land of 14 ha (35 ac) or more per home from regulation, so county zoning laws in Colorado can only restrict developments with housing densities greater than one house per 14 ha (35 ac). This situation allows some parcels to be exempt from county regulation and may negatively affect some sage-grouse. However, we have no data to indicate that this is threatening individual populations or individuals. We could find no data on the precise threshold of the number of acres per house that will affect Gunnison sage-grouse.

Habitat loss is not regulated or monitored in Colorado counties where Gunnison sage-grouse occurs. Therefore, conversion of agricultural land from one use to another, such as native pasture containing sagebrush converted to another use, such as cropland, would not normally come before a county zoning commission.

We recognize that county or city ordinances in San Juan County, Utah, that address agricultural lands, transportation, and zoning for various types of land uses have the potential to influence sage-grouse. However, we were unable to obtain information regarding the nature or extent of zoning

efforts and their direct or indirect effects on populations and habitats.

State Laws and Regulations

Colorado Revised Statutes, Title 33 Article 1 give CDOW responsibility for the management and conservation of wildlife resources within State borders. Title 33 Article 1–101, Legislative Declaration requires a continuous operation of planning, acquisition, and development of wildlife habitats and facilities for wildlife-related opportunities. The CDOW is required by statute (C.R.S. 106–7–104) to provide counties with information on ''significant wildlife habitat,'' and provide technical assistance in establishing guidelines for designating and administering such areas, if asked. The CDOW also has authority to regulate possession of the Gunnison sage-grouse, set hunting seasons, and issue citations for poaching. The Wildlife Resources Code of Utah (Title 23) provides UDWR the powers, duties, rights, and responsibilities to protect, propagate, manage, conserve, and distribute wildlife throughout the State. Section 23–13–3 declares that wildlife existing within the State, not held by private ownership and legally acquired, is property of the State. Sections 23–14–18 and 23–14–19 authorize the Utah Wildlife Board to prescribe rules and regulations for the taking and/or possession of protected wildlife, including Gunnison sage-grouse.

Gunnison sage-grouse are managed by CDOW and UDWR on all lands within each State as resident native game birds. In both states this classification allows the direct human taking of the bird during hunting seasons authorized and conducted under State laws and regulations. However, in 2000, CDOW closed the hunting season for Gunnison sage-grouse in the Gunnison Basin, the only area then open to hunting for the species. The hunting season for Gunnison sage-grouse in Utah has been closed since 1989. The Gunnison sage-grouse is listed as a species of special concern in Colorado and a sensitive species in Utah providing heightened priority for management (Gary Skiba, CDOW, pers. comm. 2006; Guy Wallace, UDWR pers. comm. 2006).

Easements that prevent long-term or permanent habitat loss by prohibiting development are held by CDOW, UDWR, Natural Resources Conservation Service (NRCS), NPS, and non-governmental organizations (Table 3). Some of the easements include conservation measures that are specific for Gunnison sage-grouse, while most are directed at other species, such as big game (GSRSC 2005). We are aware that some of these easements do protect existing sage-grouse habitat. However, we do not have information on the location or size of the easements with sage-grouse specific conservation measures and, therefore, cannot assess their overall value to Gunnison sage-grouse.

TABLE 3.—ACRES OF CONSERVATION EASEMENTS BY POPULATION AND PERCENTAGES OF OCCUPIED HABITAT PROTECTED BY EASEMENTS (GSRSC 2005)

Population	Number of acres	Occupied habitat (percent)
Gunnison Basin	26,145	4
San Miguel Basin	844	1
Monticello	2,560	1
Piñon Mesa	7,314	19
Crawford	523	2

The CDOW has been gathering information from landowners who may be interested in signing up under the CCAA referenced earlier in this document. As of January 2006, 72 landowners owning 41,278 ha (102,000 ac) have expressed an interest in enrolling their lands under the CCAA.

States regulate non-coal mining in the United States. Colorado law (State Statute Title 34, Article 32) contains language intended to protect wildlife resources through appropriate reclamation and encourages revegetation using native species. Utah mining regulations (R647–4–110) allow reclamation to wildlife resource use.

We are not aware of any conservation measures implemented for potential oil and gas development impacts to Gunnison sage-grouse on private lands underlain with privately-owned minerals, which are regulated by the Colorado Oil and Gas Conservation Commission or the Utah Division of Oil, Gas, and Mining. Colorado and Utah have laws that directly address the priorities for use of State school section lands, which require that management of these properties be based on maximizing financial returns. We are not aware of any conservation measures established for Gunnison sage-grouse on State school section lands other than a request to withdraw or apply ''no surface occupancy'' and conservation measures from the RCP to four sections available for oil and gas leasing in the San Miguel Basin population (see Factor A for further discussion). State school section lands account for only 1 percent of occupied habitat in Colorado and 1 percent in Utah so impacts may be considered negligible. The UDWR does not own any land within occupied habitat in Utah. The CDOW owns 2 percent of the occupied habitat in Colorado, with some management for Gunnison sage-grouse on those lands.

Federal Laws and Regulations

Gunnison sage-grouse are not covered or managed under the provisions of the Migratory Bird Treaty Act (16 U.S.C. 703–712). Federal agencies are responsible for managing 55 percent of the total Gunnison sage-grouse habitat (GSRSC 2005). The Federal agencies with the most sagebrush habitat are BLM, an agency of the Department of the Interior, and USFS, an agency of the U.S. Department of Agriculture. The NPS in the Department of the Interior also has responsibility for lands that contain sage-grouse habitat.

About 42 percent of occupied habitat is on BLM-administered land (GSRSC 2005). The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*) is the primary Federal law governing most land uses on BLM-administered lands. Section 102(a)(8) of FLPMA specifically recognizes wildlife and fish resources as being among the uses for which these lands are to be managed. Regulations pursuant to FLPMA and the Mineral Leasing Act (30 U.S.C. 181 *et seq.*) that address wildlife habitat protection on BLM-administered land include 43 CFR 3162.3–1 and 43 CFR 3162.5–1; 43 CFR 4120 *et seq.*; 43 CFR 4180 *et seq.*

Resource Management Plans (RMPs) are the basis for all actions and authorizations involving BLM-administered lands and resources. They establish allowable resource uses; resource condition goals and objectives to be attained; program constraints and general management practices needed to attain the goals and objectives; general implementation sequences; and intervals and standards for monitoring and evaluating the plan to determine its effectiveness and the need for amendment or revision (43 CFR 1601.0–5(k)).

The RMPs provide a framework and programmatic guidance for activity plans, which are site-specific plans written to implement decisions made in a RMP. Examples include Allotment Management Plans that address livestock grazing, oil and gas field development, travel management, and wildlife habitat management. Activity plan decisions normally require additional planning and National Environmental Policy Act (NEPA) analysis. Within the Gunnison Basin population 56 percent of the BLM allotment acreage in occupied habitat

currently has Gunnison sage-grouse habitat objectives incorporated into the allotment management plans (BLM, unpubl. lit. 2005h). Rangewide, only 20 percent of BLM grazing allotments have thus far incorporated Gunnison sage-grouse conservation measures and/or habitat objectives into the allotment management plans or in permit renewals.

On November 16, 2004, BLM Instruction Memorandum (IM) 2005–024 transmitted information to all BLM field and Washington Office officials regarding the development of a National BLM Sage-grouse Habitat Conservation Strategy for BLM-administered lands. This strategy is described as the framework to address the conservation of sage-grouse and risk to sagebrush habitats on lands and activities administered by BLM. It commits BLM to work with States and local interests on this issue. The IM instructed BLM State Directors to develop a process and schedule to update deficient RMPs to adequately address sage-grouse and sagebrush conservation needs. The BLM has developed a process to update RMPs in Colorado, and has notified the Service of general timeframes for RMP updates but specific deadlines have not been provided. The BLM continues to update applicable RMPs and activity plans.

The BLM has regulatory authority for oil and gas leasing, as provided at 43 CFR 3100 et seq., and they are authorized to require stipulations as a condition of issuing a lease. The BLM's planning handbook has program-specific guidance for fluid minerals (which include oil and gas) that specifies that RMP decisions will identify restrictions on areas subject to leasing, including closures, as well as lease stipulations (BLM 2000). The handbook also specifies that all stipulations must have waiver, exception, or modification criteria documented in the plan, and notes that the least restrictive constraint to meet the resource protection objective should be used (BLM 2000). The BLM has regulatory authority to condition ''Application for Permit to Drill'' authorizations, conducted under a lease that does not contain sage-grouse conservation stipulations (BLM 2004). Also, oil and gas leases have a 200 m (650 ft) stipulation, which allows movement of the drilling area by that distance (BLM 2004). The BLM states that many of their field offices work with the operators to move a proposed drilling site farther or justify such a move through the site-specific NEPA process (BLM 2004).

For existing oil and gas leases on BLM land in occupied Gunnison sage-grouse habitat, oil and gas companies can conduct drilling operations if they wish, but always subject to permit conditions. The BLM has stopped issuing new drilling leases in occupied sage-grouse habitat in Colorado at least until the new RMPs are in place. All occupied habitat acreages in the Crawford Area and Gunnison Basin populations are covered by this policy. However, leases already exist in 17 percent in the Piñon Mesa population, and 49 percent in the San Miguel Basin population.

The oil and gas leasing regulations authorize BLM to modify or waive lease terms and stipulations if the authorized officer determines that the factors leading to inclusion of the term or stipulation have changed sufficiently to no longer justify protection, or if proposed operations would not cause unacceptable impacts (43 CFR 3101.1–4). The Service has no information indicating that the BLM has granted a significant number of waivers of stipulations pertaining to the Gunnison sage-grouse and/or their habitat.

The Energy Policy and Conservation Act of 2000 included provisions requiring the Secretary of the Department of the Interior to conduct a scientific inventory of all onshore Federal lands to identify oil and gas resources underlying these lands and the nature and extent of any restrictions or impediments to the development of such resources (U.S.C. Title 42, Chapter 77, section 6217(a)). On May 18, 2001, the President signed Executive Order 13212—Actions to Expedite Energy-Related Projects (66 FR 28357, May 22, 2001), which states that it is the Administration's policy that the executive departments and agencies shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy. The Executive Order specifies that this includes expediting review of permits or taking other actions as necessary to accelerate the completion of projects, while maintaining safety, public health, and environmental protections. The BLM has responded to these declarations with the issuance of several IMs to their staff that may influence sage-grouse conservation during these actions, including providing guidance for planning relative to oil and gas operations and focusing efforts for resource recovery in seven areas, two of which are within Gunnison sage-grouse habitats (IM 2003–137, April 3, 2003; IM 2003–233, July 28, 2003; IM CO–2005–038, July 12, 2005).

The BLM regulatory authority for grazing management is provided at 43 CFR part 4100 (Regulations on Grazing Administration Exclusive of Alaska). Livestock grazing permits and leases contain terms and conditions determined by BLM to be appropriate to achieve management and resource condition objectives on the public lands and other lands administered by BLM, and to ensure that habitats are, or are making significant progress toward being, restored or maintained for BLM special status species (43 CFR 4180.1(d)). The State or regional standards for grazing administration must address habitat for endangered, threatened, proposed, candidate, or special status species, and habitat quality for native plant and animal populations and communities (43 CFR 4180.2(d)(4) and (5). The guidelines must address restoring, maintaining or enhancing habitats of BLM special status species to promote their conservation, as well as maintaining or promoting the physical and biological conditions to sustain native populations and communities (43 CFR 4180.2(e)(9) and (10). The BLM is required to take appropriate action not later than the start of the next grazing year upon determining that existing grazing practices or levels of grazing use are significant factors in failing to achieve the standards and conform with the guidelines (43 CFR 4180.2(c)). The BLM agreed to work with their resource advisory councils to expand the rangeland health standards required under 43 CFR part 4180 so that there are public land health standards relevant to all ecosystems, not just rangelands, and that they apply to all BLM actions, not just livestock grazing (BLM Manual 180.06.A). Both Colorado and Utah have resource advisory councils. Since Gunnison sage-grouse habitats are a special status species, these standards will specifically address the habitat requirements of the Gunnison Sage Grouse and help to minimize any threats and improve existing habitats.

On December 8, 2003, BLM issued a proposed rule (68 FR 68452) to modify the current grazing management regulation in two ways: (1) It provides that assessment and monitoring standards are needed to support a determination that livestock grazing significantly contributes to not meeting a standard or conforming with a guideline; and (2) it requires BLM to analyze, formulate and propose appropriate action within 24 months of the determination rather than before the start of the next grazing year.

In signing the RCP (GSRSC 2005), BLM has agreed to follow

recommendations for conservation efforts addressing the effects of grazing, oil and gas development and other threats, within the constraints of existing laws, policies, regulations, and management plans, and while considering the needs or implications to other species and multiple uses. It will take time for BLM to address the time requirement necessary to revise and formally incorporate Gunnison sage-grouse conservation measures and habitat objectives in all of their RMPs through a rulemaking. In the meantime, the Colorado Office of the BLM issued IM CO–2005–038, which provides an interim policy to implement the RCP. The IM directs that the RCP guidance and strategies be applied through site-specific analysis consistent with NEPA for all projects or actions in Gunnison sage-grouse habitat. For surface disturbing activities such as oil and gas development the IM directs BLM staff to work with the operator to minimize habitat loss and fragmentation. Moreover, if the local conservation plans for each population have additional measures that address local conditions the IM directs BLM staff to consider if they are more effective than guidance in the RCP and, if so, to implement them. Full implementation of the RCP, according to the IM, will occur as guidance and strategies are considered and analyzed during RMP revisions and/or amendments. These actions will contribute to the conservation of the Gunnison Sage Grouse and help to minimize any potential threat from activities on Federal lands in the Gunnison's range.

The USFS has management authority for 10 percent of the occupied Gunnison sage-grouse habitat (GSRSC 2005). Management of Federal activities on National Forest System lands is guided principally by the National Forest Management Act (NFMA) (16 U.S.C. 1600–1614, August 17, 1974, as amended. The NFMA specifies that all National Forests must have a Land and Resource Management Plan (LRMP) (16 U.S.C. 1600) to guide and set standards for all natural resource management activities on each National Forest or National Grassland. The NFMA requires USFS to incorporate standards and guidelines into LRMPs (16 U.S.C. 1600). This has historically been done through a NEPA process, including provisions to manage plant and animal communities for diversity, based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives. The USFS planning process is similar to that of BLM.

The 1982 NFMA implementing regulation for land and resource management planning (1982 rule, 36 CFR part 219), under which all existing forest plans were prepared, requires USFS to manage habitat to maintain viable populations of existing native vertebrate species on National Forest System lands (1982 rule, 36 CFR 219.19). A new USFS planning regulation was promulgated on January 5, 2005 (70 FR 1023). Under the new regulation a desired condition description and guidelines will be provided, rather than a set of prescriptive standards that apply to projects. Planning, and decisions for projects and activities, will address site-specific conditions and identify appropriate conservation measures to take for each project or activity.

Under the new regulation, the purpose of forest plans is to establish goals and to set forth guidance to follow in pursuit of those goals. The rule calls for five components of plans: Desired conditions; objectives; guidelines; suitability of areas; and special areas (36 CFR 219.7(a)(2)). The rule states that these components are intended to provide general guidance and goals or other information to be considered in subsequent project and activity decisions, and that none of these components are commitments or final decisions approving projects and activities (36 CFR 219.7(a)(2)). Approval of a plan, plan amendment, or plan revision comprised of these five components may be categorically excluded from NEPA documentation (36 CFR 219.4(b)).

The new regulation requires plans to provide a framework to contribute to sustaining native ecological systems by providing ecological conditions to support diversity of native plants and animal species in the plan area (36 CFR 219.10 (b)). Ecosystem diversity is described as being the primary means by which a plan contributes to sustaining ecological systems (36 CFR 219.10 (b)), and USFS states that this focus is expected to conserve most species. The regulation defines species-of-concern as ''Species for which the Responsible Official determines that management actions may be necessary to prevent listing under the Endangered Species Act'' (36 CFR 219.16).

For each unit of the National Forest System, the transition period for the new regulation is 3 years (36 CFR 219.14). A document approving a plan developed, revised, or amended using the new regulation must include a description of the effects of the plan on existing permits, contracts, or other instruments implementing approved projects and activities (36 CFR 219.8(a)).

The Gunnison sage-grouse is designated as a USFS sensitive species in Region 2 (Colorado) and Region 4 (Utah), thereby ensuring and enhancing the management awareness of the species under the new planning rule. The forests within the range of sage-grouse provide important seasonal habitats for the species, particularly the Grand Mesa, Uncompahgre, and Gunnison National Forests. While the 1982 planning regulation, including its provision for population viability, was used in the development of the existing Forest Plans, no information has been provided regarding specific implementation of the above new regulations and policies for the Gunnison sage-grouse. However, any agency action taken under the new planning rule will require consideration of Gunnison Sage Grouse habitat.

We did not receive information from the USFS on whether habitat objectives and conservation measures have yet been incorporated into grazing allotments and whether local conservation plan sage-grouse habitat objectives and conservation measures have been incorporated into Forest Plans or LRMPs.

To date USFS has not deferred or withdrawn oil and gas leasing in occupied habitat, but sage-grouse conservation measures can be included at the ''Application for Permit to Drill'' stage. The BLM, which regulates oil and gas leases on USFS lands, has the authority to defer leases. However, the only population with USFS lands that are in areas of high or even medium potential for oil and gas reserves is the San Miguel Basin and USFS lands only make up 1.4 percent of that population (GSRSC 2005).

The NPS is responsible for managing 2 percent of occupied Gunnison sage-grouse habitat (GSRSC 2005). The NPS Organic Act (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) states that NPS will administer areas under their jurisdiction ''by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historical objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Lands in the Black Canyon of the Gunnison National Park and the Curecanti Recreation Area include portions of occupied habitat of the Crawford and Gunnison Basin populations. Gunnison sage-grouse conservation measures are not included in the General Management Plan, but

are included in current RMPs. They also will be incorporated when the RMPs are revised or amended. The NPS is currently following conservation measures in the local conservation plans and the RCP (Myron Chase, NPS, pers. comm. 2005).

The NRCS of the U.S. Department of Agriculture assists farmers, ranchers, and other private landowners in reducing threats to sage-grouse habitat by providing technical assistance and financial resources to support management and habitat restoration efforts, helping farmers and ranchers maintain and improve habitat as part of larger management efforts, and developing technical information to assist NRCS field staff with sage-grouse considerations when working with private landowners. The NRCS has the Wildlife Habitat Incentive Program and Environmental Quality Incentive Program that can be used to fund projects implementing conservation measures in Gunnison sage-grouse habitat. The Service's Partners for Fish and Wildlife Program also can fund conservation measures for Gunnison sage-grouse. All of these programs have contributed to Gunnison Sage Grouse conservation within its range by converting croplands to habitat improving habitat or restoring habitat.

Conclusion for Factor D

Gunnison sage-grouse conservation has been addressed through numerous local, State, and Federal plans, laws, regulations, and policies. Current county regulations provide some ability to limit impacts to sage-grouse habitat from housing developments where the area is zoned for under 14 ha (35 ac) per house. Both counties where the largest populations of Gunnison sage-grouse occur have Land Use Resolutions or Codes to promote Gunnison sage-grouse conservation. The CDOW and UDWR have implemented and continue to pursue conservation easements in Colorado and Utah, respectively, to conserve Gunnison sage-grouse habitat and the species' needs. State wildlife regulations provide opportunities to address other conservation needs of the species.

Impacts resulting from current leases for oil and gas development on Federal lands are regulated at the ''Application for Permit to Drill'' stage as protective stipulations are applied through guidance in IM CO–2005–038. Grazing impacts are regulated with existing laws, regulations, and policies. Laws, regulations, and policies guiding development and implementation of land management plans for all the Federal agencies, address conservation of Gunnison sage-grouse habitat. In light of the fact that implementation of the aforementioned laws, regulations, and policies has not resulted in a decline within recent timeframes, as analyzed by Garton (2005) and, based on the best scientific and commercial data available we have concluded that inadequacy of existing regulatory mechanisms does not threaten or endanger the sage-grouse throughout all or a significant portion of its range in the foreseeable future.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other factors potentially affecting the Gunnison sage-grouse's continued existence include genetic risks, drought, recreational activities, and pesticides.

Genetics

Small populations face three primary genetic risks: Inbreeding depression; loss of genetic variation; and accumulation of new mutations. Inbreeding can have individual and population consequences by either increasing the phenotypic expression of recessive, deleterious alleles (Charlesworth and Charlesworth 1987) or by reducing the overall fitness of individuals in the population. Estimates for how large populations must be to prevent inbreeding depression vary dramatically. For example, Lande (1995b), Lynch *et al.* (1995), and Charlesworth *et al.* (1993) suggested that populations will need to have a genetic effective population size of 1,000, 100, and 12 individuals, respectively, to avoid accumulating deleterious mutations. However, if mutation accumulation is a threat to small populations, it is expected to take hundreds to thousands of generations to occur (GSRSC 2005).

Oyler-McCance *et al.* (2005) investigated population structure of Gunnison sage-grouse using mitochondrial DNA sequence data from seven geographic areas (Cerro Summit-Cimarron-Sims Mesa, Crawford, Gunnison Basin, Curecanti area of the Gunnison Basin, Monticello-Dove Creek, Piñon Mesa, and San Miguel Basin). They found that levels of genetic diversity were highest in the Gunnison Basin, which consistently had more alleles and contained most of the alleles present in other populations. All other populations had much lower levels of diversity. These lower diversity levels are linked to small population sizes and a high degree of geographic isolation. Collectively, the smaller populations contain 24 percent of the genetic diversity of the species. Individually, each of the small populations may not be important genetically to the survival of the species, but collectively it is possible that 24 percent of the genetic diversity is important to future rangewide survival of the species. All populations sampled were found to be genetically discrete units (Oyler-McCance *et al.* 2005), so the loss of any of them would result in a decrease in genetic diversity of the species. In addition, multiple populations across a broad geographic area provide insurance against a single catastrophic event (such as drought), and the aggregate number of individuals across all populations increases the probability of demographic persistence and preservation of overall genetic diversity by providing an important genetic reservoir (GSRSC 2005).

Historically, the Monticello-Dove Creek, San Miguel, Crawford, and Piñon Mesa populations were larger and were connected through more contiguous areas of sagebrush habitat. Oyler-McCance *et al.* (2001) documented a 20 percent loss and 37 percent fragmentation of sagebrush habitat in southwestern Colorado between the late 1950s and the early 1990s, which led to the current isolation of these populations and is consistent with the documented low amounts of gene flow and isolation by distance (Oyler-McCance *et al.* 2005). However, Oyler-McCance *et al.* (2005) noted that a few individuals in their analysis appeared to have the genetic characteristics of a population other than their own, suggesting they were dispersers from a different population. Two probable dispersers were individuals moving from San Miguel into Monticello-Dove Creek and Crawford. The San Miguel population itself appeared to have a mixture of individuals with differing probabilities of belonging to different clusters. This suggests that the San Miguel population may act as a conduit of gene flow among the satellite populations surrounding the larger population in Gunnison. Additionally, Oyler-McCance *et al.* (2005) found that another potential disperser into Crawford was from the Gunnison Basin. This is not surprising given their close geographic proximity.

While no consensus exists on the population size needed to retain a level of genetic diversity that maximizes evolutionary potential (*i.e.*, the ability to adapt to local changes), suggestions range from 500–5,000 individuals (Franklin 1980; Lande and Barrowclough 1987; Lande 1995a). Similarly, population sizes in the upper 100s–1,000s are reported to be required for a higher probability of persistence over 100 years (Shaffer 1987). While the persistence of wild populations is

usually influenced more by ecological rather than by genetic effects, once they are reduced in size, genetic factors become increasingly important (Lande 1995a).

Population Viability Analysis

The CDOW contracted for a population viability analysis (PVA) for the Gunnison sage-grouse (Miller 2004). The PVA is a tool used to predict the probability of extinction for a wildlife population under various management scenarios. They are typically based on available population data which are often inadequate for a complete understanding of complex systems. Therefore, PVAs only provide an approximation of how a species may respond to various management alternatives without consideration of threats, since data are not available to determine how demographic rates will be affected by factors such as habitat loss or fragmentation. Also, since a PVA is a model, it does not present a complete picture of the system (GSRSC 2005 and references therein).

The purpose of the Gunnison sage-grouse PVA was to assist the CDOW in evaluating the relative risk of extinction for each population under the current conditions (i.e. the risk of extinction if nothing changes) and to estimate relative extinction probabilities and loss of genetic diversity over time for various population sizes, and to determine the sensitivity of Gunnison sage-grouse population growth rates to various demographic parameters (GSRSC 2005). The results of this analysis indicated that small populations (<50 birds) are at a serious risk of extinction within the next 50 years (assuming some degree of consistency of environmental influences in sage-grouse demography). In contrast, populations in excess of 500 birds had an extinction risk of less than 5 percent within the same time period. These results suggest that the Gunnison Basin population is likely to persist long term and, in the absence of intervention, the Cerro Summit-Cimarron-Sims Mesa and Poncha Pass populations and the Dove Creek group of the Monticello-Dove Creek population may be extirpated (GSRSC 2005). Loss of genetic diversity from the extirpation of the two populations and the group would not result in a substantial effect to the species as a whole, because their genetic composition is largely represented in the other populations. The remaining populations currently have estimated numbers between 150 and 350 birds, up from 125–250 in 2004, and their relative extinction risk as determined by the PVA is between those extremes.

Garton's (2005) analysis of population trends also supports a relatively stable rangewide population, as well as a stable Gunnison Basin population for the last 10 years and longer. The RCP (GSRSC 2005) identified the need to increase gene flow among populations by improving corridors for between-population movement or translocation of selected genotypes from the Gunnison Basin to smaller populations, and vice-versa for population augmentation and maintenance of genetic diversity.

Oyler-McCance *et al.* (2005) conducted a genetic analysis of Gunnison sage-grouse populations using mitochondrial DNA sequence and nuclear microsatellite data. The Cerro Summit-Cimarron-Sims Mesa population was not included in this analysis due to inadequate sample sizes. The Poncha Pass population also was not included as it is composed of individuals transplanted from Gunnison Basin. In general, Gunnison sage-grouse have low levels of genetic diversity when compared to the greater sage-grouse (Oyler-McCance *et al.* 2005). Within the species, the Gunnison Basin birds had higher levels of genetic diversity than the other populations. Lower genetic diversity is consistent with small population size and geographical isolation (Oyler-McCance *et al.* 2005).

In summary, although the Cerro Summit-Cimarron-Sims Mesa and Poncha Pass populations and the Dove Creek group of the Monticello-Dove Creek population may become extirpated in the near future, their genetic characteristics are largely represented in the remaining populations.

Drought/Weather

Drought is a common occurrence throughout the range of the Gunnison sage-grouse (Braun 1998). Drought reduces vegetation cover (Milton *et al.* 1994; Connelly *et al.* 2004), potentially resulting in increased soil erosion and subsequent reduced soil depths, decreased water infiltration, and reduced water storage capacity. Drought also can exacerbate other natural events, such as defoliation of sagebrush by insects. Approximately 2,544 sq km (982 sq mi) of sagebrush shrublands died in Utah in 2003 as a result of drought and infestations with the *Aroga* (webworm) moth (Connelly *et al.* 2004). Sage-grouse are affected by drought through the potential loss of vegetative habitat components and reduced insect production (Connelly and Braun 1997). These habitat component losses can result in declining sage-grouse populations due to increased nest predation and early brood mortality associated with decreased nest cover and food availability (Braun 1998; Schroeder *et al.* 1999).

Greater sage-grouse populations declined during the 1930s period of drought (Patterson 1952; Willis *et al.* 1993; Braun 1998). Drought conditions in the late 1980s and early 1990s also coincided with a period when sage-grouse populations were at historically low levels (Connelly and Braun 1997). Although drought has been a consistent and natural part of the sagebrush-steppe ecosystem, drought impacts on sage-grouse can be exacerbated when combined with other habitat impacts that reduce cover and food (Braun 1998).

Drought began in the Gunnison Basin at least by 2001 and was most severe in 2002 (BLM, unpubl. lit. 2005i). The drought fully or partially killed approximately 40,470 ha (100,000 ac) (17 percent) of sagebrush in occupied range of the sage-grouse in the Gunnison Basin in 2002 (BLM, unpubl. lit. 2005i). About 35,000 ha (86,000 ac) had significant dieback and 5,700 ha (14,000 ac) had moderate to light dieback of sagebrush and other shrubs. An estimated 4,000 ha (10,000 ac) (2 percent) had substantial mortality of grasses and forbs. *Phlox* spp., a forb that is important sage-grouse forage in the spring and summer, had 50- to 80-percent mortality in areas where sagebrush dieback was over 50 percent (BLM, unpubl. lit. 2005i). In 2003, 48 percent of all sagebrush plants were defoliated and 17 percent were dead (Wenger *et al.* 2003). By 2004, there was only modest recovery with increased moisture (BLM, unpubl. lit. 2005i). By 2005, sagebrush plants that were partially killed were recuperating (Sandy Borthwick, BLM, pers. comm. 2005).

The drought also affected sagebrush communities in the San Miguel Basin population, particularly in the Dry Creek Basin area. During the late fall and winter of 2003–2004, CDOW conducted sagebrush transects in Dry Creek Basin to monitor drought-related impacts. Approximately 75 percent of the sagebrush canopy in Dry Creek Basin was lost to sagebrush defoliation due to drought (Wenger *et al.* 2003). Although most plants survived and exhibited signs of recovery in 2003, large areas, particularly at low elevation, lost over 90 percent of the plants (Wenger *et al.* 2003). These communities started to recover in the spring of 2004, and plants that survived had heavy seed crops in the fall of 2004. Recuperation of these communities

continued in 2005 (Kathy Nickell, BLM, pers. comm. 2005). Detrimental effects on Gunnison sage-grouse, particularly on the birds attending the Desert Lek in Dry Creek Basin were observed after the drought. This lek had the greatest number of males counted (12–18) of the 3 leks in the population from 1996 through 2002, but was reduced to 0 in 2004 and 2005 (CDOW, unpubl. lit. 2005b).

In the Monticello group, most nesting areas are in poor condition due to lack of herbaceous cover as a result of drought and grazing (GSRSC 2005). Long-term drought also has reduced the availability of wet meadow habitat for brood-rearing (GSRSC 2005). Rains in 2005 have replenished some wet meadow habitats or riparian areas (Tammy Wallace, BLM, pers. comm. 2005). In the Piñon Mesa population the recent drought may have caused some limited, but unquantified, sagebrush and herbaceous understory die-back at lower elevations. Most plants affected do not appear to have died completely and sagebrush conditions have improved in 2004 and 2005 (CDOW, unpubl. lit. 2005g). Drought has been identified as a primary threat to the Crawford population (Crawford Area Conservation Plan 1998, GSRSC 2005). Drought conditions occurred there between 1999 and 2003 (Jim Ferguson, BLM, pers. comm. 2005). No quantitative habitat data are available, but little grass, forb or sagebrush growth occurred during this period (Jim Ferguson, BLM, pers. comm. 2005). Since 1999, lek counts have declined. The BLM cut back on grazing animal unit months and there were no other identifiable negative impacts to BLM lands in the area during this timeframe, suggesting drought as the primary cause of decline (Jim Ferguson, BLM, pers. comm. 2005).

The Gunnison sage-grouse is capable of enduring moderate or severe, but relatively short-term, drought as observed from persistence of the populations during drought conditions from 1999–2003 throughout much of the range. Habitat appeared to be negatively affected by drought across a broad area of the Gunnison sage-grouse's range. However, the reduction of sagebrush density in some areas, allowing for greater herbaceous growth, and stimulating the onset of sagebrush seed crops (Wenger *et al.* 2003) may actually be beneficial to sagebrush habitats over the long term. As a result, we find that Gunnison Sage Grouse is not sufficiently threatened by drought.

Recreation

Studies have determined that non-consumptive recreational activities can degrade wildlife resources, water, and the land by distributing refuse, disturbing and displacing wildlife, increasing animal mortality, and simplifying plant communities (Boyle and Samson 1985). Sage-grouse response to disturbance may be influenced by the type of activity, recreationist behavior, predictability of activity, frequency and magnitude, timing, and activity location (Knight and Cole 1995).

Recreation from off-highway vehicles, hikers, mountain bikes, campers, snowmobiles, bird watching, and other sources has affected many parts of the range, especially portions of the Gunnison Basin and Piñon Mesa population (BLM, unpubl. lit. 2005i; CDOW, unpubl. lit. 2005g). These activities can result in abandonment of lekking activities and nest sites, energy expenditure reducing survival, and greater exposure to predators (GSRSC 2005). Recreation is a significant land use on lands managed by BLM (Connelly *et al.* 2004) and recreational use of national forests has increased 76 percent since 1977 (Rosenberg *et al.* 2004).

Recreational activities within the Gunnison Basin are widespread, occur during all seasons of the year, and have expanded as more people move to the area or come to recreate (BLM, unpubl. lit. 2005i). A comprehensive plan to manage motorized and non-motorized recreation is not available for BLM land in the Gunnison Basin, nor has there been monitoring or research on the extent of impacts (BLM, unpubl. lit. 2005i). The BLM has seasonal closures on 17 roads with 6 of these closures protecting leks, but many more roads provide access to leks (BLM, unpubl. lit. 2005i). In addition, the Gunnison Field Office of BLM and Gunnison County collectively closed numerous roads to protect leks and nesting habitat within the Gunnison Basin for April and part of May 2006. While road closures may be violated, we have no data indicating that these violations are affecting the Gunnison Sage Grouse.

Dispersed camping occurs at a low level on public lands in all of the populations, particularly during the hunting seasons for other species. A designated campground is located on BLM land near occupied habitat on Piñon Mesa (BLM, unpubl. lit. 2005a). No studies on recreational effects in the Piñon Mesa population have occurred. With its proximity to Grand Junction and expected growth in Mesa County and the Glade Park area, recreational impacts are expected to increase in the Piñon Mesa population area. However, we have no data indicating that these camping activities are adversely affecting Gunnison Sage Grouse.

Domestic dogs accompanying recreationists can disturb, harass, displace, or kill Gunnison sage-grouse. Authors of many wildlife disturbance studies concluded that dogs with people, dogs on leash, or loose dogs provoked the most pronounced disturbance reactions from their study animals (Sime 1999 and references within). The primary consequences of dogs being off leash is harassment, which can lead to physiological stress as well as the separation of adult and young birds, or flushing incubating birds from their nest. However, we have no data indicating that this behavior is affecting Gunnison Sage Grouse.

Pesticides

Insects are an important component of sage-grouse chick and juvenile diets (Patterson 1952, Klebenow and Gray 1968, Johnson and Boyce 1990, Fischer *et al.* 1996a). Insects, especially ants (Hymenoptera) and beetles (Coleoptera), can comprise a major proportion of the diet of juvenile sage-grouse (Patterson 1952) and are important components of early brood-rearing habitats (Drut *et al.* 1994a). Most pesticide applications are not directed at control of ants and beetles. Pesticides are used primarily to control insects causing damage to cultivated crops on private lands and to control grasshoppers (*Orthoptera*) and Mormon crickets (*Mormonius sp.*) on public lands. Infestations of Russian wheat aphids (*Diuraphis noxia*) have occurred in Gunnison sage-grouse occupied range in Colorado and Utah (GSRSC 2005). Disulfoton, a systemic organophosphate extremely toxic to wildlife, was routinely applied to over a million acres of winter wheat crops to control the aphids during the late 1980s, we have no data indicating there were any adverse effects to Gunnison Sage grouse (GSRSC 2005). One instance of greater sage-grouse mortality was reported following application of organophosphate and carbamate pesticides to cultivated crops in Idaho (Blus *et al.* 1989). More recently, an infestation of army cutworms (Euxoa auxiliaries) occurred in sage-grouse habitat along the Utah-Colorado State line. Thousands of acres of winter wheat and alfalfa fields were sprayed with insecticides such as permethrin by private landowners to control them (GSRSC 2005) but again, we have no data indicating any, adverse effects to Gunnison sage grouse.

Use of insecticides to control mosquitoes is infrequent and probably do not have detrimental effects on sage-grouse. Available insecticides that kill adult mosquitoes include synthetic pyrethroids such as permethrin, which are applied at very low concentrations and have very low vertebrate toxicity (Rose 2004). Organophosphates such as malathion have been used at very low rates to kill adult mosquitoes for decades, and are judged relatively safe for vertebrates (Rose 2004).

Conclusion for Factor E

Although genetic consequences of low Gunnison sage-grouse population numbers could express themselves, there is no evidence that genetic factors have thus far caused a threat to the Gunnison sage-grouse and it is unlikely that genetic factors (even without connectivity corridors or population augmentation) will be a threat for the foreseeable future. Effects of the severe drought centered on the year 2002 appear to have been ameliorated starting in 2004, and the sage-grouse survived the drought as they have survived other droughts in the past. Despite potentially greater effects to the smaller populations we have no evidence that drought is a threat to the survival of the Gunnison sage-grouse. Although disturbance and habitat destruction, fragmentation, or degradation may result from recreational activities, we have no data indicating that recreational impacts to Gunnison sage-grouse to demonstrate that recreation is or may become a threat to the species. Based on the available information, there appears to be infrequent use of insecticides in populations of the Gunnison sage-grouse and no data indicating there are direct adverse effects. The most likely impact of pesticides on Gunnison sage-grouse is the reduction of insect prey items. However, we could find no information to indicate that use of pesticides, in accordance with their label instructions, is a threat to Gunnison sage-grouse. Thus, based on the best scientific and commercial data available, we have concluded that other natural or manmade factors do not threaten or endanger the sage-grouse throughout all or a significant portion of its range in the foreseeable future.

Listing Determination

We have assessed the best scientific and commercial information available and have determined that the Gunnison sage-grouse is not warranted for listing under the Endangered Species Act, as amended. We also no longer consider the species to be a candidate for listing. The 2004 Candidate Notice of Review retained the listing priority number at a 2 based on perceived imminent threats of high magnitude. However, based on information obtained since our 2004 review (e.g., Garton 2005), we have determined that threats to the Gunnison sage-grouse are neither imminent or of such magnitude that they threaten or endanger the existence of the species.

The PVA (GSRSC 2005) concluded that the Cerro Summit-Cimarron-Sims Mesa and Poncha Pass populations and the Dove Creek group of the Monticello-Dove Creek population have a high probability of extirpation in the foreseeable future. However, these populations do not comprise a significant portion of the Gunnison sage-grouse range, as they are small and isolated. Even though these populations have higher probabilities of extirpation, we continue to strongly encourage CDOW and other interested parties to take necessary management actions to prevent their extirpation. For the remaining populations, numerous impacts pose potential threats to the Gunnison sage-grouse when considered under the listing factors. However, there is no evidence that the impacts are causing rangewide threats such that they are likely to cause the Gunnison sage-grouse to be in danger of extinction throughout all or a significant portion of its range in the foreseeable future.

If impacts to the species rise to the level of being a threat in the future or if the Service finds that the populations are declining significantly faster than they were found to have done in the past (Garton 2005), the Service will reexamine the listing status of the Gunnison sage-grouse. We will continue to monitor the status of the Gunnison sage-grouse and its habitat and will continue to accept additional information and comments from all governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

References

A complete list of references used in the preparation of this finding is available upon request from the Western Colorado Field Office (see **ADDRESSES** section).

Authority

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

Dated: April 11, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- New Jersey; published 4-12-06
- Virginia; published 3-31-06

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- Violence Against Women Office; establishment; published 4-18-06

SMALL BUSINESS ADMINISTRATION

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- Hearings and Appeals Office; procedural rules governing cases; correction; published 4-18-06

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- Thrush Aircraft, Inc.; published 4-4-06

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AGRICULTURE DEPARTMENT

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- Mint; correction; comments due by 4-24-06; published 3-24-06 [FR 06-02893]

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  - Gulf of Mexico and South Atlantic coastal migratory pelagic resources; comments due by 4-27-06; published 3-13-06 [FR 06-02389]

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- Small business programs; comments due by 4-24-06; published 2-23-06 [FR 06-01636]
- Trade agreement thresholds and Morocco free trade agreement; comments due by 4-24-06; published 2-23-06 [FR 06-01635]

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- Colorado; comments due by 4-24-06; published 3-23-06 [FR 06-02812]
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- Mississippi; comments due by 4-24-06; published 3-15-06 [FR E6-03742]
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  - Correction; comments due by 4-25-06; published 3-3-06 [FR Z6-02607]

LIST OF PUBLIC LAWS

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.J. Res. 81/P.L. 109–216

Providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 13, 2006; 120 Stat. 331)

H.J. Res. 82/P.L. 109–217

Providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 13, 2006; 120 Stat. 332)

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